

APPENDIX 1 - ORDER



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

Case Reference : **BIR/41UE/LAM/2019/0003**

Subject premises : **Tower Court/Trinity Court/Windsor Court
No 1 London Road
Newcastle-under-Lyme
ST5 1LT**

Applicant : **Kate Louise Williams**

Respondent : **Number One London Road Management
Company Limited**

Type of Application : **Application under section 24 of the
Landlord and Tenant Act 1987 for the
appointment of a manager**

Tribunal Members : **Deputy Regional Judge Nigel Gravells
Graham Freckelton FRICS**

Date of Order : **11 February 2020**

ORDER

UPON hearing Mr Williams for the Applicant and Mr Sinclair of Counsel for the Respondent

AND UPON the Tribunal being satisfied that the conditions specified in section 24 of the Landlord and Tenant Act 1987 are met

IT IS ORDERED THAT

The Manager

- 1 Mr Ian Hollins is appointed as manager of the development known as No 1 London Road, Newcastle-under-Lyme ST5 1LT, comprising Tower Court, Trinity Court, Windsor Court and appurtenant property, and registered at the Land Registry under title number SF302181 ('the development').
- 2 The appointment shall commence on the date of this Order and shall continue for a term of three years.

Functions and duties of the manager

- 3 Mr Hollins shall manage the development in accordance with (in order of priority) -
 - (a) the relevant legislation;
 - (b) the provisions of this Order;
 - (c) the respective rights and obligations of all parties to the leases granted out of title number SF302181, including the right to receive service charges payable under the terms of those leases;
 - (d) the duties of a residential manager as contained in the Service Charge Residential Management Code, 3rd Edition, dated 27 May 2016 ('the RICS Code'), published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 and any code that may amend, replace or otherwise supersede the RICS Code.
- 4 The Tribunal notes that Mr Hollins is a Director of the residential management company Clear Building Management Limited. For the avoidance of doubt, Mr Hollins is entitled to delegate general administrative functions under this Order to other officers and employees of the firm but Mr Hollins must take full responsibility for the management of the development himself. Any person exercising administrative functions as permitted above will not acquire any rights or functions under this Order but will merely be permitted to assist Mr Hollins in the discharge of his functions under this Order.
- 5 Throughout the term of this appointment Mr Hollins must ensure that he has appropriate professional indemnity cover in the sum of at least £10,000,000; and he shall, within a reasonable time after receipt of a written request to this effect, provide evidence of the same to any interested party (whether leaseholder or freeholder) and to the Tribunal.
- 6 For the avoidance of doubt, from the date of this Order, no other party shall be entitled to exercise any management function in respect of the development property where that function is a responsibility of Mr Hollins under this Order.

- 7 Mr Hollins may take any legal action which is reasonably required if a leaseholder or the freeholder is reasonably believed to be in breach of a covenant under the terms of the lease or of this Order. This includes but is not limited to:
 - (a) legal action to recover monies due;
 - (b) legal action to determine that a breach of covenant has occurred;
 - (c) legal action to prevent a further breach of covenant;
 - (d) any application to the First-tier Tribunal (Property Chamber) which Mr Hollins deems necessary in the interests of the effective management of the development.
- 8 In particular, Mr Hollins shall take all reasonable steps to recover all arrears of service charges from the leaseholders, including, but not limited to, where judgment has been obtained, applying for charging orders under the provisions of the Charging Orders Act 1979.
- 9 Mr Hollins shall, within three months of the date of this Order, produce a written report and hold a meeting with the leaseholders in order to –
 - (a) provide a full account of the outstanding issues and management challenges in relation to the development, and
 - (b) make appropriate proposals as to how the leaseholders and Mr Hollins can work together to deal with those issues and challenges and to secure the future of the development.
- 10 Mr Hollins shall, within three months of the date of this Order, appoint a qualified fire engineer to investigate and produce a written report on outstanding fire safety issues affecting the development, including, but not limited to, the fire and smoke compartmentalisation of the buildings.
- 11 Mr Hollins shall, within three months of the date of this Order, appoint a suitably qualified engineer to investigate and produce a written report on the type, composition, suitability and condition of the external cladding of the buildings.
- 12 Mr Hollins shall, 12 months (and again 24 months) after the date of this Order, send to the Tribunal a written report on the progress made since his appointment as manager and on any other management issues that he wishes to bring to the attention of the Tribunal; and he shall appear before the Tribunal if he so wishes or if the Tribunal considers it necessary.
- 13 Mr Hollins is empowered to enter into (and to terminate) any contract or arrangement and/or to make any payment or take any step which is necessary, convenient or incidental to the performance of his functions. Any sums due under such contracts or arrangements shall be paid from the monies collected under the terms of this Order, save that Mr Hollins cannot be required to effect any contract or arrangement where that contract or arrangement would, in his reasonable opinion, result in the service charge account going into deficit.

Obligations of other parties

- 14 From the date of this order, no person holding a freehold or leasehold interest in the whole or any part of the development shall interfere or attempt to interfere with the exercise by Mr Hollins of the functions specified in this Order. If requested, such persons shall give such reasonable assistance to Mr Hollins as he deems necessary for the proper administration and management of the

property. For the avoidance of doubt, the freeholder shall co-operate with Mr Hollins in relation to the exercise of a right of re-entry and/or the preparation and service of any notice under section 146 of the Law of Property Act 1925.

- 15 From the date of this Order, any person holding a leasehold interest at the property shall – on receipt of 48 hours written notice (or in an emergency immediately) - give Mr Hollins or his agent reasonable access to any part of the development which he might require in order to perform his functions under this Order.
- 16 The obligations contained in this Order shall bind any successors in title and the existence of and terms of this Order must be disclosed to any person seeking to acquire either a leasehold interest or the freehold reversion.

Finances

- 17 The service charges payable by the leaseholders shall be continue to be apportioned in accordance with the historic practice.
- 18 Mr Hollins shall be entitled to remuneration in the sum of £16,647.00 per annum plus VAT, rising by 1.5 per cent on 1 March 2020 and by the change in the CPI on 1 March in subsequent years. The costs of such remuneration shall be included in the service charge accounts.
- 19 Where Mr Hollins undertakes qualifying works or enters into a qualifying contract that would come within the terms of section 20 of the Landlord and Tenant Act 1985, he shall be entitled to charge an additional fee, not exceeding 12.5% of the total cost and that fee shall be included in the service charge accounts.
- 20 Mr Hollins may charge an additional reasonable fee for any dealing with solicitors in respect of the development and that fee shall be included in the service charge accounts.

Legal and professional costs

- 21 Mr Hollins shall 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, whether in the Court or the First-tier Tribunal, to enforce the terms of the leases.
- 22 For the avoidance of doubt the above paragraph applies equally to applications and proceedings commenced by Mr Hollins and applications and proceedings to which he is a Respondent.

Liberty to apply

- 23 Mr Hollins may apply to the Tribunal for further directions, in accordance with section 24(4) of the 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; and,
 - (c) directions in the event that there are insufficient sums held by Mr Hollins to discharge his obligations under this Order and/or to pay his remuneration.