



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

Case Reference : **MAN/00BY/LAM/2014/0010**

Property : **83A Bold Street, Liverpool, L1 4HF**

Applicant : **Ms Suzanne O'Neill (1)
Jack Cutterham (2)**

Representative : **Rudlow Second Homes Limited**

Respondent : **Daljeet Singh Khanijau (1)
Mark Whitfield (2)
Rosalinda d'Amore (3)
Nic Knight (4)
Matt Telfer (5)**

Representative : **Ms S Evans, Weightmans Solicitors
(the second, third, fourth, and fifth
Respondents only)**

Type of Application : **Landlord & Tenant Act 1987
Sections 21 & 24**

Tribunal Members : **Judge G. Freeman
Mr I. James MRICS Expert Valuer
Member**

Date of Determination : **15 June 2015**

Date of Decision : **15 June 2015**

Correction Certificate

1. This is a certificate under the powers conferred on the Chairman of the Tribunal by Rule 50 under the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules to correct clerical or accidental errors that have been discovered in the above mentioned decision.
2. The Corrections to be made are:

Order 1. should read as ... 'appointed Manager of 83a Bold Street, Liverpool, L1 4HF' and not 'appointed Manager of 15 Victoria Street, Liverpool L3 9QJ'.



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Mr I James MRICS Expert Valuer
Member**

**Date and venue of
Hearing** : **15 June 2015
Tribunal Service. Civil and
Family Court, Vernon Street,
Liverpool L 2 2BX**

Date of Decision : **15 June 2015**

DECISION

ORDER

1. Central Property Management (Liverpool) Limited of The Plaza, 100 Old Hall Street, Liverpool, L2 2LZ is appointed Manager of 83A Bold Street, Liverpool L1 4HF with effect from midnight on 15th June 2015.
2. From the date of appointment and throughout the appointment Central Property Management (Liverpool) Limited ('the Manager') must ensure that it has appropriate professional indemnity cover in the sum of at least £1,000,000 and shall provide a copy of the current cover note upon a request from the Tribunal.
3. During the period of appointment the Manager shall collect all various sums reserved and made payable by the Lessees ("the Lessees") under the six leases ("the Leases") of the flats ("the Flats") in the Property including but not limited to :

- Service Charges;
- Insurance Rent

In addition the Manager shall be entitled to collect immediately the sum of £690 from each flat owner on account of Service Charge for 2015 and thereafter the sum of £190 per quarter payable on the 1st July, 1st October, 1st January and 1st April each year.

4. During the period of his appointment the Manager shall carry out the obligations of the first Respondent with regard to repair, maintenance, decoration, provision of services to the Property.
5. The Manager shall forthwith proceed to establish accurately the balance (if any) held in the service charge account and the first Respondent shall transfer, or direct that its agent shall transfer, any balance held in any bank account for the Property.
6. The Manager shall consult the Lessees and draw up a plan as to the action to be taken during the period of appointment including a planned maintenance programme and specify what action he intends to take with respect to any existing defects. This plan shall be put in writing and sent to every Lessee and the first Respondent.
7. The Manager shall comply with all statutory requirements including those set out in the Landlord and Tenant Acts 1985 and 1987 as amended and with the requirements of the Service Charge Residential Management Code (Second Edition) published by the RICS and approved by the Secretary of State under Section 87 of the Leasehold Reform, Housing and Urban Development Act 1993.

8. The rights and liabilities of the Landlord arising under any contract of insurance for the property shall upon the date of implementation of this Order become rights and liabilities of the Manager. The Manager is to ensure that the Property is suitably insured at all times and the first Respondent shall reimburse to the Manager a fair and reasonable proportion of the premium attributable to the commercial premises on the ground floor of the Property.
9. The first Respondent shall give all reasonable assistance and co-operation to the Manager while acting in accordance with its duties under this Order. The Manager shall be entitled to such documents that should be in the possession of the first Respondent and his agents as are reasonably required for the proper management of the Property and to establish the current state of the service charge account detailed above.
10. The Manager shall carry out the following services, including but not limited to:
 - Provide a budget estimate of Service Charge each half year to all Lessees.
 - Invoice for service charge following determination of actual sums expended and provided for in annual accounts sent to every Lessee.
 - Collect Interim Service Charge instalments as per the Lease.
 - Serve demands for Service Charge and arrears of service charges when calculated and instruct firms to recover same.
 - Open an account for all service charge monies to be held in Trust for the Lessees.
 - Identify an account for service charges designated for major works to be held in Trust for the Lessees, in accordance with the Lease.
 - Be available to all Lessees during office hours.
 - Operate an out of hours emergency service.
 - Maintain the property and work in conjunction with the wishes of the Lessees with due diligence.
 - Carry out an inspection of the property on a monthly basis.
 - Carry out a Fire Risk and Health and Safety Assessment.
 - Test the fire alarm monthly.
 - Arrange refuse collection.
11. The Manager shall be entitled to apply to the Tribunal for further Directions in accordance with Section 24(4) of the Landlord and Tenant Act 1987 in particular in the event that there are insufficient sums held by him to discharge his obligations.
12. The Manager shall operate a complaints procedure in accordance with the requirements of the Royal Institution of Chartered Surveyors.

13. The Manager shall be entitled to remuneration at a rate of £720 per annum. The Manager is not VAT registered at present.
14. This appointment will last for one year from today's date.
15. This appointment does not cover the collection of Ground Rent.
16. The first Respondent is to reimburse the Application fee and Hearing fee to those Applicants who paid them.

Application

1. By their application received on 19th November 2014, the Applicants who are the owners of flats 4 and 5 respectively in the Property sought the appointment of Rudlow Second Homes Limited as Manager of the Property. The second to fifth Respondents indicated at the Case Management Conference noted at paragraph 3 that they would oppose the application and propose the appointment of Central Property Management (Liverpool) Limited ("CPM") of The Plaza, 100 Old Hall Street, Liverpool, L2 2LZ as Manager of the Property.

Preliminary

2 In accordance with requirements of section 22 of the Landlord and Tenant Act 1987 ("the Act") the Applicants served Notices on the Respondent by recorded delivery on 20th October 2014. A further Notice dated 14th November 2014 was served by Ms S. Evans on behalf of the second to the fifth Respondents.

3 Directions were given by the Tribunal Chairman on 5th December 2014. A Case Management Conference was held on 3rd February 2015.

Inspection

4. The Tribunal inspected the Property on the morning of the hearing. It consists of 6 self-contained flats on the upper floors of a building in the shopping and entertainment district of Liverpool City Centre. On the ground floor is a restaurant and nail studio. The entrance is directly off Bold Street via a door entry system which did not appear to be working at inspection. This leads to a staircase giving access at ground floor level to a refuse store and at first floor and second floor levels to the upper floors on which the flats are situated. There is no hallway; the stairs are narrow and have no natural light. Access to the roof was said to be via Velux windows in the upper storey flats.

5. The Tribunal noted there was a smoke alarm. On inspection it was reported that the smoke alarm did not work, nor did the timer switch for the lighting system. The Tribunal had no means of checking this. The only means of escape in the event of a fire is the open main staircase to which there is no means of smoke escape in a roof light.

Lease and Management Scheme

7. The Tribunal had sight of a lease of Flat 1 in the Property. It is dated 24th March 2006 and is made between the Respondent and Kavita Khanijou of the one part, and Merseyside Maintenance Co Ltd of the other part. The Tribunal assumed that all leases of flats are in similar form. By clauses 4 and 5 the Respondent agrees to provide services including insurance of the building. The services include, by Schedules Two, Three and Four, the keeping of accounts and provision of statements and the repair of, lighting and decorating the common parts and security.

Hearing

10. A hearing was held at the Tribunal Service, Civil and Family Court on 15th June 2015 following the inspection. Mr Cutterham and the second, third and fourth Respondents attended, as well as Mr David Louw of Rudlow Second Home Limited and Mr S Duffy of CPM Limited. The first Respondent did not attend and was not represented. The Applicants and the second to fifth Respondents produced a bundle of documents which included the Notices, the Application, a position statement and written representations from both proposed Managers. No documents or statements were produced from the first Respondent.

11. Essentially all the parties agreed that a Manager should be appointed to manage the Property. The point of difference between them was who that Manager should be.

12. Mr Cutterham proposed that the Manager should be Rudlow Second Home Limited, who were represented by its sole director, Mr David Louw. Mr Louw presented the Tribunal with a service charge budget based on the information he had been able to glean from an inspection of the property, estimates obtained from contractors and discussions with the first Respondent. His experience of property management consisted of a postgraduate degree in commercial property management at John Moores University and the management of 11 single residential units in Liverpool and London. He stated that the business had been established for approximately one year.

13. Ms Evans, on behalf of the second to fifth Respondents, applied for CPM to be appointed. They were represented by Mr S. Duffy, their sole director. Mr Duffy stated he had not been able to interview the first Respondent in the preparation of his report. His company had been in business since 2011. He was involved in managing 7 blocks of residential units, ranging from 4 units to 77 units in the Liverpool area. His expertise was gained by a first degree in Commercial Property Management at Liverpool John Moores University, followed by a postgraduate degree in the same subject, similar to that of Mr Louw's. This was followed by a period of employment with a firm of residential managing agents in Liverpool for three years, following which he had formed CPM. Mr Duffy also presented a service charge budget in similar form to Mr Louw's. The proposed management fee of both firms was £720 per year. Mr Louw stated that he had professional

indemnity insurance cover in the sum of £1 million pounds. Mr Duffy stated his professional indemnity cover was £2 million pounds.

The Law

14. Section 21 of the Act states:-

21(1) The Tenant of a flat contained in any premises to which this part applies may subject to the following provisions of this Part, apply to a Leasehold Valuation Tribunal for an order under section 24 appointing a manager to act in relation to those premises.

21(2) Subject to subsection (3), this Part applies to premises consisting of the whole or part of a building if the building or part contains two or more flats.

15. This Part of the Act applies to the whole or part of a building which contains two or more flats – section 21(2). “Flat” is defined in section 60(1) as meaning a separate set of premises (whether or not on the same floor) which forms part of a building and which is constructed or adapted for use for the purposes of a dwelling and which is divided horizontally from some other part of that building.

16. The Tribunal determined that the Property consisted of flats within the definition set out in the Act and the application was properly founded.

17. The circumstances in which a Manager may be appointed are set out in section 24 (2) of the Act and may be summarized as follows:-

- Breach by any “relevant person” of an obligation relating to management (s24(2)(a)); or
- Unreasonable service charge demands (s24(2)(ab)); or
- Unreasonable variable administration charge demands (s24(2)(aba)); or
- Failure by any “relevant person” to comply with a Code of Management Practice

S24(2)(ac));

AND

- **In all cases**, that it is further “just and convenient” to appoint a Manager.

The Tribunal’s Conclusion

18. From its inspection of the Property and the documents produced to it, the Tribunal concluded that there had been a clear breach of the lease of the first Respondent’s obligation to provide the services noted at paragraph 7 above.

19. When considering the appointment of a Manager, the Tribunal must take into account various factors which will contribute to the success of the appointment. These include the proposed Manager's:-

- professional qualifications
- experience in block management of residential property
- plans for the future management of the Property
- remuneration
- familiarity with the Residential Management Code
- existing connection (if any) with the Property
- consultations with the existing flat owners over future management
- acceptance by all, or a majority, of the flat owners to his appointment

as well as the condition and needs of the Property.

20. The Tribunal questioned both proposed managers closely and considered the written submissions and budgets carefully. They noted that Mr Duffy, appeared to show that he already managed a number of residential blocks and had been appointed by the Tribunal as a manager of another flat scheme in Liverpool although such appointment is no guarantee of successful management. On balance the Tribunal considered that CPM had demonstrated the better experience of management and professional qualifications to be appointed Manager.

Costs

21. On behalf of the Applicants and the second to fifth Respondents, Ms Evans made an application for the repayment of the application fee and hearing fee by the first Respondent.

22. The Tribunal, having decided that the Applicants have succeeded in their application, makes an order for the payment accordingly.

Smith, Joanne

From: Northern RAP
Sent: 07 July 2015 10:21
To: Smith, Joanne
Subject: FW: Woodlands Park, Wash Lane, Allstock, Cheshire WA16 9LG

From: Jane Morton [mailto:jane@rongrundy.co.uk]
Sent: 06 July 2015 18:20
To: Northern RAP
Subject: Woodlands Park, Wash Lane, Allstock, Cheshire WA16 9LG

Dear Sir/Madam

Your ref MAN/00EW/PHN/2014/0004

On April, 22nd, 2015 we attended a First Tier Tribunal Property Chamber (Residential Property) at Trafford Courthouse in Sale. On 15th May, 2015 we received the Tribunal's decision to substitute four Site Rules for Woodlands Park.

Apologies, as this has not been done yet, the new rules not yet deposited with the Local Authority or re-issued to our residents and the Residents Association. We didn't realise there was a timeframe involved and due to work pressures, a family crisis and our office being closed for over a fortnight we have only looked at this paperwork today with regard to the next step. Having spoken to the British Holiday & Homes Parks Association, they referred us to Tozers Solicitors whose advice was to contact you, explain the situation and request guidance on the correct way forward to complete this procedure.

Apologies again, we look forward to your response.

Yours faithfully
Jane Morton
Ron Grundy (Melbourne) Limited

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07/07/2015