



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

Case reference : LON/00AE/LVM/2015/0017

Property : 104 Brondesbury Villas, London
NW6 6AD

Applicant : Ms J Sullivan &
Amek Investments Ltd

Representative : Ms J Sullivan & Mr G Chapman

Respondent : Mr Anthony Akabah

Representative : Mr Antony Akabah (his son)

Type of application : Application to extend a
management order

Tribunal members : Judge Timothy Powell
Mr Ian Holdsworth FRICS

Venue : 10 Alfred Place, London WC1E 7LR

Date of decision : 10 December 2015

DECISION

Decisions of the tribunal

- (1) The tribunal extends the appointment of Mr Jim Thornton of Hurford Salvi Carr as manager of 104 Brondesbury Villas, London NW6 6AD for a period of 5 years, expiring on 31 December 2020, on the same terms and conditions as the revised management order dated 17 December 2012 (under case reference LON/00AE/LAM/2012/0024);
- (2) The tribunal makes an order under section 20C of the Landlord and Tenant 1985 Act that none of Mr Akabah's costs in dealing with the

application (if there are any) are to be passed to the applicants through the service charge; and

- (3) The tribunal orders Mr Akabah to refund the £380 fees paid by the applicants within 28 days of the date of this decision.

The application

1. This is a joint application by the leaseholders of Flats A and B at 104 Brondesbury Villas, London NW6 6AD ("the property"), seeking the further extension of an existing, revised management order made by the tribunal in respect of the property, under section 24 of the Landlord and Tenant Act 1987.
2. The current order was first made on 10 November 2009 (under case ref. LON/00AE/LAM/2009/0019), when the tribunal appointed Mr Thornton of Hurford Salvi Carr as manager for the period of two years, expiring on 31 December 2011. On 8 December 2011, that order was extended for a period of five years, expiring on 31 December 2015 (under case ref. LON/00AE/LVM/2011/0009); and it was then revised and varied on 17 December 2012 (under case ref. LON/00AE/LAM/2012/0024).

The hearing

3. The applicants, Ms J Sullivan and Mr G Champion, appeared in person, together with the tribunal-appointed manager, Mr Jim Thornton. The freeholder, Mr Anthony Akabah, did not attend the hearing, but some 15 minutes after the start, he was represented by his son, Mr Antony Akabah (Antony being correctly spelt without an 'h').
4. The tribunal had the benefit of a hearing bundle prepared by the current manager, which contained copies of relevant documents.

The background

5. The property has been subject to serious neglect by the freeholder since around 2000, details of which are contained in earlier decisions. The current manager has undertaken several steps to improve the condition of the property, including obtaining a structural appraisal, shoring up the rear of the property with props, serving consultation notices in respect of major structural works, obtaining an arboriculturalist's report and removing two large trees from the rear garden.
6. However, it has not been possible to carry out necessary underpinning of the property, damp proofing or a proper investigation of the drains (which are feared to have collapsed), because the freeholder has

steadfastly refused to pay his contribution towards the future costs of works. As a result, the building is now "in crisis" and, without supplementary support, may be in danger of collapse.

7. The amount owed by the freeholder is some £74,416.92. Mr Thornton has already issued court proceedings against the freeholder for a large proportion of the unpaid sum and has obtained a judgment against him for £46,656.22. Following that judgment, Mr Thornton applied for and obtained an interim charging order against the property in the sum of £47,065.42, plus costs and interest accruing, which has now become a final charging order against the freeholder's interest. The final charging order may be a slightly higher amount, due to additional costs and the accrual of interest since the interim charging order was made. Solicitors are currently preparing papers with a view to a further application to court for an order for sale of the property.
8. Mr Antony Akabah acknowledged that his father, Mr Anthony Akabah, had allowed the property to deteriorate and said that his father was aware that work was needed to the property. For the record, he apologized to Ms Sullivan on his father's behalf, for all she has been through over the years as the property deteriorated.
9. He then went on to say that, under pressure from his sons, his father was now willing to pay Mr Thornton what he owes and that he has the funds to do so, more or less immediately. While his father was now also willing to sell the property - if the right price could be agreed - he did not want to be forced into a sale by the court.
10. Mr Akabah said that there was no reason why his father should not pay the £47,065.42 (or the slightly higher final figure) now secured against the property, by Friday, 18 December 2015. Such payment will be made into the Hurford Salvi Carr client account, details of which appear on all the statements sent to Mr Akabah senior. Furthermore, the balance of what is owed (which will be confirmed by Mr Thornton in a statement) could be paid to Mr Thornton by 31 January 2016.
11. There may be additional legal costs that are recoverable by the manager, as a result of the court action, which will become payable by Mr Akabah senior, in due course.
12. Once the first payment is made, Mr Thornton said that he would be in a position to obtain tenders for the urgent structural works needed at the property and to complete the consultation exercise with leaseholders, with a view to progressing the underpinning of the rear addition of the property and investigating, and resolving, any drain issues.

The tribunal's decision

13. The tribunal extends the appointment of Mr Thornton of Hurford Salvi Carr as manager of the property, for a further term of five years, expiring on 31 December 2020, on the same terms and conditions as the revised management order dated 17 December 2012 (under case reference LON/00AE/LAM/2012/0024).

Reasons for the tribunal's decision

14. On the basis of the reports received, the tribunal is satisfied that the building is in a potentially dangerous condition; that the freeholder, who was responsible for this state of affairs in the first place through his neglect of the property, continues to be responsible by reason of his refusal to co-operate with the manager or to contribute to the costs of putting things right; that the freeholder continues to be in breach of his obligations under the leases; and that it is just and convenient - indeed, essential - that the management order continues in force to enable the necessary works to be carried out.
15. Mr Akabah had said that his father would prefer for the management of the building to pass to him and his brother. When the tribunal indicated that this was not likely to happen, Mr Akabah went on to say that he would be content for the existing management order to be extended, though for a shorter period than the five years being discussed.
16. However, the tribunal considers that a minimum of five years is appropriate, in order that Mr Thornton has the time, space and continuity to take all necessary steps to save the building and to bring the property into a fit and proper condition.
17. In the event that Mr Akabah fails to make the payments promised, Mr Thornton will no doubt apply to the court for an order for sale of the property, as planned, and/or apply to the tribunal for further directions.

Variation of the management order

18. Mr Thornton asked the tribunal to amend the management order in various ways, but, as these did not form part of the original application, the tribunal was unable to consider them at the hearing. If Mr Thornton wishes to pursue this, it will be necessary for a separate application to be made, with a draft of any amendments that he would want to see to the order.

Application under s.20C and refund of fees

19. As in previous applications, the tribunal makes an order under section 20C of 1985 Act that none of Mr Akabah's costs in dealing with the application are to be passed through the service charge (though it is hard to see that any costs have been incurred by him).
20. The tribunal also orders Mr Akabah to refund the £380 fees paid by the applicants within 28 days of the date of this decision.
21. The above orders are made because the applicants were fully justified in making the application that they did, the need for which arose from the freeholder's continued lack of co-operation with the tribunal-appointed manager.



Name: Judge Powell

Date: 10 December 2015

Rights of appeal

- 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.