FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AZ/LCP/2024/0004**
Property	**:**	**429 New Cross Road, London SE14 6TA**
Applicant	**:**	**Assethold Limited**
Representative	**:**	**Scott Cohen Solicitors Limited (Ref: SC5069)**
Respondent	**:**	**429 New Cross Road RTM Company Ltd**
Representative	**:**	
Type of application	**:**	**Application to decide the costs to be paid by an RTM company under s.88(4) of the Commonhold and Leasehold Reform Act 2002**
Tribunal member	**:**	**Judge Joanna Stewart**
Date of Decision	**:**	**19 March 2026**

DECISION

Background

1. By application dated 3 June 2024 ("the Costs Application"), the applicant applied to the Tribunal for a determination as to the costs payable by it under s.88(4) Commonhold and Leasehold Reform Act 2002 ("the 2002 Act"). This Costs Application is in relation to costs incurred by the landlord as a consequence of the respondent's claim notice dated 10 August 2022 to acquire the right to manage 429 New Cross Road, London SW14 6TA ("the Property").

2. On 17 November 2022 the respondent applied to the Tribunal for a determination that it was entitled to acquire the right to manage the

Property. In a decision dated 24 April 2023 under case reference LON/00AZ/LRM/2022/0047 Judge Jack dismissed the application.

3. This Costs Application applies only in relation to £1,952.50 plus VAT of costs incurred by the landlord for work undertaken from August 2022 to April 2023 in the assessment of and response to the claim and conduct of the proceedings under reference (LON/00AZ/LRM/2022/0047). It does not relate to any subsequent claim notices or tribunal proceedings.

4. On 30 September 2024 Judge Mohabir stayed these proceedings until such time as the Court of Appeal judgment in the case of *Assethold Limited v 159-167 Prince of Wales Road RTM Company Limited* [2024] EWCA Civ 1544 ("Prince of Wales Road") was handed down. The applicant sent the respondent and the Tribunal a copy of the judgement on 31 December 2024 and asked permission to submit additional written submissions to clarify the applicant's position by 10 January 2025. No such submissions have been received by the Tribunal.

5. On 22 July 2025 Judge Dutton wrote to the applicant's representative giving until 31 July 2025 for any submissions and confirmed that if nothing was submitted in time, this case would be decided as a paper determination. No further submissions have been received.

6. There are two preliminary issues before the Tribunal. These are:

   a) What law should be applied to this Costs Application; and

   b) Whether the RTM company was liable for the applicant's costs under whichever law is applied.

   It is only once the second issue has been decided in the applicant's favour that the Tribunal should then go on to consider whether the costs incurred by the applicant are reasonable. The Tribunal deals with these two preliminary issues in turn.

Preliminary Issue 1 – The law

7. As mentioned above, the Costs Application was made on 3 June 2024. On 3 March 2025 new provisions in section 50(4) Leasehold and Freehold Reform Act 2024 ("the 2024 Act") came into effect by way of the Leasehold and Freehold Reform Act 2024 (Commencement No. 3) Regulations 2025 (SI 2025/131)). These provisions repealed sections 88 and 89 of the 2002 Act and replaced them with sections 87A and 87B.

8. Prior to 3 March 2025, the general position was that an RTM company was liable for the reasonable non-litigation costs incurred by a landlord in consequence of an RTM claim up to the point of withdrawal (or deemed withdrawal) of the claim notice. Following the repeal of sections 88 and 89 of the 2002 Act, the new position is that there is no such liability on the RTM company, except where a Tribunal makes an order for costs under section 87B.

9. The Tribunal has to decide whether to apply the law as it was at the time of the Costs Application – namely s.88(4), or the law as it is at the time of the decision, s.87B.

Tribunal Decision and Reasons

10. The Tribunal finds that it will consider this matter based on the law at the time of application and apply section 88 of the 2002 Act.

11. There is a general presumption that, unless the contrary intention appears in statute, and except in relation to procedural matters, changes in the law should not take place retrospectively. As stated by the authors of *Bennion, Bailey and Norbury on Statutory Interpretation,* 6th edition [7.13]:

> "The essential idea of a legal system is that current law should govern current activities. If we do something today, we feel that the law applying to it should be the law in force today, not tomorrow's backward adjustment of it."

12. This is supported by section 16 of the Interpretation Act 1978 which states that where an Act repeals an enactment, the repeal does not, unless the contrary intention applies, affect any right, privilege, obligation or liability acquired, accrued or incurred under that enactment, nor any ongoing legal proceeding in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

13. It is also necessary to look at what would be fair to the parties. From the date the applicant submitted its application the parties have proceeded on the basis that the applicant was entitled to recover its reasonable costs in respect of the right to manage claim. This is evident from the statements of case provided by both parties to this application. It follows that substantial unfairness would result if the applicant was deprived of reasonable costs that it had incurred on the understanding that it had the right to recover those costs from the respondent. Clear language would be required if the 2024 Act was to be interpreted in such a way, and no such language is present.

14. The Tribunal finds that there is no suggestion in the 2024 Act that the repealing provisions should be applied retrospectively. The applicant's entitlement to statutory costs arose before the repeal of sections 88 and 89 of the 2002 Act and is unaffected by the 2024 Act's repeal of those sections. They were costs incurred in respect of work "duly done or suffered" under the provisions of the 2002 Act prior to the repeal of those sections and are recoverable from the respondent, subject to the Tribunal's determination as to reasonableness.

Preliminary Issue 2 – Liability of the RTM company.

15. The facts of this case are that on 16 November 2021 Liveland Properties Limited transferred the freehold of the Property to Assethold Ltd. The respondents served a claim notice on Assethold on 8 August 2022. On

24 April 2023, Judge Jack found that the applicant, who was named in the claim notice, was the wrong landlord to have been so named. This was on the basis that the legal estate does not pass to the purchaser until the transfer is registered at the Land Registry. Prior to that date the purchaser is unable to serve a valid notice to quit so therefore cannot also be in receipt of an effective notice of claim.

16. Judge Jack's findings were supported by the Court of Appeal in Prince of Wales Road in which Falk LJ said:

"*[28] I do not agree that an equitable owner can be a "landlord" for the purposes of ss79(6) and 88 of the CLRA. In its ordinary and natural meaning, a "landlord under a lease" means the landlord as a matter of law….under s.27(1) of the Land Registration Act 2002 the transfers [of the freehold and head leasehold interests] did not operate at law unless and until they were completed by registration. Until Assethold became the registered owner the legal estate remained vested in Millcastle. It could not therefore be said that Assethold was a landlord under any lease of the premises."*

"[57]..Assethold could not have been a "landlord" at the date of the claim notice because it did not hold a legal interest in the property."

17. The facts of this matter are very similar to those in Prince of Wales Road. There, the claim notice was served after Assethold had purchased the freehold and before the purchase had been registered at the Land Registry. In this case, similarly, the Property was transferred to Assethold on 16 November 2021 and Assethold was not registered as the legal owner until 14 February 2024. However the RTM company served the claim notice on 8 August 2022. At that time, Assethold held an equitable interest, not a legal one.

18. Section 88 of the 2002 Act states that:

(1) A RTM company is liable for reasonable costs incurred by a person who is

(a) landlord under a lease of the whole or any part of any premises,

(b) party to such a lease otherwise than as landlord or tenant, or

(c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

in consequence of a claim notice given by the company in relation to the premises.

Tribunal Decision and Reasons

19. The Tribunal finds that the applicant was not a landlord under a lease of the premises when the claim notice was given as it only had an equitable interest in the property, not a legal interest.

20. The Tribunal has considered whether the applicant might be considered a 'party to such a lease otherwise than as landlord or tenant'. Again, the Court of Appeal decision in Prince of Wales Road is helpful here as, at paragraph 32, Falk LJ states that "*The implication is that a landlord or tenant is a party to a lease, and that paragraph (b) is getting at other parties, such as a management company, that may also execute a lease.*".

21. The applicant is not such a management company or other party that might execute a lease – it is a purchaser of the freehold who did not have a legal interest at the time of the claim notice. On that basis the Tribunal finds that the respondent RTM company has no liability for any of the applicant's costs. Given there is no liability, the Tribunal has not considered whether or not those costs are reasonable.

Name: Judge Stewart Date: 19 March 2026

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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 regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such 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 such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).