



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

Case Reference : LON/00AS/LAM/2017/0027

Property : Furlong Court, 2 Norfolk Road,
Uxbridge, Middx. UB8 1BL

Applicant : Lanyon Jersey Propco Ltd (Flats 2, 5 & 8)

Proposed Manager : Sue Corby, Residential Management
Group Ltd

Respondents : Mark Nutt and Claire Meredith-Nutt
(Flats 1 and 3)
Baljinder and Parminder Manjat (Flat 4)
JLS Finn Property Ltd (Flat 6)
Mr T and Mrs S Dauncey (Flat 7)
James Bolshaw and Ami Stewart (Flat 9)
Ian Clarke and Silvia Rangil (Flat 10)
Adriatic Land 2 (GR3) Ltd (Lessor)

Type of Application : Appointment of manager

Tribunal Members : Judge Nicol
Mr SF Mason BSc FRICS FCI Arb

**Date and venue of
Hearing** : 8th January 2018
10 Alfred Place, London WC1E 7LR

Date of Decision : 8th January 2018

DECISION

Decision of the Tribunal

The application is granted for the reasons set out below. The Tribunal appoints Mrs Sue Corby of Residential Management Group Ltd as the manager of the subject property on the terms of the management order attached at Appendix 2 to this decision.

Relevant legislative provisions are set out in Appendix 1 to this decision.

Tribunal's reasons

1. The Applicant is the lessee of three flats in a 10-flat block. The lease provides that management functions are to be carried out by 2 Norfolk Road Management Co Ltd but that company was dissolved on 27th April 2010. The lease has no alternative provision. The lessor, the Seventh Respondent to this application, has temporarily provided management through Mrs Sue Corby of the Residential Management Group Ltd but a longer term solution is required.
2. Therefore, the Applicant has made the current application under section 24(2)(b) of the Landlord and Tenant Act 1987 for the appointment of a manager and, in particular, that Mrs Corby carry on her management role under that appointment. The idea is that, during the term of the appointment, a variation of the leases would be agreed by all parties to provide for management beyond that appointment. All the Respondents have been notified of the application but have not lodged any response or objection, save for the Seventh Respondent which specifically confirmed that it did not oppose the application.
3. The Tribunal heard the application on 8th January 2018. Direct access counsel, Mr Shepherd, spoke on behalf of the Applicant. No-one attended on behalf of any of the Respondents.
4. Mrs Corby attended to be questioned by the Tribunal. She had already provided her CV, a budget for 2018 (with a spreadsheet explaining each proposed charge), a site inspection report dated 17th October 2017 (including photographs) and a professional indemnity insurance certificate, all of which were included in the Applicant's hearing bundle. She confirmed she has a team of 6 property managers working under her and they have been managing the subject property at a minimal level for the last 1½-2 years pending the determination of this application. The Tribunal was satisfied that she would be a suitable appointee under a management order.
5. The Applicant provided a draft management order. The Tribunal found the draft acceptable subject to the following amendments:
 - Paragraph 4 under the sub-heading "**DIRECTIONS**" provided for the Manager to appoint separate managing agents. This is a misunderstanding of the nature of the appointee – it is the appointee themselves who must carry out the functions of a managing agent. Therefore, paragraph 4 and the second sentence of paragraph 4.3 under the sub-heading "**MAINTENANCE**" must be deleted.
 - The Manager's fee in paragraph 5 was mistakenly put at £500 per year rather than £2,000 per year, plus VAT. The Tribunal is satisfied that the latter is a reasonable fee for the reasonable execution of the Manager's basic management duties and so the order may be amended accordingly.

6. The current management arrangements are clearly unsatisfactory since the manager under the lease does not exist and there are no alternative arrangements. Unless and until the leases are suitably amended, the Tribunal is satisfied that it is just and convenient for the Tribunal to appoint a manager so that the subject property may be suitably managed in the meantime.

Name: NK Nicol

Date: 8th January 2018

Appendix 1 – relevant legislation

Landlord and Tenant Act 1987

Section 22

- (1) Before an application for an order under section 24 is made in respect of any premises to which this Part applies by a tenant of a flat contained in those premises, a notice under this section must (subject to subsection (3)) be served by the tenant on—
 - (i) the landlord, and
 - (ii) any person (other than the landlord) by whom obligations relating to the management of the premises or any part of them are owed to the tenant under his tenancy.
- (2) A notice under this section must—
 - (a) specify the tenant's name, the address of his flat and an address in England and Wales (which may be the address of his flat) at which any person on whom the notice is served may serve notices, including notices in proceedings, on him in connection with this Part;
 - (b) state that the tenant intends to make an application for an order under section 24 to be made by the appropriate tribunal in respect of such premises to which this Part applies as are specified in the notice, but (if paragraph (d) is applicable) that he will not do so if the requirement specified in pursuance of that paragraph is complied with;
 - (c) specify the grounds on which the tribunal would be asked to make such an order and the matters that would be relied on by the tenant for the purpose of establishing those grounds;
 - (d) where those matters are capable of being remedied by any person on whom the notice is served, require him, within such reasonable period as is specified in the notice, to take such steps for the purpose of remedying them as are so specified; and
 - (e) contain such information (if any) as the Secretary of State may by regulations prescribe.
- (3) The appropriate tribunal may (whether on the hearing of an application for an order under section 24 or not) by order dispense with the requirement to serve a notice under this section on a person in a case where it is satisfied that it would not be reasonably practicable to serve such a notice on the person, but the tribunal may, when doing so, direct that such other notices are served, or such other steps are taken, as it thinks fit.
- (4) In a case where—
 - (a) a notice under this section has been served on the landlord, and
 - (b) his interest in the premises specified in pursuance of subsection (2)(b) is subject to a mortgage, the landlord shall, as soon as is reasonably practicable after receiving the notice, serve on the mortgagee a copy of the notice.

Section 24

- (1) The appropriate tribunal may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies--
 - (a) such functions in connection with the management of the premises, or
 - (b) such functions of a receiver, or both, as the tribunal thinks fit.
- (2) The appropriate tribunal may only make an order under this section in the following circumstances, namely--
 - (a) where the tribunal is satisfied--
 - (i) that any relevant person either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and
 - (ii) ...
 - (iii) that it is just and convenient to make the order in all the circumstances of the case;
 - (ab) where the tribunal is satisfied--
 - (i) that unreasonable service charges have been made, or are proposed or likely to be made, and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;
 - (aba) where the tribunal is satisfied--
 - (i) that unreasonable variable administration charges have been made, or are proposed or likely to be made, and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;
 - (abb) where the tribunal is satisfied--
 - (i) that there has been a failure to comply with a duty imposed by or by virtue of section 42 or 42A of this Act, and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;
 - (ac) where the tribunal is satisfied--
 - (i) that any relevant person has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and
 - (ii) that it is just and convenient to make the order in all the circumstances of the case;

or

 - (b) where the tribunal is satisfied that other circumstances exist which make it just and convenient for the order to be made.

- (2ZA) In this section "relevant person" means a person—
- (a) on whom a notice has been served under section 22, or
 - (b) in the case of whom the requirement to serve a notice under that section has been dispensed with by an order under subsection (3) of that section.

- (2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable—
- (a) if the amount is unreasonable having regard to the items for which it is payable,
 - (b) if the items for which it is payable are of an unnecessarily high standard, or
 - (c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection "service charge" means a service charge within the meaning of section 18(1) of the Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

- (2B) In subsection (2)(aba) "variable administration charge" has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.
- (3) The premises in respect of which an order is made under this section may, if the tribunal thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.
- (4) An order under this section may make provision with respect to—
- (a) such matters relating to the exercise by the manager of his functions under the order, and
 - (b) such incidental or ancillary matters,
- as the tribunal thinks fit; and, on any subsequent application made for the purpose by the manager, the tribunal may give him directions with respect to any such matters.
- (5) Without prejudice to the generality of subsection (4), an order under this section may provide—
- (a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;
 - (b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;
 - (c) for remuneration to be paid to the manager by any relevant person, or by the tenants of the premises in respect of which the order is made or by all or any of those persons;
 - (d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.
- (6) Any such order may be granted subject to such conditions as the tribunal thinks fit, and in particular its operation may be suspended on terms fixed by the tribunal.

- (7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, the tribunal may, if it thinks fit, make such an order notwithstanding—
 - (a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or
 - (b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).
- (8) The Land Charges Act 1972 and the Land Registration Act 2002 shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.
- (9) The appropriate tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 2002, the tribunal may by order direct that the entry shall be cancelled.
- (9A) The tribunal shall not vary or discharge an order under subsection (9) on the application of any relevant person unless it is satisfied—
 - (a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and
 - (b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.
- (10) An order made under this section shall not be discharged by the appropriate tribunal by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.
- (11) References in this Part to the management of any premises include references to the repair, maintenance, improvement or insurance of those premises.

IN THE FIRST TIER TRIBUNAL (PROPERTY CHAMBER)

LONDON REGION

CASE NUMBER: LON/00AS/LAM/2017/0027

BETWEEN

LANYON JERSEY PROPCO LIMITED

Applicant

-AND-

(1) BALJINDER MANGAT AND PARMINDER MANGAT

(2) JLS FINN PROPERTY LIMITED

(3) MR IAN CLARKE AND MS SILVIA RANGIL

(4) MR JAMES BOLSHAW AND MS AMI STWEART

(5) MR MARK NUTT AND MRS CLAIRE MEREDITH-NUTT

(6) MR T AND MRS S DAUNCEY

(7) ADRIATIC LAND 1 (GR3) LIMITED

Respondents

DRAFT MANAGEMENT ORDER

Appendix 2 – Management Order

1. In this order
 - a) 'the Property' means Furlong Court, 2 Norfolk Road, Uxbridge, Middlesex, UB8 1BL;
 - b) 'the freeholders' includes any successors in title;
 - c) 'the lessee' means a person holding under a long lease as defined by Section 59(3) of the Landlord and Tenant Act 1987 ('the Act')

2. It is ordered that:

In accordance with section 24(1) of the Landlord and Tenant Act 1987 Mrs Sue Corby of Residential Management Group Ltd ("the Manager") be appointed Manager of the Property for a period of 5 years from 8 January 2018 ("the Period")

3. The Manager shall during the Period manage the Property in accordance with:
 - i) The Directions and Schedule of Functions and Services set out below;
 - ii) The rights and obligations of the 2 Norfolk Road Management Company Ltd ("the Management Company") under the leases demising the flats;
 - iii) All relevant statutory requirements; and
 - iv) The requirements of the service charge Residential Management Code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State of England and Wales under section 87 of the Leasehold Reform Housing and Urban Development Act 1993.

DIRECTIONS

1. From the date of appointment, and throughout his appointment, the Manager shall maintain a policy of professional indemnity insurance to cover his obligations and liabilities as Manager.
2. On the expiry of 12 months from the date of this order the Manager shall file with the Tribunal a brief report on the progress of the management of the property.
3. The Manager and the parties shall be entitled to apply to the Tribunal for further directions if so advised and/or in the event that circumstances necessitate such an application.
4. The Manager may employ such staff as may reasonably be required to assist in the performance of the obligations in this order;
5. The Manager shall be entitled to remuneration as set out below.

SCHEDULE OF FUNCTIONS AND SERVICES

SERVICE CHARGES AND RENT

1. Prepare an annual service charge budget, administer the service charge and prepare appropriate accounts in accordance with the relevant leases and any relevant Code of Practice.
- 1.2 Demand and collect rents, service charges, insurance premiums and any other payments arising under the relevant leases and appropriate.
- 1.3 Hold all monies received pursuant to this order and/or pursuant to the lease provisions as a trustee, in an interest bearing account (if appropriate), pending such monies being defrayed.
- 1.4 The Manager shall be entitled to take such action and court or tribunals proceedings as may be necessary to collect the service charge or rent arrears and to take such court action as may be necessary or desirable to secure compliance with the lessees obligations under the leases relating to the flats in the Property.

ACCOUNTS

2. Prepare an annual statement of account for the landlord and the lessees, detailing all monies received and expended and held-over or held by way of reserve fund. The accounts shall be certified by an external accountant, if permissible under the lease provisions.

- 2.2 Produce for inspection by the freeholder and/or lessees, invoices, receipts or other evidence of expenditure.
- 2.3 All monies collected on the Management Company's behalf will be accounted for in accordance with any relevant RICS Code of Practice.

MAINTENANCE

3. Subject to the payment of the service charges by the tenants perform the Management Company's repair and maintenance obligations as set out in the leases.
4. Arrange, manage and where appropriate supervise all repair and maintenance, building work and service contracts applicable to the property and instruct contractors to attend to the same, as appropriate.
- 4.2 Give consideration to the works to be carried out to the property, in the interest of good estate management. Set up a planned maintenance programme, as appropriate.
- 4.3 Ensure that all necessary and relevant statutory consultation exercises are undertaken in relation to all qualifying works and any qualifying long term agreements.

FEES

5. The Manager shall be entitled to charge the following management fees:
 - 5.1 During the first year of this order:
 - a) A fee not to exceed £2000 per annum plus VAT for the basic management duties in accordance with the current RICS code.
 - b) Reasonable fees for work outside basic management duties at an hourly rate not to exceed £100 + VAT
 - c) Supervisory fees for major works if required not to exceed 12% of the contract sum plus VAT.
 - 5.2 In the second, third, fourth and fifth year of this order the basic fee first mention above may be increased in line with the Retail Price Index.