



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

Case Reference : **LON/OOAK/LAM/2013/0022**

Property : **Mintern Close, Hedge Lane,
Enfield, N13 5SX**

Applicant : **Mrs T Kasinos (46); Mr M Halawa
(33); Mrs P Berguer (16); Mrs M
Hunt (3) and Miss G Panayi (25)
Mr D Foulds and Mr R O'Connor of
Rylands Associates Limited**

Representative : **proposed manager for the
Applicants**

Respondent : **Mintern Close Holding Limited (1)
and Mintern Close (Management)
Limited (2)**

Representative : **Mr C Baker – Counsel accompanied
by Mr D Willetts and Messrs B and
M Maunder-Taylor, proposed joint
managers for the Respondents**

Type of Application : **Appointment of a manager**

Tribunal Members : **Tribunal Judge Andrew Dutton
Mrs S F Redmond BSc (Econ)
MRICS
Mrs L L Hart**

**Date and venue of
Hearing** : **9th April 2014 at 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **16th April 2014**

DECISION

DECISION

The Tribunal determines that Mr B Maunder-Taylor and Mr M Maunder-Taylor shall be appointed joint managers of the property, Mintern Close, Hedge Lane, London N13 5SX (the Premises) for a period of 3 years commencing on 1st May 2014 on the terms of the Order annexed hereto.

BACKGROUND

1. On 19th February 2014 this matter came before us for the purposes of determining whether it was just and convenient to appoint a manager for the premises under the provisions of section 24 of the Landlord and Tenant Act 1987 (the Act). On that day it was agreed that there was a need to appoint a manager. The matter could not proceed as the Applicants' nominee; Mr R O'Connor of Rylands Associates Limited was not able to attend. Mr Conway of HML Hathaways, the existing managing agents indicated that he would be willing to accept an appointment by the Tribunal. However, his position changed and by letter dated 27th March 2014 HML Hathaways confirmed that they wished to relinquish their appointment.
2. This threw the Respondent companies into something of a quandary and as a result they approached Mr Bruce and Mr Michael Maunder-Taylor, who confirmed their willingness to stand as Tribunal managers if appointed by us.
3. The question as to which nominee should be appointed came before us for consideration on 9th April 2014. The Applicants attended, represented by Mr Foulds a solicitor from Foulds Solicitors Limited and Mr O'Connor. Both the Respondents were represented by Mr Baker of Counsel and Mr Bruce Maunder-Taylor and his son Michael attended.
4. Prior to the hearing we received a helpful bundle containing Mr O'Connor's statement, CV with details of his experience, a draft management order and reports following inspection which also led to a cyclical maintenance report. The bundle also contained the Maunder-Taylor's management plan and draft order together with details of their insurance and both CV's.
5. We were told at the commencement of the hearing that the draft Order and schedule prepared by Mr Bruce Maunder-Taylor was agreed by the Applicants.

HEARING

6. We heard firstly from Mr O'Connor. We shall paraphrase the evidence he gave to us and if we omit the full details it is not to say that we did not take note of all he said. He explained his employment history and confirmed that he was an associate member of the Royal Institute of Chartered

Surveyors and had been since December 2013. He confirmed that he had not been appointed by a Tribunal under the Act but that he had worked for Boydens, a firm which had been appointed as a manager under the Act. He confirmed that he was happy with the terms of the draft order prepared by Mr Maunder-Taylor and was asked by Mr Baker why the draft he had approved and agreed with Mr Conway of HML Hathaway did not provide much of that which was in the draft now approved, for which he had no compelling answer. He confirmed that he had no professional experience in litigation, arbitration or mediation. He gave us some information on Rylands Associates Limited and told us that he was involved in managing properties which had similar problems faced at the Premises.

7. As with Mr O'Connor's evidence we shall only briefly recount all that was said to us by Mr Bruce and Mr Michael Maunder-Taylor. Mr B Maunder-Taylor told us that he presently had between 10 and 12 Tribunal appointments of which he thought 3 were jointly with his son Michael. Asked to explain the joint appointment he confirmed it was to an extent a matter of succession and that Michael would deal with the day to day matters. He was aware that the lease contained no provision for a reserve fund and a somewhat unusual insurance arrangement. He thought the creation of a reserve fund could be included in the Order as could the power to insure the Premises and to enable borrowing. He confirmed that he was still working full time and that his experience would assist in dispute resolution which was important in this case. He outlined the future. Year one would be a "fire fighting" year to set up funding principles and collect money and hopeful resolve the animosity between certain factions in the Premises. In year two the major works required would be undertaken and in year three any dispute arising from those major works would be attended to. He hoped that he would meet with the Applicants very shortly after his appointment, if that occurred, to seek resolution of the disputes that had arisen. He was questioned on the terms of the proposed Order, including the provision for the recovery of costs in the case where an adverse order might have been made. He explained his thoughts on that.
8. Following from his father Michael Maunder-Taylor gave brief evidence confirming that he had three Tribunal appointments, all jointly with his father. He confirmed that he was likely to have the greater day to day involvement and that he had experience of dealing with major works and with premises where there was animosity between leaseholders. He also confirmed that if the animosity abated swiftly it was possible that the management charge, initially of £275 per flat plus VAT could be reduced, or at least held at that rate.
9. In short closing submissions Mr Baker made great play of the experience of Mr Bruce Maunder-Taylor. The Premises had a history of acrimony, as evidenced by the papers before us at the hearing in February, to which, in part he referred. Mr Foulds, in contrast asked us to accept that the lack of paper qualifications did not rule out Mr O'Connor who had some 12 years experience in property management.

10. We asked Mrs Kasinos whether, if we appointed the Maunder-Taylors she would be willing to work with them to resolve the acrimony that existed. To her credit she said she would.

FINDINGS

11. It is accepted that a manager needs to be appointed by us to hopefully bring to an end the acrimony that undoubtedly exists and which is impeding the maintenance and management of the Premises. We had, in effect a beauty parade, requiring us to consider the relative merits of Mr O'Connor and Messrs Maunder-Taylor. We have no doubt that Mr O'Connor is a competent and experienced manager. We were impressed with the manner in which he presented himself at the hearing and that in other circumstances we are satisfied that he would be able to manage the Premises. However, the circumstance relating to the Premises is not straight forward. There is considerable animosity between leaseholders. We do not need to go into the merits. Suffice to say it seems to us that there have been periods of neglect, for whatever reason and under whomever's watch, which now need to be reversed. It will take experience to bring the parties together for the good of the Premises and some hard decisions may need to be taken, which will not necessarily meet with the approval of all concerned.
12. We think that the first year of management will set the tone. We believe that the right appointment to achieve the resolution of the issues at the Premises is Mr Bruce Maunder-Taylor, assisted by his son, who, it would seem, would deal with matters on a day to day basis, but with the experience of his father available, if required. Mr Maunder-Taylor's experience in litigation, hopefully not needed, but in arbitration and mediation will be called upon to set matters on the right path and that the first twelve months will be crucial in achieving the aims intended by the Order. It is for this experience that we find Mr B and Mr M Maunder-Taylor the appropriate persons to manage the Premises for a period of three (3) years commencing on 1st May 2014.
13. The draft Order prepared by Mr Bruce Maunder-Taylor has been agreed as being appropriate by both sides in this dispute. We think that in starting the order from 1st May 2014 it will give time to HML Hathaways and the Respondents to collate all necessary information and funds and transfer those to the Maunder-Taylors so that come 1st May they will be able to implement the Order without delay.
14. We have made provision in the Order for a substitute budget to be issued for the year commencing April 2014 to enable the Managers to collect in funds to create a reserve fund and to ensure that they are able to insure the Premises as provided for in the Order.

Name: Andrew Dutton -
Tribunal Judge

Date: 16th April 2014

IN THE FIRST-TIER TRIBUNAL (PROPERTY CHAMBER)

CASE REFERENCE: LON/00AK/LAM/2013/0022

**IN THE MATTER OF SECTION 24 (1) OF THE LANDLORD AND TENANT ACT
1987**

AND IN THE MATTER OF

FLATS 1-63 MINTERN CLOSE, HEDGE LANE, LONDON N13 5SX

B E T W E E N:

MRS T KASINOS & OTHERS

Applicants

AND

MINTERN CLOSE (HOLDING) LIMITED AND OTHER

Respondent

MANAGEMENT ORDER

Interpretation:

In this Order:

- (a) “Common Parts” means any garden area, postal boxes, refuse store, cycle store, security gates, lifts, paths, halls, staircases and other access ways and areas (if any) within the premises (as defined at Recital (2) in the leases) that are provided by the Respondent for common use by the Lessees.
- (b) “Leases” means the long leases vested in the Lessees of the Flats.
- (c) “Lessee” means a tenant of a dwelling holding under a long lease as defined by Section 59(3) of the Landlord and Tenant Act 1987 (“the Act”).
- (d) “the Managers” means Mr Bruce Maunder Taylor and Mr Michael Maunder Taylor of Maunder Taylor, Chartered Surveyors.
- (e) “the Premises” all that property known as Mintern Close, Hedge Lane, London N13 5SX including the 63 Flats known as 1-63 Mintern Close.

- (f) “the Respondent” includes any successors in title of the freehold estate registered under Title Number MX166319 or any interest created out of the said freehold title.

Preamble

UPON the Applicant having applied for the appointment of a Manager under Part II, Landlord and Tenant Act 1987

AND UPON the First-Tier Tribunal being satisfied that the Applicant is entitled to so apply and that the jurisdiction to appoint a Manager is exercisable in the present case

AND UPON the First-Tier Tribunal being satisfied that the conditions specified in S.24 Landlord and Tenant Act 1987 are met, such that it is just and convenient to appoint a Manager

IT IS ORDERED THAT

The Manager

1. The appointment of Mr Bruce Maunder Taylor, FRICS, MAE, and Mr Michael Maunder Taylor MSc MIRPM AssocRICS as Managers (including such functions of Receivers as are specified herein) of the Premises pursuant to S.24 of the Act for a period shall commence on 1st May 2014 and continue for a period until 30th April 2017 and is given for the duration of their appointment all such powers and rights as may be necessary and convenient and in accordance with the Leases to carry out the management functions of the Respondent and in particular:
 - (a) To receive all service charges, interest and any other monies payable under the Leases and any arrears due thereunder, the recovery of which shall be at the discretion of the Managers.
 - (b) For the avoidance of doubt, the current service charge financial year shall continue to 31 March 2014 and thereafter as running from 1 April to 31 March in each year this Order is in place. In addition it shall be open to the Managers to issue a fresh demand for the year commencing 1st April 2014 to include funds for the future maintenance of the Premises and to ensure that there are funds available to cover the insurance of the Premises and to put in place the necessary inspections and reports

- (c) To receive the ground rents reserved under the Leases and to account annually to the Respondent in respect of the same.
- (d) The power and duty to carry out the obligations of the Respondents contained in the Leases and in particular and without prejudice to the foregoing:
 - (i) The Respondent's obligations to provide services;
 - (ii) The Respondent's repair and maintenance obligations; and
 - (iii) The Respondent's power to grant consent.
- (e) The power to delegate to other employees of Maunder Taylor, appoint solicitors, accountants, architects, surveyors and other professionally qualified persons as they may reasonably require to assist them in the performance of their functions, and pay the reasonable fees of those appointed.
- (f) The power to appoint any agent or servant to carry out any such function or obligation which the Managers are unable to perform themselves or which can more conveniently be done by an agent or servant and the power to dismiss such agent or servant.
- (g) The power in their own name or on behalf of the Respondent to bring, defend or continue any legal action or other legal proceedings in connection with the Leases of the Premises including but not limited to proceedings against any Lessee in respect of arrears of service charges or other monies due under the Leases and to make any arrangement or compromise on behalf of the Respondent. The Managers shall be entitled to an indemnity for both its own costs reasonably incurred and for any adverse costs order out of the service charge account.
- (h) The power to commence proceedings or such other enforcement action as is necessary to recover sums due from the Respondent pursuant to Paragraphs 1 (d) of this Order.

- (i) The power to enter into or terminate any contract or arrangement and/or make any payment which is necessary, convenient or incidental to the performance of his functions.
 - (j) The power to open and operate client bank accounts in relation to the management of the Premises and to invest monies pursuant to their appointment in any manner specified in the Service Charge Contributions (Authorised Investments) Order 1998 and to hold those funds pursuant to S.42 of the Landlord and Tenant Act 1987. The Managers shall deal separately with and shall distinguish between monies received pursuant to any reserve fund (whether under the provisions of the lease (if any) or to power given to him by this Order) and all other monies received pursuant to their appointment and shall keep in a separate bank account or accounts established for that purpose monies received on account of the reserve fund.
 - (k) The power to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of the Respondent or any Lessee owing sums of money under his Lease.
 - (l) The power to borrow all sums reasonably required by the Managers for the performance of their functions and duties, and the exercise of their powers under this Order in the event of there being any arrears, or other shortfalls, of service charge contributions due from the Lessees or any sums due from the Respondent, such borrowing to be secured (if necessary) on the interests of the defaulting party (i.e., on the leasehold interest of any Lessee, and the freehold of the Premises in respect of the Respondent).
 - (m) The power to insure the whole building as a cost to the service charge account.
 - (n) The power to raise a reserve fund.
2. The Managers shall manage the Premises in accordance with:
- (a) the Directions of the Tribunal and the Schedule of Functions and Services attached to this Order;

- (b) the respective obligations of all parties – landlord and tenant – under the Leases and Transfers and in particular with regard to repair, decoration, provision of services and insurance of the Premises; and
 - (c) the duties of managers set out in the Service Charge Residential Management Code (the “Code”) or such other replacement code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to S.87 of the Leasehold Reform, Housing and Urban Development Act 1993.
3. From the date of this Order, no other party shall be entitled to exercise a management function in respect of the Premises where the same is a responsibility of the Managers under this Order.
4. From the date of this Order, the Respondent shall not, whether by itself or any agent, servant or employee, demand any further payments of services charges, administration charges or any other monies from the Lessees (including any commercial leaseholder) at the Premises, such functions having been transferred to the Managers from and including the date of the Tribunal’s decision.
5. The Respondent and the Lessees and any agents or servants thereof shall give reasonable assistance and cooperation to the Managers in pursuance of their duties and powers under this Order and ensure that all financial data necessary for the proper management of the Premises is handed over in a timely fashion, together with any sums held by HML Hathaways at the expiration of their period of management and shall not interfere or attempt to interfere with the exercise of any of their said duties and powers.
6. Without prejudice to the generality of the foregoing hereof:
 - (a) The Respondent shall permit the Managers and assist them as they reasonably require to serve upon Lessees any Notices under S.146 of the Law of Property Act 1925 or exercise any right of forfeiture or re-entry or anything incidental or in contemplation of the same.
 - (b) The rights and liabilities of the Respondent as Landlord arising under any contracts of insurance to the Premises shall continue as rights and liabilities of the Managers.

- (c) The Managers shall be entitled to remuneration (which for the avoidance of doubt shall be recoverable as part of the service charges) in accordance with the Schedule of Functions and Services attached.
7. The Managers shall in the performance of their functions under this Order exercise the reasonable skill, care and diligence to be expected of a manager experienced in carrying out work of a similar scope and complexity to that required for the performance of the said functions and shall ensure they have appropriate professional indemnity cover in the sum of at least £1,000,000 providing copies of the current cover note upon request by any Lessee, the Respondent or the Tribunal.
8. The Managers shall act fairly and impartially in their dealings in respect of the Premises.
- 9.(a) The Managers are directed to register a restriction in Land Registry standard form N against the Respondent's estate registered under Title Number MX166319 in the following words: "No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by either Bruce Maunder Taylor or Michael Maunder Taylor of 1320 High Road, London N20 9HP". The registration fee in respect of such disposition as provided for in the Leases (see clause 2(9)) shall be £25 plus VAT and such registration shall be with the Managers, to whom the fee should be paid.
- 9(b) The Managers shall also register the Order against the above title number in accordance with s 24(8) of the Act
10. The Managers' appointment shall continue from the date of this Order and the duration of their appointment shall be limited to a period until 30th April 2017.
11. The obligations contained in this Order shall bind any successor in title and the existence and terms of this Order must be disclosed to any person seeking to acquire either a leaseholder interest (whether by assignment or fresh grant) or freehold.

Liberty to apply

12. The Managers may apply to the First-Tier Tribunal (Property Chamber) for further directions in accordance with S.24(4), Landlord and Tenant Act 1987. Such directions may include, but are not limited to:
- a. Any failure by any party to comply with an obligation imposed by this Order;
 - b. For directions generally;
 - c. Directions in the event that there are insufficient sums held by them to discharge their obligations under this Order and/or to pay their remuneration.

Andrew Dutton

Signed Tribunal Judge Dutton

Dated 16th April 2014

SCHEDULE

FUNCTIONS AND SERVICES

Financial Management:

1. Prepare an annual service charge budget, including an amended one for the year commencing 1st April 2014, administer the service charge and prepare and distribute appropriate service charge accounts to the Lessees as per the proportions under the terms of the Leases.
2. Demand and collect service charges, insurance premiums and any other payments due from the Lessees in the proportions set out in the Leases. Instruct solicitors to recover any unpaid service charges and any other monies due to the Respondent.
3. Create a form of reserve fund.
4. Produce for inspection (but not more than once in each year) within a reasonable time following a written demand by the Lessees or the Respondent, relevant receipts or other evidence of expenditure, and provide VAT invoices (if any).
5. Manage all outgoings from the funds received in accordance with this Order in respect of day to day maintenance and pay bills.
6. Deal with all enquiries, reports, complaints and other correspondence with Lessees, solicitors, accountants and other professional persons in connection with matters arising from the day to day financial management of the Premises.

Insurance:

7. Take out in accordance with the terms of this Order an insurance policy in the Managers' own names in relation to the buildings and the contents of the common parts of the Premises with a reputable insurer, and provide a copy of the cover note to all Lessees and the Respondent.
8. Manage or provide for the management through a broker of any claims brought under the insurance policy taken out in respect of the Premises with the insurer.

Repairs and Maintenance

9. Deal with all reasonable enquiries raised by the Lessees in relation to repair and maintenance work, and instruct contractors to attend and rectify problems as necessary.
10. Administer contracts in respect of the Premises and check demands for payment for goods, services, plant and equipment supplied in relation to contracts.
11. Manage the Common Parts and service areas of the Premises, including the arrangement and supervision of maintenance.
12. Carry out regular inspections (at the Managers' discretion but not less than four per year) without use of equipment, to such of the Common Parts of the Premises as can be inspected safely and without undue difficulty to ascertain for the purpose of day-to-day management only the general condition of those Common Parts.

Major Works

- 13a. In addition to undertaking and arranging day-to-day maintenance and repairs, to arrange and supervise major works which are required to be carried out to the Premises (such as extensive interior or exterior redecoration or repairs required to be carried out under the terms of the Leases or other major works where it is necessary to prepare a specification of works, obtain competitive tenders, serve relevant notices on the Lessees and supervise the works in question).
- 13b. In particular to undertake as soon as practicable a full health and safety review to include an asbestos and fire safety survey, an assessment of the electrical supply to the Premises and a structural survey to determine what works of repair may be required and the relative urgency of same.

Administration and Communication

14. Deal promptly with all reasonable enquiries raised by Lessees, including routine management enquires from the Lessees or their solicitors.
15. Provide the Lessees with telephone, fax, postal and email contact details and complaints procedure.

16. Keep records regarding details of Lessees, agreements entered into by the Managers in relation to the Premises and any changes in Lessees.

Fees

17. Fees for the above mentioned management services (with the exception of supervision of major works) would be a fee of £17,325 plus VAT per annum for the Premises for the remainder of this financial year and for the following financial year. Thereafter the fee shall be reviewed annually in line with inflation.
18. An additional charge shall be made in relation to statutory consultation procedures, other consultation procedures (whether evening meetings or by written communication) and liaison between lessees and contract administrators/builders whilst works are in progress on the basis of a fee of 2% of the cost of the works plus VAT. External surveyors or appropriate consultants will be instructed with regard to the contract administration/CDM compliance in regard to the major works contracts.
19. An additional charge shall be made in relation to the arrangement, claims handling and brokerage of insurances for the Premises, public liability, engineering and employee cover on the basis of a fee of 20% of the insurance premium if the insurance is brokered and handled by the Managers' Insurance Department and not by outside brokers.
20. An additional charge for dealing with solicitors' enquiries on transfer will be made in the sum not to exceed £150 plus VAT payable by the outgoing Lessee.
21. The undertaking of further tasks which fall outside those duties described above are to be charged separately at a present hourly rate ranging from £125 plus VAT for a qualified member of staff but, if the matter requires the Managers' personal attention, at present hourly rates of £300 plus VAT for Bruce Maunder Taylor and £200 plus VAT for Michael Maunder Taylor. The recovery of outstanding service charge monies shall give rise to an administration charge payable by the defaulting Lessee of £30 for each letter written after the first. The registration of dispositions (see paragraph 9(a) of the Order) shall give rise to a charge of £25 plus VAT