



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

- Case Reference** : CHI/43UB/LVM/2021/0001
- Property** : Coniston Court, Hanger Hill, Weybridge,
Surrey, KT13 9YR
- Applicant** : Mr Alan Ellis
Ms Colette Reed
Reverend Richard Chown
Mr Roderick Archer
Ms Miriam Pestana
Mr Stephen Kiener
- Respondents** : Coniston Court (Weybridge) Residents
Association Ltd
Mr George Mapouras
Ms Ourania Mapouras
Ms Eleni Mapouras
Mr Robert Swade
Ms Niki Mapouras-Hyder
Mr Gary Pickard (Manager)
- Type of Application** : Variation of appointment of a manager –
Section 24 Landlord and Tenant Act 1987
- Tribunal Member(s)** : Judge J. Dobson
- Date of Decision** : 18th June 2021
Amended 6th July 2021 to correct clerical
errors pursuant to rule 50 of The Tribunal
Procedure (First Tier Tribunal) (Property
Chamber) Rules 2013

DECISION

SUMMARY OF DECISION

1. The Tribunal determines that the Management Order dated 26th March 2018 be varied as follows:

- i) The period of the appointment is extended to 25th March 2024.**

BACKGROUND

1. On 26th March 2018 the Tribunal appointed Mr Gary Pickard as manager of the property Coniston Court, Hanger Hill, Weybridge, Surrey, KT13 9YR (“the Property”) for a term of three years. The Tribunal found that a basis for such an order was made out and that it was just and convenient for the order to be made. That appointment would have ended on 25th March 2021. The Applicants applied for an extension of the management order for a further 3 years.
2. The application states that the situation of lack of trust and the absence of any co-operation as between the two groups that existed when the Tribunal appointed Gary Pickard back on 26th March 2018 continues; that the respective groups cannot work together and are as far apart as they ever were and that issues also remain of the viability of the Respondent Company to which the leaseholders are the shareholders.
3. It is further said that on 23rd January 2021, an email was sent on behalf of the Applicants, asking whether the Respondent Company agreed to Mr Pickard’s Management Contract being extended for a further 3 years but that only one response was received, from a leaseholder who indicated he supported the extension of Mr Pickard’s Contract and such leaseholder is now an Applicant.
4. The question for the Tribunal is whether it is just and convenient for the order to continue and if so, the appropriate period.
5. The Tribunal considered that this application was likely to be suitable for determination on the papers, not least given that matters in respect of the appointment of the manager for the Property have been extensively ventilated previously and the Tribunal will not re-visit any such matters and rather will consider the approach to take to any continuation of the order.
6. Directions were given on 12th February 2021 which set out a timetable for the exchange of documents by the parties and the provision of a hearing bundle to the Tribunal in the event of objections to the application and for a swift determination of the application by the Tribunal in the absence of any objection.
7. The Tribunal further noted that the existing management order may very well expire prior to the determination of this application

with considerable difficulties and inconvenience caused. The Tribunal therefore also addressed that issue.

8. Accordingly, the Tribunal did so on the papers available and pursuant to rule 6A of the Tribunal Procedure Rules 2013 as amended by The Tribunal Procedure (Coronavirus) Amendment Rules 2020 SI 2020 No 406 L11 which provide that the Tribunal may make a decision which disposes of proceedings, or in this instance part of the proceedings, without a hearing if the Tribunal considers that the conditions in paragraph (2) are satisfied. The Tribunal was so satisfied in respect of a short-term order extending the existing order pending the outcome of these proceedings.
9. The Management Order appointing Mr Pickard as manager made on 26th March 2018 was directed to continue in force until the application for extension be determined.
10. In the event, the swift determination envisaged in the absence of any objection has not materialised. The file has only just found its way back to a Judge. Whilst the interim extension of the previous Management Order has avoided any difficulties arising, the delay is regrettable for all concerned.
11. No objection has been received to the application being determined on paper. Accordingly, this is the decision determining the application on the papers provided by the parties.

THE LAW

Landlord and Tenant Act 1987 section 24

(9) A leasehold valuation 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 1925, the tribunal may by order direct that the entry shall be cancelled.

(9A) the court 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 a leasehold valuation 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 or insurance of those premises.

CONSIDERATION

12. Within the file, I have seen an email from Mr Gary Pickard in which he states that he is happy to continue as the Manager and I have seen just two responses to the application, one from Mr Robert Swade and one from Ms Mapouras-Hyder, said by her to be on behalf of herself and George Mapouras, Eleni Mapouras & Ourania Mapouras. I have also seen various authorities from Applicants that Mr Ellis may represent them in this matter. They have not responded to the application, although as they are Applicants, it rather seems implicit that they agree with the application.
13. Mr Swade also agrees with the application, as does Ms Mapouras-Hyder. Ms Mapouras- Hyder cannot, I consider agree to the application on behalf of the other three on whose behalf she seeks to- there is no authority from them for her to represent them. However, given the agreement to the application by her and given the lack of objection to the application from anyone, nothing turns on that.
14. Ms Mapouras- Hyder also provided a witness statement explaining why she agreed and about difficulties with relations with most of the Applicants, Mr Keiner being the stated exception, and with Mr Swade. Hence the need, she considered for there to continue to be a Manager. She further stated that the Manager has rectified and carried out many of the requests made by the Respondents, which she says were previously objected to and refused to be paid for by the Applicants.
15. The application received states that the situation of lack of trust and the absence of any co-operation as between the two groups that existed when the Tribunal appointed Gary Pickard back on 26th March 2018 continues. It is said that the respective groups cannot work together and are as far apart as they ever were.
16. Issues are also said to remain of the viability of the Respondent Company to which the leaseholders are the shareholders. Mr Swade is stated to have a significant judgment (£17,000) in respect of costs against the company and the Applicants expressed the belief that the appointment of Mr Pickard may have encouraged him to do this.
17. No response has been received from the Residents' Association, the other named Respondent.
18. The Applicants have not given reasons to justify their requested length of appointment and sensibly the appointment of a Manager cannot continue indefinitely. Somewhere along the line an

alternative means of managing the Property will need to be found. However, being mindful that either party can apply to vary the terms of the appointment in the future if appropriate, the Tribunal determines that it is just and convenient to grant the 3- year extension requested.

19. That request is for an extension to 25th March 2024 and I have granted a term from now until then, rather than a three-year term commencing now.
20. There has been no application for any of the other terms of the appointment to be varied by any party, from which I take it that no variation is necessary.
21. I note that no application has been made in relation to costs and so there is nothing to be said about that potential aspect.

DECISION

22. The Tribunal therefore determines that the Management Order appended to its decision dated 26th March 2018 be varied as follows;
 - i) The period of the appointment is extended to 25th March 2021.
 - ii) All other terms remain as stated.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28- day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.