



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

Case Reference	:	LON/00AG/LVM/2015/0002
Property	:	Palace Court, 250 Finchley Road, London NW3 6 DN
Applicant	:	Mrs S Abiola of flat (1) Ms Norman of flat 16 (2)
Representative	:	Ms A Abiola, the daughter of Mrs Abiola represented the first Applicant. Ms Norman represented himself Mr Truman (1)
Respondent	:	Various Lessees as particularised in paragraph 5 of the decision
Representative	:	Mr Truman represented himself
Type of Application	:	Variation of an order appointing a manager and to limit the landlord's costs of proceedings
Tribunal Members	:	Judge Carr
Date and venue of Hearing	:	10 Alfred Place, London WC1E 7LR
Date of Decision	:	11th March 2015

DECISION

Decisions of the tribunal

- (1) The tribunal determines not to vary the management order
- (2) The tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.
- (3) The tribunal makes the determinations as set out under the various headings in this decision

The application

1. Mrs Abiola seeks a determination pursuant to the Landlord and Tenant Act 1987, section 24(9) of her application to discharge the current manager under a management order commencing 3rd February 2014 for a period of three years. The applicant seeks to discharge Mr Truman and appoint Mr Bruce Maunder-Taylor in his place.
2. The property which is the subject of the application is Palace Court. Palace Court comprises 2 blocks of flats of varying sizes which front Finchley Road. Palace Court is fully described in the decision of the LVT ref number LON/00AG/LAM/2010/0009 dated 3rd February 2011.

The issues

3. The Case Management Conference identified the relevant issues for determination as follows:
 - (i) Has the applicant satisfied the tribunal of any ground(s) for making an order, as specified in section 24(9) of the Act? In particular:
 - a. If the current manager is discharged would this result in the recurrence of the circumstances which led to the order being made and
 - b. Is it just and convenient in all the circumstances of the case to vary or discharge the order?
4. The particular issues raised by the applicant at the CMC are that

- (i) the current manager has not provided service charge accounts for the year 2013 despite requests to do so
- (ii) that the purpose for which the Order was sought, the major repairs to the building, have not been undertaken;
- (iii) that fundamental services such as electricity and water have been disputed and that failure to detect faults in the services almost resulted in an explosion in one of the blocks.

In addition the applicant states that there is instability within the management company itself with a failure on the part of the company to lodge accounts at Companies house and the original management company being transferred or merging with London Resident Management which in turn is not RICS certified.

5. Following the Case Management Conference the tribunal contacted all of the residents of Palace Court to see if they wished to be joined as applicants or respondents to the application. Seven lessees asked to be joined as respondents and a determination of their applications was made by the tribunal on 3rd March 2015. The following were joined as respondents:

- (i) S. Aminae – Flat 11
- (ii) S. Elkhodair – Flat 12
- (iii) Mr M Joseph – Flats 15 and 15a
- (iv) Mr C.R. Newton-Grun - Flat 24
- (v) Dr BJ and Dr AG Sbano – Flat 26
- (vi) Dr P.O. Ali – Flat 27
- (vii) Mr C Stevens

6. This application is the most recent of a number of applications made in connection with the management of the property. The history of applications and orders is set out in a decision of the Tribunal dated 4th August 2014, case reference LON/00Ag/2014/0009. In that decision the management order, the second made by the tribunal in connection with the property, was varied by appointing Mr Truman to be the manager of the property. In all other respects the management order continued unamended. In particular it should be noted that the second

management order was for a period of three years from 3rd February 2014.

The hearing

7. At the commencement of the hearing Ms Norman of Flat 16 made an application to be joined as an applicant. There was no objection from the Respondents and therefore Ms Norman is joined as an applicant.
8. It should also be noted that the tribunal had received an email from Ms Shireen Shama which provided a degree of support for Mrs Abiola and Ms Norman's application for removal of Mr Truman as manager.
9. The tribunal heard evidence and submissions from the parties on the following points, including observations from the various lessees other than the applicants who attended the hearing. In summary the arguments made are set out below. Having considered all of the documents provided, the tribunal has made determinations on the various issues as follows:

The failure to produce accounts for the service charge year 2013 - 2014

10. Both applicants are very concerned that no accounts have been produced for the service charge year 2013 – 14.
11. They have requested accounts on a number of occasions and in November 2014 made a statutory demand which has not been complied with.
12. Mr Truman said that there had been difficulties in finalising the accounts, particularly because for eight months of the period in question the property was not under his management.
13. He agreed that he had been provided with most of the information promptly by Mr Maunder-Taylor but said that it had taken a very long time to carry out all of the necessary reconciliations. He said that he expected the accounts would be available in the next fortnight or so.
14. Dr Ali, one of the lessees present at the hearing, stated that she was not concerned by the delay in the provision of the accounts.
15. Subsequent to the hearing, but prior to the issue of the decision, Mr Truman contacted the tribunal to inform it that he had issued the relevant accounts.

Delays in serving the service charge demands

16. The applicants stated that they had not received service charge demands when they should have received them and this caused them a great deal of concern.
17. Mr Truman stated that service charge demands had been issued on 18th December 2014, which was when they were due. It then came to his attention that some lessees said that they had not received these demands, at which point he re-issued the demands. He also stated that the demands were placed on the management portal.
18. The applicants responded by saying that they had had to request duplicate demands several times and that the portal was difficult to access.

Merger with LRM and the failure to lodge company accounts.

19. Both parties agreed that from the date that the tribunal appointed Ms Bevin as manager of Palace Court on 3rd February 2014, her company, Premier Management Partners, has gone through various changes. These include Ms Bevin being headhunted by another company very soon after her appointment, and then, following her replacement by Mr Bird, of the same company, on 17th March 2014, his equally unpredicted and rapid departure. The tribunal appointed the current manager, Mr Truman of the same firm on 4th August 2014.
20. It is worth noting that the first applicant in this application opposed Mr Truman's appointment and sought to appoint in his place Mr Maunder Taylor.
21. The applicants say that these changes have unsettled them, and that they were further unsettled by Premier Management Partners merger with London Residential Management in the second half of 2014. They point to the fact that both companies seem to be in existence simultaneously and that they are unclear which company is handling the service charge income. They also point to failures of Premier Management Partners to comply with various requirements of company law including failure to submit accounts. This leads to instability in the management of Palace Court.
22. In addition they are concerned that London Residential Management was not a member of RICS, which they consider to be an essential qualification for a manager.
23. Most recently they were disconcerted to find that there was a threat of bankruptcy proceedings against Palace Court Limited, and considered that Mr Truman had not appreciated the gravity of such a threat.

24. Mr Truman explained that there was a merger, and that he was a Director of both companies. The company decided to adopt the trading name of London Residential Management.
25. He argued that the merger was beneficial for its clients, and far from making the management of the block unstable it was actually to Palace Court's advantage as it added expertise and resources.
26. The company took the decision that it did not require to be a member of RICS. Its business was solely residential, it employs independent surveyors when this is necessary, and it continues to be a member of ARMA. When asked by the tribunal Mr Truman confirmed that he would continue to follow the RICS code of practice.
27. In relation to the bankruptcy Mr Truman pointed out that this threat emerged from problems which preceded his appointment. In his opinion the Directors were well aware of the history of the relationship with the person threatening litigation, and it was appropriate for the Directors and not him to respond. He also pointed out that there appeared to be little substance in the threat.

Health and safety issues

28. The applicants were very concerned about problems that have occurred within the property that they consider have health and safety implications.
29. The most serious of these problems relates to a gas leak that almost coincided with an electrical fault that could have resulted in a fatal explosion at Palace Court. There were also suggestions from the applicants that work that was carried out to remedy problems with the electrical wiring was actually unnecessary as the power outages were the responsibility of the supplier and not down to wiring issues.
30. It should be noted that this work was the subject of a successful application to the tribunal to dispense with consultation.
31. The sequence of events seems to have been complex. However it appears that whilst the contractor identified that works needed to be done to the wiring in the course of a regular inspection the contractor advised that there was no urgency until a fault arose. In the meantime the contractor carried out repairs to the communal electrical provision.
32. At some stage, in the course of an inspection of the property Mr Truman noticed a gas leak which allied with the poor quality electrics

did lead to a minor explosion, and could, he agreed, have led to a major and potentially life threatening explosion. However this was avoided due to his detection of the leak. Following that major electrical upgrading was carried out as a matter of urgency.

33. The applicants suggested at this stage that Mr Truman was not aware of the need for consultation, or the possibility of applying for dispensation from those requirements.
34. Mr Truman insisted that he was fully aware of these requirements.
35. The applicants raised other issues including Mr Truman's failure to speedily inform other residents of a burglary to Ms Norman's flat and a failure to repair the external door security system sufficiently speedily and the removal of fire extinguishers.
36. The removal of fire extinguishers was explained by Mr Truman as a recommendation of a health and safety report. He agreed that perhaps it could have been more clearly explained to lessees, but he could not agree that the removal had jeopardised the property in any way.
37. He apologised for taking ten days to inform other residents of the burglary. Because he was uncertain how the burglary had happened he was not clear about what advice to provide to other residents to reduce their risks of a similar event.
38. Mr Truman did not accept that they had delayed in repairing the door security. There was a dispute between himself and Ms Norman as to whether there was a fault with the security system. The engineer had visited on a number of occasions and had failed to detect a fault.

Failure to progress with major works.

39. The final matter raised by the applicants was that there had been a failure to progress the major works which after all had been the main reason for the appointment of a manager.
40. Mr Truman said that he was progressing the works but that inevitably because of the urgent works carried out to the electrical installations there was a delay.

The tribunal's decision

41. The tribunal determined not to vary the management order

42. The tribunal considered all of the evidence, arguments and documents supplied. It did not consider that there was anything to suggest that it would be just and convenient to vary or discharge the order.
43. There is no doubt in the tribunal's opinion that this application reflects the first applicant's desire to reinstate Mr Maunder Taylor. Mr Truman may not have run the property perfectly, but in the experience of the tribunal perfect management which satisfies all residents is not achievable. The tribunal considers that the best outcome for the property and its residents is a period of stable management. It is satisfied that Mr Truman is providing a responsive and planned management regime and that the necessary major works will take place in due course.
44. The tribunal did hear from Mr Maunder Taylor, but in the light of its decision does not need to decide whether he would be an appropriate manager of this property.
45. The tribunal does not make an order under s.20C of the Act. It leaves open the possibility of further applications in relation to the costs of this case.

Name: Helen Carr

Date: 22nd April 2015