

494



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

Case Reference : **MAN/00FF/LCP/2014/0006**

Property : **Venice House, Florence House and Milan House,
The Forum, Eboracum Way, York YO31 7SR**

Applicants : **Trinity (Estates) Property Management Limited**

Respondents : **The Forum (York) RTM Company Limited**

Type of Application : **Application for a determination as to Applicant's
costs, section 88(4) of the Commonhold and
Leasehold Reform Act 2002**

Tribunal Members : **A M Davies, LLB
A Ramshaw, MRICS**

Date of Decision : **15 January 2015**

DECISION

on the basis of written representations

DECISION

The Respondent shall pay the Applicant's costs pursuant to Section 88 of the Commonhold and Leasehold Reform Act 2002 ("the Act") in the sum of £2336.17

REASONS

1. The Respondent RTM company was incorporated with a view to making a right to manage application in relation to residential blocks at The Forum, Eboracum Way, York. The application was heard on 14 August 2014 under case reference MAN/00FF/LCP/2014/0005.
2. Following the hearing, the Tribunal determined that for reasons set out in its decision the Respondent was not entitled to acquire a right to manage the property and dismissed the application. The Applicant is the current manager, and had opposed the RTM application.
3. Section 88(1) of the Act provides that an RTM company which serves a Claim Notice shall pay the reasonable costs incurred by a recipient of the notice. Section 88(3) reads:
"A RTM company is liable for any costs which [a person served with a Claim Notice] incurs as party to any proceedings under this Chapter before a [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."
4. Where agreement as to costs cannot be reached, either party may apply for the amount of costs to be determined by this Tribunal. Accordingly, following failure to reach agreement, the Applicant has applied for such determination.
5. The application is determined without a hearing, each party having supplied its arguments to the tribunal in writing.
6. The Respondent objects firstly to the Applicant's claim for costs of travelling by train to and from the hearing on 14 August 2014 (a total of 6 hours) at the hourly rate of £177. It argues that a local agent could have been instructed to attend the hearing at lower cost. The Applicant claims that there is no evidence that the cost of instructing an agent would have been lower than the charge for travelling time. The Respondent does not object to the hourly rate applied to travelling time. The Tribunal finds that it was reasonable for the Applicant's solicitor Mrs Tara Taylor to attend before the Tribunal given her involvement in previous RTM applications relating to The Forum and the existence of some uncertainty over the exact arguments the Respondent was intending to put forward at the hearing.
7. Secondly, the Respondent claims that the Applicant should charge the train fare from the Applicant's offices to York and back, rather than from the railway station nearest to Mrs Taylor's home. However the Applicant has demonstrated that the train fares are the same from both starting points.

8. Thirdly, the Respondent challenges the validity of the costs application itself, on the basis that the name of the landlord (which has taken no part in the RTM proceedings) has been incorrectly given by the Applicant. The Applicant informs the Tribunal that Abacus Land 3 Limited acquired the freehold of The Forum in or about 2011, and is a Guernsey registered company. In any event the accuracy or otherwise of the name given would not be relevant to the costs issues now before the Tribunal.

9. The Tribunal has considered the Applicant's schedule of time spent and finds that a small deduction should be made to the costs claimed for reading incoming mail, reviewing documents and preparing a request for copy documents. Overall the costs to be deducted amount to £118.70 bringing the total costs payable by the Respondent, including £136.17 cost of train travel, to £2336.17.