



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

Case Reference : **LON/00AG/LVM/2014/0009**

Property : **Palace Court, 250 Finchley Road,
London, NW3 6DN**

Applicant : **Mr P Bird – Tribunal Appointed
Manager**

Representative : **In person**

Respondents : **(1) The Respondent Lessees
(2) Palace Court Residents
(Finchley Road) Ltd
(3) Mrs S Abiola**

Representative : **(1) & (2) Mr M Joseph
(3) Mr Isaac of Counsel**

Type of Application : **Variation of management order**

Tribunal Members : **Judge I Mohabir
Mr M Cairns MCIEH**

**Date and venue of
Hearing** : **30 April 2014
10 Alfred Place, London WC1E 7LR**

Date of Decision : **4 August 2014**

DECISION

Introduction

1. By an application dated 15 April 2014, the present Manager, Mr Paul Bird, appointed by the Tribunal to manage the property known as Palace Court, 250 Finchley Road, London, NW3 6DN (“the property”) made an application to vary the terms of the order made in relation to his appointment.
2. The factual background that gave rise to the application can be stated shortly. Pursuant to a management order made by the Tribunal, Mr Bruce Maunder Taylor was appointed by the Tribunal as Manager of the property for a term of 3 years commencing from 3 February 2011 (“the first management order”). In proceedings LON/00AG/LVM/2013/0002 & 0027, the First Respondents, sought an order discharging Mr Maunder Taylor as the Manager and the appointment of Premier Management Partners in his place. The Third Respondent later made a cross application to extend Mr Maunder Taylor’s appointment (LON/00AG/LVM/2013/0005).
3. By a Decision dated 7 January 2014, The Tribunal discharged Mr Maunder Taylor and appointed Ms Louise Bevin of Premier Management Partners for a period of 3 years from 3 February 2014 (“the second management order”). Unfortunately, she left the employment of that firm and by an order dated 17 March 2014, the second management order was varied so that Mr Paul Bird, the present Manager, was appointed in her place.
4. Shortly thereafter, Mr Bird made this application to vary yet again the second management order on the basis that he too was leaving the employment of Premier Management Partners and relocating elsewhere due to family reasons. The variation sought was the appointment of Mr Steven Truman from the same firm in his place.

5. The application was supported by the First and Second Respondents. The Third Respondent opposed the application and sought the re-appointment of Mr Maunder Taylor.
6. On 2 May 2014, the Tribunal issued Directions stating that it was already satisfied that a Manager should be appointed and limited the issue to the suitability of the various proposed managers.
7. The initial hearing on 28 May 2014 was adjourned due to a number of procedural shortcomings and the Tribunal issued supplementary Directions.

The Relevant Law

8. Section 24(9) of the Landlord and Tenant Act 1987 provides:

“[A leasehold valuation tribunal] may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) and order made under this section....

9A. The [tribunal] 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.”*

Hearing and Decision

9. The adjourned hearing took place on 9 July 2014. The First and Second Respondents were represented by Mr Joseph who confirmed to the Tribunal that he had the authority to do so. The Third Respondent was represented by Mr Isaac of Counsel.
10. Mr Joseph made an application to adjourn the hearing on the basis that Counsel who had been instructed to represent him and other

leaseholders could no longer do so for urgent personal reasons. The Tribunal refused the application because, having regard to the issue to be determined, there would be no real or significant prejudice to him and other leaseholders if the hearing proceeded.

11. The Tribunal then heard evidence from Mr Truman and Mr Maunder Taylor respectively. For the avoidance of doubt, the Tribunal placed little or no reliance on the witness statements filed by Mr Joseph or the Third Respondent because they simply repeated the evidence already heard by the previous Tribunals and were of little or no relevance to the issue under consideration.
12. Mr Truman had set out his experience and qualifications in a witness statement dated 11 June 2014. In cross-examination, he confirmed that he founded the firm of Premier Management Partners about 5-6 years ago and it was a corporate member of ARLA, ARMA and RICS. He went on to confirm that he has and continued to manage far larger and more complex properties than the subject property.
13. Mr Truman said that he had adopted the management plan that Ms Bevin had put in place and, importantly, he had in practical terms been managing the property since Mr Bird's departure from the firm.
14. Mr Truman also gave evidence as to how he would implement the extensive repairs that are required for the building and identified in a survey report prepared by GIA dated 21 May 2014 and the procedures his firm had for recovery of service charge arrears, which has been a continual problem with this property.
15. Mr Maunder Taylor's evidence was set out in his statement and management plan dated 22 May 2014, which is self-explanatory. In chief, he gave evidence as to how and when he would aim to effect the repairs required to the building identified in the GIA report. He said that he was seeking to be re-appointed because the changes in the

composition of the Board meant that it could not properly manage its own affairs.

16. Having carefully considered the evidence in this case, the Tribunal was satisfied that the requirements of sections 9A(a) and (b) are variously satisfied for the following reasons:

- (i) materially, in the earlier decision dated 7 January 2014, the Tribunal concluded that Mr Maunder Taylor's tenure should not be extended even though it found he had discharged his duties competently. It is clear from a reading of that decision the Tribunal was mindful of the acrimonious relationship that had arisen between Mr Maunder Taylor and members of the Board. The same level of ill feeling was also apparent in this case and the Tribunal considered that a return to that state of affairs would be unconstructive in relation to the effective future management of the property.
- (ii) the fact that Mr Truman's appointment had the overwhelming support of the lessees, save for the Third Respondent. Conversely, Mr Maunder Taylor did not appear to enjoy the same level of support.
- (iii) the Tribunal was satisfied that Mr Truman possessed the requisite knowledge and experience to competently manage the property. It is significant that he was already in effect managing the property since the departure of Mr Bird and had in the meantime taken steps to deal with the repairs to the building by commissioning the GIA report which contains a 3-5 year scheduling of the proposed works and estimated cost.
- (iv) the Tribunal was satisfied that a further break in the continuity of the management of the property was not in the best interests of the leaseholders especially having regard to the numerous and

recent changes in the appointed Manager and the recourse to further litigation, which was unlikely to occur with the appointment of Mr Truman.

17. Accordingly, the Tribunal does vary the terms of the management order dated 24 January 2014 (and subsequently varied on 17 March 2014) by appointing Mr Truman in place of Mr Bird with immediate effect. Save for this variation, the terms of the order dated 24 January 2014 shall continue unamended.

Judge I Mohabir
4 August 2014