



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

**Case Reference** : **LON/00AG/LAM/2014/0015**

**Property** : **14 Greville Road, London NW6 5JA**

**Applicants** : **Daniel Avenor & Ms Sarah Callis  
(Flat 1 )  
Celia Levy (Flat 3 )**

**Representative** : **Mr Bates, Counsel instructed by  
Brecher Solicitors**

**Respondent** : **Fourteen Greville Road  
Management Limited**

**Representative** : **N/A**

**Types of Application** : **Appointment of manager**

**Tribunal Members** : **Judge Tagliavini  
Mr M Matthews  
Mr P Clabburn**

**Date and venue of  
Hearing** : **15 September 2014  
10 Alfred Place, London EC4Y 7DR**

**Date of Decision** : **22 September 2014**

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**DECISION**

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## **Decisions of the tribunal**

1. The tribunal determines it is appropriate to appoint Mr Nigel Cross BSC, MRICS as manager of the subject premises at 14 Greville Road, London NW6 5JA for a period of three years commencing 21 days after the date of this decision

## **The premises**

2. The premises comprise four flats in a converted house. The freehold is owned by the respondent landlord of which the long lessees hold one share per flat in the respondent company with equal voting rights.

## **Preliminary matters**

3. The tribunal was provided with one lever arch file containing the relevant documents in respect of the hearing. The respondent did not attend and was not represented. Further, by a letter dated 6 August 2014 from Freeman Green Dhokia solicitors, Mr and Mrs Collyer, shareholders and directors of the respondent company and the lessees of Flats 2 and 4, stated that they reluctantly agreed to the appointment of Mr Cross as a manager of the subject premises.

## **The hearing and evidence**

4. In additions to the hearing bundle the tribunal heard oral evidence from Mr Cross in respect of his experience, his past tribunal appointments as a tribunal appointed manager and submissions from counsel on the applicants' behalf.

## **Reasons for the decisions of the tribunal**

5. In the absence of any substantive dissent from the respondent or co-lessees (Mr and Mrs Collier) and proof of the service of a valid notice pursuant to section 22 of the Landlord and Tenant Act 1987, the tribunal is satisfied that with the resignation of the previous managing agent (Druce) and the breakdown and impasse in the relationship between the leaseholders/freeholders, a manager is necessary for the subject premises. All parties accepted that there was currently a problem with subsidence at the property, which required to be addressed. The tribunal noted that the relevant insurance company had inspected and made proposals as to the necessary work. However, because of the impasse that had been reached amongst the freehold directors/leaseholders this work had not been authorised or put in place.
6. Having been provided with a copy of Mr Cross's qualifications and experience and his terms and conditions of appointment and having satisfied itself that appropriate professional indemnity insurance is in place, the tribunal determines that it is, in all the circumstances, appropriate to appoint Mr Cross as manager of the subject premises for a period of three years with effect from 21 days of the

date of this decision, pursuant to section 24(2)(b) of the Landlord and Tenant Act 1987.

Signed: Judge Tagliavini

Dated: 22 September 2014

**Section 24 of the Landlord and Tenant Act 1987 (excerpts)**

(1) A leasehold valuation tribunal may, on the application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies-

- (a) such functions in connection with the management of the premises; or
- (b) such functions of a receiver, or both, as the tribunal thinks fit.

(2) A leasehold valuation tribunal may only make an order under this section in the following circumstances, namely-

(a) where the tribunal is satisfied-

(i) that any relevant person either is in breach of any obligations owed by him to tenant under his tenancy and relating to the management of the premises in question or any part of them or in the case of an obligation dependent on notice would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and

(ii) .....

(b) where the tribunal is satisfied that other circumstances exist which it make it just and convenient for the order to be made.

(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 2002, the tribunal may direct that the order be cancelled.

[9A] The tribunal shall not vary or discharge an order under subsection (9) on the application of a 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) .....

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**Case No: LON/00AG/2014/0015**

**Re: 14 Greville Road, London NW6 5JA**

**MANAGEMENT ORDER**

***Interpretation:***

In this order

- (a) “Common Parts” means any garden area, postal boxes, refuse store, cycle store, security gates, lifts, paths, halls, staircases and other access ways and areas (if any) within the Premises that are provided by the Respondent for common use by the Lessees or persons expressly or by implication authorised by them
- (b) “Freeholder” means the person or persons with the benefit of the freehold title registered at HM Land Registry under Title Number NGL558123
- (c) “Functions” means any functions in connection with the management of the Premises including any obligations and powers of the Respondent under the Leases
- (d) “Leases” means the long leases vested in the Lessees and the Respondent
- (e) “Lessee” means a tenant of a dwelling holding under a long lease as defined by section 59(3) of the Landlord & Tenant Act 1987 (“the Act”)
- (f) “the Manager” means Mr Nigel Cross, BSc, MRICS of TPS Estates (Management) Limited, Erico House, 93-99 Upper Richmond Road, London SW15 2TG.
- (g) “the Premises” all that property known as 14 Greville Road, London NW6 5JA

- (h) “the Respondent” includes any successors in title of the leasehold estate registered under title number LN186548 or any interest created out of the said leasehold title

***Preamble***

UPON the Applicants having applied for the appointment of a manager under Pt.II, Landlord and Tenant Act 1987

AND UPON the First-Tier Tribunal being satisfied that the Applicants are entitled to so apply and that the jurisdiction to appoint a manager is exercisable in the present case

AND UPON the First-Tier Tribunal being satisfied that the conditions specified in s.24, Landlord and Tenant Act 1987 are met, such that it is just and convenient to appoint a manager

IT IS ORDERED THAT

***The Manager***

1 Mr Nigel Cross, BSc, MRICS is appointed Manager (including such functions of a Receiver as are specified herein) of the Premises pursuant to s24 of the Act for a period of three years commencing 21 days after the date of this order and is given for the duration of his appointment all such powers and rights as may be necessary and convenient and in accordance with the Leases to carry out the management functions of the Respondent and in particular:

- (a) To receive all service charges, interest and any other monies payable under the Leases and any arrears due thereunder, the recovery of which shall be at the discretion of the Manager.

- (b) The right to treat the service charge financial year as commencing on the date of this Order and ending on 31 December 2014 and thereafter as running from 1 January to 31 December in each year this Order is in place.
- (c) The right to give notice and raise an interim service charge in accordance with any Budget he issues once he has established the costs already incurred in the current financial year.
- (d) The power and duty to carry out the obligations of the Respondent contained in the Leases and in particular and without prejudice to the foregoing.
  - (i) The Respondents' obligations to provide services;
  - (ii) The Respondents' repair and maintenance obligations; and
  - (iii) The Respondent's power to grant consent.
- (e) The sole power to pursue a claim in the Respondent's name under any existing insurance policy for the Premises in respect of the subsidence works required as set out in the correspondence, documents and reports now available;
- (f) The power to delegate to other employees of TPS Estates (Management) Limited, appoint solicitors, accountants, architects, surveyors and other professionally qualified persons as he may reasonably require to assist him in the performance of his functions.
- (g) The power to appoint any agent or servant to carry out any such function or obligation which the Manager is unable to perform himself or which can

more conveniently be done by an agent or servant and the power to dismiss such agent or servant.

- (h) The power in his own name or on behalf of the Respondent to bring or defend any legal action or other legal proceedings in connection with the Leases or the Premises and to make any arrangement or compromise on behalf of the Respondent including but not limited to:
  - (i) proceedings against any Lessee in respect of arrears of service charges or other monies due under the Leases;
  - (ii) legal action to determine that a breach of covenant has accrued;
  - (iii) legal action to prevent a further breach of covenant.
- (i) The power to commence proceedings or such other enforcement action against the Respondent pursuant to paragraph 7 of this Order.
- (j) The power to enter into or terminate any contract or arrangement and/or make any payment which is necessary, convenient or incidental to the performance of his functions.
- (k) The power to open and operate client bank accounts in relation to the management of the Premises and to invest monies pursuant to his appointment in any manner specified in the Service Charge Contributions (Authorised Investments) Order 1998 and to hold those funds pursuant to s42 of the Landlord and Tenant Act 1987. The Manager shall deal separately with and shall distinguish between monies received pursuant to any reserve fund (whether under the provisions of the Leases (if any) or to powers given to him by this Order) and all other monies received pursuant



to his appointment and shall keep in a separate bank account or accounts established for that purpose monies received on account of the reserve fund.

- (l) The power to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of the Respondent or any Lessee owing sums of money to the Manager.
- (m) The power to borrow all sums reasonably required by the Manager for the performance of his functions and duties, and the exercise of his powers under this Order in the event of there being any arrears, or other shortfalls, of service charge contributions due from the Lessees or any sums due from the Respondent, such borrowing to be secured (if necessary) on the interests of the Respondent in the Premises or any part thereof against the registered estate of the Respondent registered under title number LN186548.

2 The Manager shall manage the Premises in accordance with:-

- (a) the Directions of the Tribunal and the Schedule of Functions and Services attached to this Order;
- (b) the respective obligations of all parties – landlord and tenant – under the Leases and in particular with regard to repair, decoration, provision of services and insurance of the Premises; and
- (c) the duties of managers set out in the Service Charge Residential Manager 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 s87 of the Leasehold Reform Housing and Urban Development Act 1993.

3 From the date of this Order, no other party shall be entitled to exercise a management function in respect of the Premises where the same is a responsibility of the Manager under this Order

4 From the date of this Order, the Respondent shall not, whether by itself or any agent, servant or employee, demand any further payments of service charges, administration charges or any other monies from the Lessees. Such functions are transferred to the Manager forthwith.

5 The Respondent, the Lessees and any agents or servants thereof shall give reasonable assistance and cooperation to the Manager in pursuance of his duties and powers under this Order and shall not interfere or attempt to interfere with the exercise of any of his said duties and powers.

6 From the date of this Order, the Respondent and the Lessees shall - on receipt of 24 hours written notice - give the Manager reasonable access to any part of the Premises which he might require in order to perform his functions under this Order.

7 Without prejudice to the generality of the foregoing hereof:-

- i. The Respondent, whether by itself, its agents, servants or employees, shall within 21 days of this Order deliver to the Manager all such accounts, books, papers memoranda, records, computer records, minutes, correspondence, emails, facsimile correspondence and other documents as are necessary to the management of the Premises as are within its custody, power or control together with any such as are in custody, etc of any of its

agents, servants or employees in which last case it shall take all reasonable steps to procure delivery from its agents, servants or employees.

- ii. Within 14 days of compliance of paragraph 7(a) above the Manager shall decide in his absolute discretion which or any contracts he will assume the rights and liabilities under.
- iii. The Respondent shall within 21 days of this Order deliver to the Manager all keys, fobs and other access/entry cards to the Premises. If the Respondent fails to deliver such keys etc, the Manager shall be entitled to remove the existing locks and any other security systems currently installed at the Premises and install such locks and other security as, in his absolute direction, he thinks fit.
- iv. The Respondent shall within 21 Days of this Order deliver to the Manager all keys to electricity, gas, water and any other utility meters located in the Premises. To this end, the Respondent shall give the Manager full access to the electricity, gas and water meters fuse board and any other utility meters located in the Premises.
- v. The Respondent shall within 21 days of this Order give full details to the Manager of all sums of money it holds in the service charge fund and any reserve fund in relation to the Premises, including copies of any relevant bank statements and shall forthwith pay such sums to the Manager. If the Respondent shall thereafter receive such sums under the Leases of any Lessee it shall forthwith pay such sums to the Manger without deduction or set-off.

- vi. The Respondent shall permit the Manager and assist him as he reasonably requires to serve upon Lessees any Notices under s146 of the Law of Property Act 1925 or exercise any right of forfeiture or re-entry or anything incidental or in contemplation of the same.
  - vii. The rights and liabilities of the Respondent as Landlord arising under any contracts of insurance to the Premises shall from the date hereof become rights and liabilities of the Manager.
  - viii. The Manager shall be entitled to remuneration (which for the avoidance of doubt shall be recoverable as part of the service charges) in accordance with the Schedule of Functions and Services attached.
- 8 The Manager shall in the performance of his functions under this Order exercise the reasonable skill, care and diligence to be expected of a manager experienced in carrying out work of a similar scope and complexity to that required for the performance of the said functions and shall ensure he has appropriate professional indemnity cover in the sum of at least £1,000,000 providing copies of the current cover note upon request by any Lessee, the Respondent or the Tribunal.
- 9 The Manager shall act fairly and impartially in his dealings in respect of the Premises.
- 10 The Manager is directed to register a restriction in Land Registry standard Form N against the freehold and the Respondent's leasehold estate registered under title numbers NGL558123 and LN186548 respectively in the following words:

*“No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered*

*without a written consent signed by Mr Nigel Cross of TPS Estates (Management) Limited, Erico House, 93-99 Upper Richmond Road, London SW15 2TG.”*

- 11 The Manager shall be appointed from the date of this Order and the duration of his appointment shall be limited to a period of three years from the date hereof.
- 12 The obligations contained in this Order shall bind any successor in title and the existence and terms of this Order must be disclosed to any person seeking to acquire either a leasehold interest (whether by assignment or fresh grant) or freehold.

***Liberty to apply***

- 13 The Manager may apply to the First-Tier Tribunal for further directions, in accordance with s.24(4), Landlord and Tenant Act 1987. Such directions may include, but are not limited to:
  - a. Any failure by any party to comply with an obligation imposed by this Order;
  - b. For directions generally;
  - c. Directions in the event that there are insufficient sums held by his to discharge his obligations under this Order and/or to pay his remuneration.

***S.20C, Landlord and Tenant Act 1985***

- 14 The Respondent shall not be entitled to recover its costs of these proceedings from any Applicant by way of a service charge.

**SCHEDULE**  
**FUNCTIONS AND SERVICES**

**Financial Management:**

1. Prepare an annual service charge budget (consulting with the Lessees as appropriate) administer the service charge and prepare and distribute appropriate service charge accounts to the Lessees.
2. Demand and collect service charges, insurance premiums and any other payments due from the Lessees in the percentage proportions set out in the Leases. Instruct solicitors to recover any unpaid service charges, and any other monies due to the Respondent.
3. Produce for inspection, (but not more than once in each year) within a reasonable time following a written demand by the Lessees, relevant receipts or other evidence of expenditure, and provide VAT invoices (if any).
4. Manage all outgoings from the funds received in accordance with this Order in respect of day to day maintenance and pay bills.
5. Deal with all enquiries, reports, complaints and other correspondence with Lessees, solicitors, accountants and other professional persons in connection with matters arising from the day to day financial management of the Premises.

**Insurance:**

6. Take out an insurance policy in the Manager's name (noting the Lessees, Respondent and Freeholder's interests) in relation to the buildings and the contents of the common parts of the Premises with a reputable insurer, and provide a copy of the cover note to all Lessees, the Respondent and the Freeholder.
7. Manage or provide for the management through a broker of any claims brought under the insurance policy taken out in respect of the Premises with the insurer including the power to settle, compromise or accept any reasonable offer in respect of the existing insurance claim (claim reference 9590302120).

**Repairs and Maintenance:**

8. Deal with all reasonable enquiries raised by the Lessees in relation to repair and maintenance work, and instruct contractors to attend and rectify problems as necessary.
9. Administer contracts entered into on behalf of the Respondent and Lessees in respect of the Premises and check demands for payment for goods, services, plant and equipment supplied in relation to such contracts.
10. Manage the Common Parts, and service areas of the Premises, including the arrangement and supervision of maintenance.
11. Carry out regular inspections (at the Manager's discretion but not less than four per year) without use of equipment, to such of the Common

Parts of the Premises as can be inspected safely and without undue difficulty to ascertain for the purpose of day-to-day management only the general condition of those Common Parts.

**Major Works:**

12.

- (a) In addition to undertaking and arranging day-to-day maintenance and repairs, to arrange and supervise major works which are required to be carried out to the Premises (such as extensive interior or exterior redecoration or repairs required to be carried out under the terms of the Leases or other major works (including structural repairs) where it is necessary to prepare a specification of works, obtain competitive tenders, serve relevant notices on the Lessees and supervise the works in question).
- (b) In particular to undertake as soon as practicable the steps set out at paragraph 10 of the Manager's Management Plan dated 27 June 2014 including:
  - i. Collect relevant documentation.
  - ii. Contact the insurers via their loss adjuster.
  - iii. Agree a plan for remedial resolution.
  - iv. Report and consult with lessees at an evening meeting.



- v. Appoint a loss assessor if reasonable or necessary to do so.
- vi. Implement agreed plan.

**Administration and Communication:**

- 13. Deal promptly with all reasonable enquiries raised by Lessees, including routine management enquiries from the Lessees or their solicitors.
- 14. Provide the Lessees with telephone, fax, postal and email contact details (including emergency contact details) and complaints procedure.
- 15. Keep records regarding details of Lessees, agreements entered into by the Manager in relation to the Premises and any changes in Lessees.

**Fees:**

- 16. Fees for the above mentioned management services (with the exception of supervision of major works) would be a fee of £880 plus VAT per annum for the Premises.
- 17. The Manager shall be entitled to a project coordination fee of 7.75% plus VAT of the total cost of any building, redecoration or repair works which at any time total in excess of £250 charge for any one lessee. In the event that a third party building surveyor is appointed then the Manager shall receive to a minimum fixed fee of £500 plus VAT to

undertake all of the administration, serving notices, liaising with lessees, paying bills.

18. In the event that the Manager prepares, compiles and issues the service charge accounts he shall be entitled to an additional annual fee of £250 plus VAT.
19. An additional charge shall be made in relation to the arrangement, claims handling and brokerage of insurances for the Premises, public liability, engineering and employee cover on the following basis
  - (a) In the event that the Manager specifically arranges buildings insurance either directly to an insurance company or through a third party broker known to him then he shall not charge for any insurance related work (including any claims) as he will receive a commission from the insurance broker/firm. This commission will be calculated as a percentage of the overall premium and is included in the premium charged. This fee will represent the Manager's remuneration for undertaking the claims handling work associated with the policy, such fee to be calculated as a percentage of the gross premium paid in any one year.
  - (b) In the event that insurance is not placed through the Manager then a minimum additional annual charge of £200 plus VAT will be charged for the administration and payment of the policy. Additionally, the Manager shall be entitled to a charge of 7.50% plus VAT of the total sums of any successful claims made on the

policy to cover the procedure, administration and organisation of the remedial works.

20. An additional charge for dealing with solicitors' enquiries on transfer will be made in the sum not to exceed £150.00 plus VAT payable by the outgoing Lessee.
  21. The undertaking of further tasks which fall outside those duties described above are to be charged separately at a rate of £100 plus VAT or such other rate as shall be agreed.
  22. The Manager is entitled to be reimbursed in respect of reasonable costs, disbursements and expenses (including, for the avoidance of doubt, the fees of Counsel, solicitors and expert witnesses) of and incidental to any application or proceedings (including these proceedings) whether in the Court or First-Tier Tribunal, to enforce the terms of the Leases. For the avoidance of doubt, the Manager is directed to use reasonable efforts to recover any such costs etc directly from the party concerned in the first instance and will only be entitled to recover the same as part of the service charges in default of recovery thereof.
-