



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

Case reference : **LON/00/AT/LVM/2015/0011**

Property : **65 Chiswick High Road,
London W4 2LT**

Applicant : **Mr Anthony Watson and Mrs
Elizabeth Watson**

Representative : **In person**

Respondent : **Aorangi Ltd**

Representative : **Kreston Reeves LLP**

Type of application : **Variation of appointment of
Manager**

Tribunal member(s) : **Judge Ian Mohabir
Michael Mathews FRICS
L G Packer**

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

Date of decision : **28 September 2015**

DECISION

1. In accordance with section 24(9) Landlord and Tenant Act 1987 (as amended) ("the Act") the appointment of Nigel Cross BSc MRICS ('the Manager') is extended to 8 October 2020, as manager of the property at 65 Chiswick High Road, London w4 2LT ('the Property').
2. The Manager shall manage the Property in accordance with:

- (a) The directions and schedule of functions and services attached to the existing order contained in LON/0080/LAM/2010/0026, save as to the remuneration;
 - (b) The respective obligations of the landlord and the leases by which the flats at the Property are demised by the Respondent and in particular with regard to repair, decoration, provision of services and insurance of the Property; and
 - (c) The duties of a manager 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 section 87 Leasehold Reform Housing and Urban Development Act 1993.
3. The Manager shall register the order against the landlord's registered title as a restriction under the Land Registration Act 2002, or any subsequent Act.
4. No order shall be made under section 20C Landlord and Tenant Act 1985 that the Applicants' costs before the Tribunal shall not be added to the service charges.
5. The Respondent forthwith reimburse the Applicant the issue fee of £190.

Preliminary

6. The Applicants, Mr Anthony Watson and Mrs Elizabeth Watson, long leaseholders of Flat B of the property, seek to extend the existing appointment of the Manager of the property for a further five years, to 7 October 2020, under section 24 of the Act.
7. The Respondent is the freeholder owner of the property and has been since 25 January 1990. Mr Steven Shali, the leaseholder of Flats A, D and E was not a party to the application, though a party to the previous application.
8. The property is a Victorian semi-detached house divided into five flats over three floors. The Respondent retains ownership of one flat.
9. There has been a history of applications to the First-tier Property Chamber (Residential Property) (formerly Leasehold Valuation Tribunal) in connection with the property, involving the current Respondent. The Tribunal considered that the applications provided relevant background information for the application before it.
10. Some former lessees made a successful application for the appointment of a manager in 1999. A manager was appointed for three years, during

which time subsidence to the premises was remedied. After the termination of the order, management reverted to the Respondent.

11. In 2006, Mr Watson and Mrs McKay (aka Watson) were parties to an application under sections 27A and 29C of the Landlord and Tenant Act 1985 which determined that the management fees and accounts fees demanded by the respondent were unreasonable.
12. In 2010, Mr and Mrs Watson (formerly Mrs McKay) were parties to an application together with Mr Shali under section 24 of the Act for the appointment of a manager of the property. The Tribunal determined that it was just and convenient to make an order for a period of five years from the date of decision, 8 October 2010.
13. Directions were issued by Judge Andrew on 14 August 2015. They provided for the application to be determined on the basis of the document bundles, unless either party asked for a hearing, which neither did. No hearing has been requested by either party.
14. The Directions in particular required:
 - (a) the Respondent, if opposing the application, to submit a bundle with his representations by 9 September 2015;
 - (b) Mr Cross to submit a report on the last five years' management of the property, written confirmation that he is willing to continue managing the property and proof of his current professional indemnity insurance cover.
15. The Directions listed Mr Shali as an interested person, and he was invited to explain his position. No response was received.

The Applicants' Representations

16. In their application, the Applicants recited the previous history of the management of the property. They concluded:

'As can be seen from the above the freeholder will not manage the property. We have enjoyed five years of professional management from TPS Estates [the current manager], during which a lot has been achieved. But the property, due to long neglect, needs ongoing management. We are delighted with TPS Estates and wish to retain them for a minimum of another five years.'

Mr Cross's Report

17. In his letter of 27 August 2015, Mr Cross described major items of work undertaken: on the fire safety arrangements; common parts redecoration; rebuilding of a weak and dangerous wall; and external repair and redecoration. He confirmed his willingness to be reappointed; provided evidence of his professional indemnity

insurance; and provided service charge account for the three years ending 24 June 2015.

The Respondent's Representations

18. In a letter of 21 August 2015, Kreston Reeves, the Respondent's legal representative, told the Tribunal, that the 'respondent *'will be preparing a response to the Application by Mr and Mrs Watson'*. However, the Tribunal received only the following from the Respondent, via the Applicants:

'The Respondent's Case

1. *The Respondent will be appointing Willmotts (established 1856) of 12 Blacks Road, Hammesmith, London, W6 9EU as the managing Agents of the Property from 8th October 2015 subject to the prior dismissal of the instant application.*
 2. *A copy of Willmotts' email dated 1st September 2015 in which they confirm their willingness to act as Managing Agents for the Respondent is attached.'*
19. Willmott's proposed fee was £1,750 plus VAT.

The Tribunal's Decision

20. In the light of:
- (i) the previous history of the Respondent's management of the property;
 - (ii) the detailed evidence of the extensive repair and upkeep of the property carried out over the five years of Mr Cross's management;
 - (iii) the Applicants' evident satisfaction with Mr Cross's performance, and the works carried out;
 - (iv) the absence of any evidence that Mr Shali (who supported Mr Cross's appointment in 2010) is opposed to the further appointment;
 - (v) the fact that the Respondent has offered no material representation in response to the case which the Applicants made for Mr Cross to be being reappointed;
 - (vi) and the higher fee proposed by the Respondent's proposed managing agent;

the Tribunal determines that it is just and convenient to continue Mr Cross's appointment for a further five years, ending 7 October 2020.

21. The reappointment is subject to the same terms and conditions as in the existing appointment save as to remuneration. The present remuneration is £220 plus VAT for each flat – i.e. £1,320 per annum, and it has been this for the last three years.
22. Whilst Mr Cross's letter is silent on future remuneration, the Tribunal considers on the basis of its expert knowledge that £220 plus VAT for each flat is modest for a property of this type and location. It therefore directs that remuneration for the five years of the reappointment may be up to £250 plus VAT per flat. Should any interested party consider that this figure should be revised during the period, it is open to them to apply for a variation of the order.

Costs

23. The Applicant made no application under 20(C) for the Tribunal to make an order that costs incurred in connection with these proceedings are not to be treated as service charge costs. Therefore the Tribunal cannot make an order.
24. Applying the principle that "costs should follow the event", the Tribunal makes an order that the Respondent forthwith reimburse the Applicant the issue fee of £190.

Name: Judge I Mohabir

Date: 28 September 2015