



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

Case reference : **LON/00AK/LVM/2018/0003**

Property : **Ground and First Floor Flats, 5/5A
St Georges Road, London N13 4AT**

Applicant : **Mr Martin Kingsley (existing
Manager)**

Respondents : **Mr D.M. Greenwood (leaseholder
of Flat 5A and part owner of
freehold), Ms C Power (previous
leaseholder of Flat 5 and part
owner of freehold) and Mr B Lacey-
Smith and Miss R Carr (current
leaseholders of Flat 5)**

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

Tribunal members : **Judge P Korn
Mr K Ridgeway MRICS**

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

Date of determination : **19th March 2018**

DECISION

Decision

1. In accordance with section 24(9) of the Landlord and Tenant Act 1987 (“**the Act**”) the Management Order dated 6th July 2015 currently in place in respect of the Property is hereby varied by extending it so that it will now expire on 5th July 2021.
2. The Management Order as varied by paragraph 1 above shall continue in full force and effect.
3. No cost order is made.

Background

4. By a decision dated 6th July 2018 the Tribunal appointed the Applicant as manager of the Property for the reasons stated in that decision (*Ref: LON/00AK/LAM/2015/0001*).
5. The existing appointment is due to expire on 5th July 2018 and the Applicant has now applied for a variation of the Management Order to extend it so that it would instead expire on 5th July 2021.
6. Mr Greenwood is the leaseholder of Flat 5A and part owner of the freehold. Ms Power is the former leaseholder of Flat 5 but has sold her interest to Mr Lacey-Smith and Miss Carr. Ms Power remains part owner of the freehold, but it is understood that she is in the process of transferring her freehold interest to Mr Lacey-Smith and Miss Carr.

Paper determination

7. The Tribunal is satisfied that this case is suitable to be dealt with on the papers alone, without a hearing. No request for a hearing has been received and therefore the case is being dealt with on the papers alone.

Applicant's case

8. The Applicant states that there are current and past issues which need to be resolved. He has provided a summary of his dealings with Mr Greenwood and Ms Power and of the work that he has been doing since his appointment, including advice and mediation between the two of them. The unresolved issues include the incorrect installation of Mr Greenwood's rear staircase, Mr Greenwood's proposed first floor extension, noise issues and possible movement.
9. The Applicant has also provided copies of service charge budgets for 1st September 2015 to 31st August 2017 and completed service charge accounts for the years ended 31st August 2016 and 2017.

Respondents' comments

10. Mr Lacey-Smith and Miss Carr have written to support the application. Mr Greenwood has simply asked whether there would be an opportunity to give feedback on Mr Kingsley's performance at the

expiry of his extended term of appointment if his appointment is indeed extended, and Ms Power has not raised any objections to his appointment being extended.

Tribunal's decision

11. Under section 24(9) of the Act *"A tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section ..."*.
12. Under section 24(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"*.
13. We note the basis on which the original management order was made and the fact that the previous Tribunal found Mr Kingsley to be a suitable manager. We also note the details provided by Mr Kingsley of the work that he has done to date, including helping to resolve disputes between the leaseholders. We further note the nature of the unresolved issues.
14. Mr Lacey-Smith and Miss Carr actively support the proposed extension and neither Mr Greenwood nor Ms Power has expressed any objections.
15. It is arguable that the Applicant could simply be appointed by the joint freeholders as their managing agent. However, in view of the fact that (a) the new leaseholders are actively supporting the extension of his appointment, (b) nobody is objecting to the extension and (c) there are significant and difficult ongoing issues, it is in our view appropriate to continue to afford to the Applicant the greater powers than come with the role of Tribunal appointed manager. The evidence also indicates that the Applicant has been managing the Property effectively and that extending his appointment would help him to resolve certain issues which he has begun to tackle.
16. Therefore, on the basis of the information that we have we are satisfied that it is just and convenient to vary the existing order in the manner sought by the Applicant and that varying the order in this manner will not result in a recurrence of the circumstances which led to the original order being made.

Costs

17. No cost applications have been made.

Name: Judge P Korn

Date: 19th March 2018

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. 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.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. 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.