



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

**Case reference** : LON/00AZ/LRM/2018/0024

**Property** : Admiral House, 1-13 (odds)  
Hospital Way, London SE13 6UF

**Applicant** : Admiral House RTM Company Ltd

**Representative** : In person

**Respondent** : Assethold Limited

**Representative** : Scott Cohen, Solicitors

**Type of application** : Right to manage

**Tribunal member(s)** : Judge Robert Latham  
Mr Richard Shaw FRICS

**Venue** : 10 Alfred Place, WC1E 7LR

**Date of decision** : 5 December 2018

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**DECISION**

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**Decisions of the Tribunal**

- (1) The Tribunal determines that the Applicant was on the relevant date entitled to acquire the right to manage the premises pursuant to section 84(5)(a) of the Act, and the Applicant will acquire such right within three months after this determination becomes final.
- (2) The Tribunal determines that the Respondent shall pay the Applicant £100 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

## **The Application**

1. On 25 September 2018, the Applicant issued this application to acquire the right to manage Admiral House, 1-13 (odds) Hospital Way, London SE13 6UF under Part 2 of Chapter 1 of the Commonhold and Leasehold Reform Act 2002 ("the Act"). On 8 August 2018, the Applicant had served its Claim Notice. On 7 September, the Respondent freeholder has served a counter-notice disputing the claim on the grounds that the Applicant had failed to comply with sections 73(2); 80(2); 80(8) and 80(9) of the Act.
2. On 27 September, Tribunal gave Directions and set the matter down for a paper determination. Pursuant to these Directions:
  - (i) The Respondent has filed a Statement of Case in response to the Application, dated 18 October 2018;
  - (ii) The Applicant has filed a Statement in Response, dated 7 November 2018.
3. The relevant provisions of the Act are set out in the Appendix. The Respondent raises a single issue for contending that the Applicant is not entitled to acquire the Right to Manage, namely that the Applicant has wrongly identified "the premises" in the Articles of Association, the Claim Notice and the associated documentation.
4. In both the Articles of Association and the Claim Notice, the Applicant identifies the "the premises" as "Admiral House, 1-13 (odds) Hospital Way, London SE13 6UF". The point taken by the Respondent is that the Land Registry Official Copy of Register of Title rather describes the land and estate comprised in the title as "Admiral House, 1-11 (odds) Hospital Way, London SE13 6UF".
5. The Official Copy shows the entries on the register of title on 12 October 2018. The proprietor is recorded as Mandeep Singh Basra and Lakhbinder Kallar. On 10 August 2011, they acquired the freehold. The Schedule of notices of leases lists seven leases namely Flats 1, 3, 5, 7, 9, 11, and 13. The leases for Flats 1 to 11 are dated 2 August 2011. The lease for Flat 13 is dated 31 July 2015. Thus, the lease for Flat 13 postdates the date on which Mandeep Singh Basra and Lakhbinder Kallar registered their title. On 8 February 2018, the Respondent acquired the landlord interest. It would seem that it has not yet registered its title.
6. As a matter of fact, Admiral House includes all seven flats, namely Flats 1, 3, 5, 7, 9, 11, and 13. The Respondent does not dispute that Flat 13 is within Admiral House, but rather argues that it is not mentioned in the description of the building on the freehold title. Had the Applicant identified the premises as "Admiral House, 1-11 (odds) Hospital Way,

London SE13 6UF”, it is probable that the Respondent would have argued that premises consisting of Flats 1 to 11, without Flat 13, do not constitute “premises” as defined by 72 of the Act in that they do not consist of “a self-contained building or part of a building”.

7. The Tribunal is satisfied that the Applicant has correctly identified the premises to which the Right to Manage application relates.
8. The Respondent refers to the decision in *Elim Court RTM Co Ltd v Avon Freeholds Ltd* [2017] EWCA Civ 89; [2018] QB 571. The Court of Appeal noted that the Government’s policy was that the RTM procedures should be as simple as possible to reduce the potential for challenge by obstructive landlords on purely technical grounds and that the legislation should be construed having regard to this legislative intent. We are satisfied that the point taken by the Respondent is purely technical and lacking in any merit. If there is any error, it is the description of the land and estate comprised in the title in the Land Registry Official Copy of Register of Title which needs to be corrected.
9. Section 88(3) of the Act states:

“(3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before a leasehold valuation tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.”
10. In the light of the Tribunal’s decision, there is no question of awarding any costs of the proceedings to the Respondent because the application for the right to acquire has not been dismissed.
11. The Applicant has paid tribunal fees of £100. In the light of our findings, we are satisfied that it is appropriate to order the Respondent to refund the fees paid by the Applicant within 28 days of the date of this decision pursuant to Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
12. The Applicant also applies for an order for costs against the Respondent under Rule 13(1) of the Tribunal Rules. Rule 13 provides that a Tribunal may make an order in respect of costs only if a person has “acted unreasonably in bringing, defending or conducting proceedings”. In *Willow Court Management Company (1985) Ltd v Alexander* [2016] UKUT 290 (LC), the Upper Tribunal set a high threshold before unreasonable conduct is established. “Unreasonable” conduct includes conduct which is vexatious, and designed to harass the other side rather than advance the resolution of the case. It is not enough that the conduct leads in the event to an unsuccessful outcome. Had we considered that the Applicant had established a prima facie case of unreasonable conduct, we would have given Directions so that

both sides could have framed their cases. We are satisfied that the Applicant has not established such a case.

**Judge Robert Latham**  
**5 December 2018**

### **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).

### **Appendix**

#### **The Commonhold and Leasehold Reform Act 2002**

##### **Section 72: Premises to which Chapter applies**

- (1) This Chapter applies to premises if:
  - (a) they consist of a self-contained building or part of a building, with or without appurtenant property,
  - (b) they contain two or more flats held by qualifying tenants, and
  - (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.
- (2) A building is a self-contained building if it is structurally detached.

(3) A part of a building is a self-contained part of the building if:

(a) it constitutes a vertical division of the building,

(b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and

(c) subsection (4) applies in relation to it.

(4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it:

(a) are provided independently of the relevant services provided for occupiers of the rest of the building, or

(b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.

#### 80 Contents of claim notice

(1) The claim notice must comply with the following requirements.

(2) It must specify the premises and contain a statement of the grounds on which it is claimed that they are premises to which this Chapter applies.

(3) It must state the full name of each person who is both:

(a) the qualifying tenant of a flat contained in the premises, and

(b) a member of the RTM company, and the address of his flat.