



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

**Case reference** : **LON/00AG/LAM/2020/0028**

**HMCTS code  
(paper, video,  
audio)** : **V: CVPREMOTE**

**Property** : **Melrose Apartments, 6 Winchester  
Road London NW3 3NT**

**Applicant** : **Anne Leadercramer (Flat 18)  
Leila Mestoyeva (Flat 34)  
Ms Ruth Roach (Flat )  
& Others as per schedule attached to  
application**

**Representative** : **Ms Nicola Muir (Counsel)**

**Respondent** : **Cantelsa (IOM) Limited**

**Representative** : **Sandrove Brahams (Managing Agents)**

**Type of application** : **Appointment of Manager**

**Tribunal  
member(s)** : **Judge H Carr  
Mr Kevin Ridgeway**

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

**Date of decision** : **8<sup>th</sup> March 2021**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has not been objected to by the parties. The form of remote hearing was V: SKYPEREMOT. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that I was referred to are in a

bundle of 279 pages plus additional insurance documents provided on the morning of the hearing, the contents of which I have noted. The order made is described at the end of these reasons.

### **The application**

1. The Applicants seek an order appointing Mr Michael Maunder Taylor BH (Hons) MSc MRICS FIRPM as manager under section 24 of the Landlord and Tenant Act 1987 (the “Act”) in place of the Respondent freeholder’s current agents, Sandrove Brahams & Associates Ltd.
2. The Applicants have also made an application pursuant to s. 20C of the Landlord and Tenant Act 1985.

### **The hearing**

3. The Applicants were represented by Ms Nicola Muir at the hearing and several of the applicant lessees were in attendance. Ms Leadercramer and Ms Rouach gave evidence to the tribunal and the tribunal is grateful to them for their assistance. The tribunal also heard from Mr Michael Maunder Taylor.
4. Mr Upton of Counsel appeared for Mr Tremmatis who is described as a *de facto* director with the Respondent. Mr Upton explained that his role in the hearing was limited to making an application for an adjournment and making observations on the application. He made it clear that if the adjournment was not granted, he had no further instructions and would not attend the hearing.
5. There was no other representative from the Respondents. The tribunal noted that it had received no statement of case from the Respondents.

### **Application for adjournment**

6. Mr Upton explained that the application for an adjournment was to enable further discussion to take place between the Applicants and Mr Tremmatis about the possibility of incorporating a management company which would include the applicants alongside the freeholder and would offer the Applicants some control over the management of the building. Mr Upton suggested that it was a better solution than a management order.
7. Mr Upton also sought an adjournment on the basis that the proposed manager was unsatisfactory because of his apparent bias. Mr Michael Maunder Taylor was the son of Mr Bruce Maunder Taylor who was acting for the Applicants which led to at least the appearance of bias. An adjournment would allow the Applicants to seek a genuinely independent manager.

8. If the adjournment was not granted, then Mr Upton asked the tribunal to consider suspending any order made for 2 months from the date of the hearing to allow a period of time for the parties to set up a management company; in the alternative he asked the tribunal to put a 'sunset clause into the management order, so that if a management company was incorporated the management order would terminate.
9. Ms Muir argued that whilst the Applicants were not averse to the proposal there was no logical reason for an adjournment. She made the following points:
  - (i) Mr Tremmatis' status is very unclear. The Respondent company has no company office and is in the process of being struck off. Mr Tremmatis is not a director of the Respondent. He is a director of Concept Business Group Ltd (CBG) which is a company purportedly appointed by the Respondent to manage its assets in March 2012. The agreement requires CBG to liaise with and take instructions from the Respondent.
  - (ii) The application is made at the very last minute. Mr Upton was only instructed the previous evening. This reflects the practices of the management of the property. There has been sufficient time to progress negotiations.
  - (iii) Decisions need to be made urgently about the property.
  - (iv) It is difficult to understand the accusations of bias. The Applicants approached Mr Bruce Maunder Taylor because of his reputation and he assisted them in furthering their chosen course of action. A relationship is bound to develop in these circumstances. The Applicants consider that Mr Michael Maunder Taylor will carry out his duties impartially and there is no evidence to suggest otherwise.
10. If progress is made with the incorporation of a management company and the Applicants consider it to provide a better alternative than a management order, then it will be open to them to apply to the tribunal for discharge of the order.

### **The decision of the tribunal**

11. The tribunal determines not to grant the adjournment.

### **The reasons for the decision of the tribunal**

12. The tribunal is persuaded by the arguments of Ms Muir, in particular the uncertain status of Mr Trimmatis, the very tentative nature of the alternative proposal and the urgency of the application.
13. The tribunal will consider the issue of bias and the proposals for a sunset clause or suspension of the management order in its determination of the application.

### **The background**

14. The Property is a purpose-built development constructed in 2010. It comprises 51 private flats, 25 housing association flats, an underground car park and commercial premises on the ground floor. The Applicants form the majority of the privately owned flats. The proposed manager is Michael Maunder Taylor who would be appointed in place of the current managing agents, Sandrove Brahams & Associates.
15. The Respondent is the freehold owner of 157A Fellows Road and the leasehold owner of 2-20 Winchester Road and 157A Fellows Road. The company is registered in the Isle of Man but, as of October 2020, it has no officers and no registered address. Blocks A, C and D at Fellows Road are let on a long lease which is held by Origin Housing Ltd.
16. A section 22 notice was served on the Respondent, Mr Trimmatis (who purports to control the Respondent) and the Managing agents on 24th July 2020. An Addendum Notice raising further issues with Security was served on 25th August 2020.
17. On 18 September 2020, Philip Ross Solicitors responded to the s. 22 notice on behalf of the Respondent. They challenge the validity of the s. 22 notice for failure to comply with s. 22(2) of the 1987 Act and in particular a failure to specify the grounds on which the Tribunal is to be asked to make the management order – s. 22(c).
18. The Applicant denies that there is any such breach and points out that the grounds are set out in Schedule 1 of the Notice and Addendum Notice.
19. No statement of case was received from the Respondents and no amplification of their argument that the s.22 notice was valid.
20. The Applicants did not request an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

### **The Applicants' arguments**

21. The Applicant sets out the statutory grounds as follows:
  - (i) that the relevant person is in breach of any obligation owed by him to the tenant under his tenancy and

relating to the management of the premises in question or any part of them – s. 24(2)(a)(i).

- (ii) that unreasonable service charges have been made, or are proposed or likely to be made – s. 24 (2)(ab);
- (iii) that any relevant person has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 – this includes the RICS Residential Management Code of Practice, 3rd Edition.
- (iv) Where the Tribunal is satisfied that other circumstances exist which make it just and convenient for the order to be made.

22. The Applicants rely on:

- (i) Ground 1 in relation to the Concierge Services, External Cladding, Boilers, Heating and Comfort Cooling, Flooding, Reserve Fund and Security.
- (ii) Ground 2 in relation to the Concierge Services, Security and Service Charge apportionment
- (iii) Ground 3 in relation to the Insurance.

23. The Applicants also point out that even if there had been a defect in the s.22 notice the Tribunal is able to make an order under s. 24(7) of the LTA 1987 appointing a manager notwithstanding that the s. 22 notice fails to comply with any of the requirements.

24. They argue that Ground (4) of the statutory grounds is also fulfilled as the Respondent has no directors or secretary to run it. The problems this gives rise to are illustrated by the letter from Portner solicitors on behalf of the owners of Flat 26. Completion of the sale of Zack and Charles Silver's flat has been delayed because there is no-one at the Respondent who is able to execute the licence to assign.

25. The Applicants' bundle provided full evidence in support of the grounds. Two of the Applicants provided up-to-date information.

26. The Applicants also argue that it would be just and convenient for the tribunal to make the order sought. The Applicants have lost trust in the Respondent and the opaque arrangements which have been put in place to manage the Property. It appears that there is no-one to manage the property because the Respondent has no officers.

27. There is no proper management agreement in place with the current managing agents. Such services as are provided are reactive. The Respondent has expressed dissatisfaction with the current agents and described a lack of transparency. Mr Trimmatis has expressed a willingness to terminate their contract. Accordingly, this is a good moment to put an experienced property manager in place to run the building in a more pro-active manner.
28. On this basis, the Applicants ask the tribunal to make an Order in the terms of the Proposed Management Order.

### **The proposed manager**

29. The tribunal asked the proposed manager, Mr Michael Maunder Taylor, about his expertise, experience and his knowledge of the RICS code. It asked questions about the management plan, the proposed length of the order and about impartiality.
30. The tribunal found that Mr Michael Maunder Taylor understood his obligations, the fact that he was responsible to the tribunal, and the need for impartiality. The management plan appeared appropriate.
31. The tribunal did not consider that an appointment for five years at this stage was necessary. It was also concerned that, through no fault of Mr Maunder Taylor, it was not clear how management fees were to be apportioned amongst the lessees. It was important that this was clarified as soon as possible so that individual lessees understood their obligations.

### **Decisions of the tribunal**

32. The tribunal determined to make a management order.

### **The reasons for the tribunal decision**

33. The tribunal determines that the application was valid. The Respondent had not provided any argument to the tribunal to the contrary and the tribunal were satisfied that the notice had properly set out the grounds.
34. The tribunal considers that the grounds for the order is made out. There is some evidence that since the service of the s.22 notice, progress has been made on the urgent issues that require attention. However it is clear to the tribunal that this has been as a result of very hard work and determination on the part of the Applicants.
35. The tribunal also considers that it is just and convenient to make the order because of the problematic status of the Respondent, the reactive

nature of any management that is carried out, and because of the breakdown of trust between the Applicants and the Respondent.

36. The tribunal is confident that Mr Maunder Taylor understands the need for impartiality and that he is responsible to the tribunal. The tribunal notes that the statute requires that the Applicants identify a potential manager. It is inevitable in many circumstances that having identified a potential manager there will be work with that person to progress the application. In this particular case there is no evidence of anything other than unanimity about the proposed manager amongst those lessees who have taken an active interest in the management of the property.
37. The tribunal also considers that there is no need to suspend the order or to insert a sunset clause. If the Applicants decide that a different approach to the management of the property is required then it is open to them to apply to the tribunal for the discharge of the order.

### **The terms of the management order**

38. In accordance with section 24(1) Landlord and Tenant Act 1987 Mr Michael Maunder Taylor of Maunder Taylor ('the Manager') is appointed as manager of the property at Melrose Apartments, 6 Winchester Road, London, NW3 3NT ('the Property').
39. The order shall continue for a period of three years from 15<sup>th</sup> March 2021. Any application for an extension must be made prior to the expiry of that period. If such an application is made in time, then the appointment will continue until that application has been finally determined.
40. The Manager shall manage the Property in accordance with:
  - (a) The directions and schedule of functions and services attached to this order;
  - (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.
41. The tribunal additionally requires the Manager, in his initial report to the tribunal, to set out how management charges are to be apportioned.
42. 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.

43. An order shall be made under section 20C Landlord and Tenant Act 1985 that the Respondent's costs before the Tribunal shall not be added to the service charges.

**Name:** Judge Carr

**Date:** 8<sup>th</sup> March 2021

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).



## **DIRECTIONS**

1. From the date of the appointment and throughout the appointment the Manager shall ensure that he has appropriate professional indemnity cover in the sum of at least £1,000,000 and shall provide copies of the current cover note upon a request being made by any lessee of the Property, the Respondent or the Tribunal.
2. That no later than four weeks after the date of this order the parties to this application shall provide all necessary information to and arrange with the Manager an orderly transfer of responsibilities. No later than this date, the Applicants and the Respondent shall transfer to the Manager all the accounts, books, records and funds (including, without limitation, any service charge reserve fund).
3. The rights and liabilities of the Respondent arising under any contracts of insurance, and/or any contract for the provision of any services to the Property shall upon 15<sup>th</sup> March 2021 become rights and liabilities of the Manager.
4. The Manager shall account forthwith to the Respondent for the payment of ground rent received by him and shall apply the remaining amounts received by him (other than those representing his fees) in the performance of the Respondent's covenants contained in the said leases.
5. The Manager shall be entitled to remuneration (which for the avoidance of doubt shall be recoverable as part of the service charges of leases of the Property) in accordance with the Schedule of Functions and Services attached.
6. By no later than 15<sup>th</sup> March 2022, the Manager shall prepare and submit a brief written report for the Tribunal on the progress of the management of the property up to that date, providing a copy to the lessees of the Property and the Respondent at the same time. This report shall include details of the apportionment of the management fees.
7. Within 28 days of the conclusion of the management order, the Manager shall prepare and submit a brief written report for the Tribunal, on the progress and outcome of the management of the property up to that date, to include final closing accounts. The Manager shall also serve copies of the report and accounts on the lessor and lessees, who may raise queries on them within 14 days. The Manager shall answer such queries within a further 14 days. Thereafter, the Manager shall reimburse any unexpended monies to the paying parties or, if it be the case, to any new tribunal-appointed manager, or, in the case of dispute, as decided by the Tribunal upon application by any interested party.
8. The Manager shall be entitled to apply to the Tribunal for further directions.

## **SCHEDULE OF FUNCTIONS AND SERVICES**

### **Insurance**

- (i) Maintain appropriate building insurance for the Property.
- (ii) Ensure that the Manager's interest is noted on the insurance policy.

### **Service charge**

- (i) Prepare an annual service charge budget, administer the service charge and prepare and distribute appropriate service charge accounts to the lessees.
- (ii) Set, demand and collect ground rents, service charges (including contributions to a sinking fund), insurance premiums and any other payment due from the lessees.
- (iii) Set, demand and collect his own service charge payable by the Respondent (as if he were a lessee), in respect of any un-leased premises in the Property which are retained by the Respondent.
- (iv) Instruct solicitors to recover unpaid rents and service charges and any other monies due to the Respondent.
- (v) Place, supervise and administer contracts and check demands for payment of goods, services and equipment supplied for the benefit of the Property with the service charge budget.

### **Accounts**

- (i) Prepare and submit to the Respondent and lessees an annual statement of account detailing all monies received and expended. The accounts to be certified by an external auditor, if required by the Manager.
- (ii) Maintain efficient records and books of account which are open for inspection by the lessor and lessees. Upon request, produce for inspection, receipts or other evidence of expenditure.
- (iii) Maintain on trust an interest-bearing account/s at such bank or building society as the Manager shall from time to time decide, into which ground rent, service charge contributions and all other monies arising under the leases shall be paid.
- (iv) All monies collected will be accounted for in accordance with the accounts regulations as issued by the Royal Institution for Chartered Surveyors.

### **Maintenance**

- (i) Deal with routine repair and maintenance issues and instruct contractors to attend and rectify problems. Deal with all building maintenance relating to the services and structure of the Property.

- (ii) The consideration of works to be carried out to the Property in the interest of good estate management and making the appropriate recommendations to the Respondent and the lessees.
- (iii) The setting up of a planned maintenance programme to allow for the periodic re-decoration and repair of the exterior and interior common parts of the Property.

### **Fees**

- (i) Fees for the abovementioned management services (with the exception of supervision of major works) will be a fee of £35,000 plus VAT per annum for the Estate and Building. This fee is to be apportioned per flat at the same percentages as the service charge. A schedule of the apportionment to be provided to the Tribunal by 26<sup>th</sup> March 2021. Those services to include the services set out in the Service Charge Residential Management Code published by the RICS. Thereafter the fee shall be reviewed annually in line with inflation.
- (ii) Major works carried out to the Property (where it is necessary to prepare a specification of works, obtain competitive tenders, serve relevant notices on lessees and supervising the works) will be subject to a charge on the basis of a fee of 2% of the cost of the works plus VAT. In respect of any unusually large contract (such as external cladding contracts), the fee shall be a reasonable fee for the work involved and not exceed 2%.
- (iii) An additional charge for dealing with solicitors' enquiries on transfer will be made in the sum not to exceed £250 plus VAT payable by the outgoing Lessee.
- (iv) The undertaking of further tasks which fall outside those duties described above are to be charged separately at an hourly rate ranging as follows:
  - M H Maunder Taylor: £200 per hour plus VAT
  - Senior Property Manager: £175 per hour plus VAT
  - The time of employed Property Managers for additional responsibilities to be charged at £125 per hour plus VAT.

### **Complaints procedure**

- (v) The Manager shall operate a complaints procedure in accordance with or substantially similar to the requirements of the Royal Institution of Chartered Surveyors.