



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **HAV/43UF/LRM/2025/0611**

Property : **Oatlands, Warltersville Way, Horley,
Surrey, RH6 9EP**

Applicant : **Oatlands RTM Company Limited**

Representative : **Shakespeare Martineau LLP t/a Mayo
Wynne Baxter**

Respondent : **(1) G&O Estates Limited
(2) Tracey Dowling**

Representative : **Mr P Bazin, Leasehold Advice Centre**

Type of application : **Application for a decision that an RTM
Company is entitled to acquire the right
to manage**

Tribunal members : **Judge R Percival
Mr D Cotterell FRICS
Mr M Jenkinson**

**Venue and date of
hearing** : **Paper determination
18 February 2026**

Date of decision : **18 February 2026**

DECISION

Decisions of the tribunal

- (1) The Tribunal determines that the Applicant was entitled to acquire the right to manage on the relevant date.
- (2) The tribunal makes an order rule 13(2) of the First-tier Tribunal)(Property Chamber) Rules 2013 (the 2013 rules) that the Respondent reimburse the Applicant for the whole of the application and hearing fees paid to the Tribunal (£341#).

The application and counter-notice

1. The application is made under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (the 2002 Act) for a decision that the applicant RTM company is entitled to acquire the Right to Manage in respect of Oatlands, Warltersville Way, Horley, RH6 9EP. The Application is dated 14 July 2025.
2. By a notice dated 15 April 2025, the Applicant gave the Respondents notice that it claimed the right to manage of the property.
3. By a counter notice dated 21 May 2025, the first Respondent disputed that the Applicant was entitled to acquire the right to manage, by reason of multiple listed provisions of the 2002 Act. The second Respondent has not served a counter notice and has taken no part in the proceedings, and hereafter when we refer to the “the Respondent”, we mean the first Respondent.
4. Links to copies of the legislation referred to in this decision and other sources of free legal information are set out in the appendix to this decision.

The property

5. The property is described as a building containing 9 flats with external communal areas.

Decision

6. Directions were given on 21 November 2025 making provision for the application to be determined on the papers, subject to a party requiring a hearing. Neither party has done so.
7. The counter notice comprises a series of paragraphs alleging failures to comply with 10 provisions of the 2002 Act. We note that the counter notice erroneously identifies the relevant date as 16 April 2025, rather than 15 April, but we overlook that as a minor error.

8. The directions required the Respondent to provide a statement of its case, which it effectively did in a document headed “Respondent’s Reply to the Applicant’s Statement of Case” (although there was, as is normal, no requirement in the directions for a separate Applicant’s statement of case).
9. The substance of the Respondent’s case is that, first, in relation to four of the flats, joint owners of the leasehold interest were individual, rather than joint, members of the RTM company (we overlook minor errors, such as giving the wrong name to one of the joint leaseholders of flat 2b), and that there were associated errors in their applications for membership of the company.
10. We assume (although, unhelpfully, the Respondent does not state it) that the basis in the counter claim for this argument is the allegation that there has been a breach of section 74(1) because (the argument goes) joint leaseholders are included as individual members of the RTM company.
11. Second, the Respondent stated that there were insufficient statements of guarantee, because (we think) Mr Bazin argues that some of the joint owners did not make applications for membership, which would have included wording setting out an agreement to provide the requisite guarantee.
12. Mr Bazin also suggests that there were no notices of invitation to participate, and in particular, one was not served on the leaseholder of flat 1a, a Mr Devlin.
13. Mr Bazin also appears to refer to a discrepancy in the date of membership of one of the members, a Mr Bieri.
14. Finally, Mr Bazin refers to a criminal offence in the Companies Act 2006 in relation to the maintenance of registers of members of companies.
15. In its response, the Applicant relies on Article 26(4) of the RTM company’s articles of association. That provides:

“A person who, together with another or others, is to be regarded as jointly being the qualifying tenant of a flat, or as jointly constituting the landlord under a lease of the whole or any part of the Premises, shall, once admitted, be regarded as jointly being a member of the company in respect of that flat or lease (as the case may be).”
16. RTM Companies are required to adopt the model articles provided for in the RTM Companies (Model Articles)(England) Regulations 2009, which, of course, includes Article 26(4) (and if they do not, they apply to

the RTM company anyway): see regulation 2, and section 74 of the 2002 Act.

17. The effect of this must be that any member of the RTM company who is a joint leaseholder is automatically, by virtue of article 26(4), a joint member with any other leaseholder of the same flat.
18. But in any event, the article is in effect duplicative of the provision of the 2002 Act. Section 75(7) states that “where a flat is being let to joint tenants under a long lease, the joint tenants shall ... be regarded as jointly being the qualifying tenant”. The people entitled to be members are qualifying tenants (section 74(1)). So even if article 26(4) were not a required provision of the articles, the joint leaseholders are statutorily required to be “regarded” as being jointly *a* qualifying tenant, and accordingly, as *a* joint member.
19. The Applicant also annexes copies of applications for membership received for all members.
20. The Applicant includes the invitation extended to Mr Devlin, and explains that he has now joined the RTM company.
21. We are satisfied that all of the leaseholders are now members, and that joint leaseholders each constitute one member. We accept the Applicant’s case in respect of the invitations to participate, application forms and membership, all of which have appropriate documentary support. We agree with the Applicant’s argument that a typographical error in the register in respect of the date of Mr Bieri’s membership does not invalidate the claim to exercise the right to manage.
22. We do not understand why the Respondent refers to the criminal offence in section 113 of the Companies Act 2006. Even if (which is not the case) the Applicant had committed the offence, no authority or even argument is given for why this would be relevant to whether the RTM company could acquire the right to manage.
23. We accordingly determine for the purposes of section 84(5)(a) of the 2002 Act that the RTM company was entitled to acquire the right to manage on the relevant date, that is, the date of service of the notice of claim.
24. We add that, had there been errors of the sort alleged by the Respondent, it would have remained an open question whether we should have concluded that the RTM company should not be entitled to acquire the right to manage, where it was evident that all of the leaseholders were (in one way or another) members of the company. Following *A1 Properties (Sunderland) Ltd v Tudor Studios RTM company* [2024] UKSC 27, [2025] AC 1075, a case itself concerned with

the right to manage, the approach to *all* questions as to the effect of non-compliance with statutory procedural requirements has significantly changed. It is at least likely that we would have concluded that Parliament would not have intended that such non-compliance as the Respondent alleged was such as to invalidate the right of the RTM company to acquire the right to manage. It behoves respondent landlords to take a realistic approach to the requirements of the 2002 Act in the light of the Supreme Court's judgment.

25. In accordance with our decision, the RTM company will acquire the right to manage on the date three months after our determination under section 84(5)(a) becomes final (section 90(4)). Our determination will become final at the end of the period for bringing an appeal (for which, see below), or, if our determination is appealed against, at the time when the appeal or any further appeal is disposed of (section 84(5) and (7)).
26. The Applicant requests that we order that the Respondent to reimburse the Applicant's application and hearing fees. We have found against the Respondent in this determination, and for the reasons we give above, we consider that it was misconceived of the Respondent to resist this application. We accordingly order that the Respondent pay a sum of £341 (£114 application fee and £227 hearing fee) to reimburse the Applicants for the fees under rule 13(2) of the 2013 rules.
27. The Applicant also requests that we order the Respondent to pay its costs. We note, first, that the general provision (for both litigation and non-litigation) costs in relation to applications under section 84(3) of the 2002 Act has recently changed, with the repeal of section 88 and the coming into force of sections 87A and 87B. It is now the case that the recovery of costs falls under the general rule governing cost shifting in this jurisdiction, that is rule 13(1)(b) of the 2013 Rules. If the Applicant wishes to make an application, it must do so separately, and in accordance with the provisions of rule 13(4) and (5) of the 2013 rules, and the Tribunal will make directions for the determination of the application.

Rights of appeal

28. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Southern regional office. The application should be on form RP-PTA, which is available on the Tribunal's website, or by application to the case officer.
29. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

30. If the application is not made within the 28 day time limit, the application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
31. The application for permission to appeal must identify the decision of the Tribunal to which it relates, give the date, the property and the case number; state the grounds of appeal; and state the result the party making the application is seeking.

Name: Judge R Percival

Date: 18 February 2026

APPENDIX: SOURCES FOR FREE LEGAL MATERIALS

Legislation

The legislation referred to in this decision may be found at:

<https://www.legislation.gov.uk/ukpga/2002/15/contents>

Case Law

The dedicated website for Upper Tribunal (UT) cases, which are binding on this Tribunal, is:

<https://landschamber.decisions.tribunals.gov.uk/Aspx/Default.aspx>

The search engine does not allow for free text searching. Sufficient information to use the provided search engine (such as the date of the case or the parties names) may be available via a google search.

Alternatively, the official National Archive website is at:

<https://caselaw.nationalarchives.gov.uk/>

This has a better search engine, but does not contain UT decisions before 2015, and there may be gaps in its provision thereafter.

The National Archive website can also be used for finding cases in higher courts, including those referred to in UT decisions.

Alternatively, many UT decisions, and most other important cases in all courts, are available on:

<https://www.bailii.org/> .

Bailii stands for British and Irish Legal Information Institute. It is a charity that has published free caselaw for many years, and has in some cases loaded up earlier case law.