



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

Case Reference : **MAN/00CG/LVM/2019/0004**

Property : **The Metis Apartments, Scotland Street, Sheffield S3 7AT**

Applicant : **Mr John Stephen McDonald**

Respondents : **(1) Adriatic Land 1 (GR3) Limited**
(2) Forte Freehold Management Limited
(3) Various Long Leaseholders of Metis Apartments

The manager : **Mr Matthew James Kirk**

Tribunal members : **Regional Surveyor N. Walsh**
Regional Judge S. Duffy

Date of Order : **28 May 2020**

VARIATION OF MANAGEMENT ORDER

1. In accordance with section 24(9) of the Landlord and Tenant Act 1987 ("the Act") Matthew James Kirk is appointed as manager of The Metis Apartments, Scotland Street, Sheffield S3 7AT ("the Property") and the terms of the Consent Order dated 6 December 2017 are varied to those below.

2. The appointment shall start on 29 May 2020 (“the start date”) and shall end on 28 May 2023 (“the end date”).
3. The purpose of this variation of the existing Management Order is to provide for adequate management of the Property while specifically addressing all outstanding fire safety issues including replacing the currently defective cladding to the exterior of the Property.
4. The manager shall manage the Property in accordance with:
 - (a) the landlord’s obligations under the leases of the flats at the Property, as demised.
 - (b) the duties of a manager set out in the Service Charge Residential Management Code, 3rd Edition (“the RICS Code”) or such other replacement code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to section 87 Leasehold Reform Housing and Urban Development Act 1993.
5. The manager must perform his/her duties under this Order independently, and has an overriding duty to this tribunal.
6. The manager shall operate a complaints procedure in accordance with, or substantially similar to, the requirements of the Royal Institution of Chartered Surveyors.
7. During the period of the appointment the manager must hold appropriate professional indemnity insurance cover of at least £5,000,000.
8. Within 14 days from the date of this Order the Applicant shall transfer to the manager:
 - (a) all accounts, books and records relating to the Property including a complete record of all unpaid service charges; and
 - (b) all funds relating to the Property including uncommitted service charges and any monies standing to the credit of a reserve or sinking fund.
9. The manager shall register this Order against the registered title to the Property in accordance with section 24(8) of the Act.
10. The manager is entitled to apply to the tribunal for further directions.
11. The manager or any other interested person may apply to vary or discharge this Order pursuant to the provisions of section 24(9) of the Act.
12. Any application to extend or renew this Order **must** be made before the end date, preferably at least 4 months before that date, and supported by a report of the management of the Property during the

period of the appointment. If an application for an extension or renewal is made prior to the end date, then the manager's appointment will continue until that application has been finally determined.

13. The manager is granted the following functions and owes the following duties relating to the management of the Property.

Functions and Duties

Insurance

1. The manager must maintain appropriate building insurance for the Property and ensure that the manager's interest is noted on the insurance policy.

Ground Rent and Service charge

2. The manager shall collect the ground rents payable under the residential leases.
3. The manager shall collect all service charges and insurance premium contributions payable under the leases, in accordance with the terms and mechanisms in the leases, to include the preparation of an annual service charge budget and accounts, and their distribution to lessees. For the avoidance of doubt this Order does not displace covenants under the leases and the lessees remain bound by them.
4. All monies received by the manager in respect of the Property shall be held in a designated trust account.
5. The manager has the power to enforce payment of the service charge and may instruct solicitors to recover unpaid rents and service charges and any other monies due in respect of management of the Property.

Contracts and Litigation

6. Rights and liabilities arising under contracts, including any contract of insurance, to which the manager is not a party, but which are relevant to the management of the Property, are to become rights and liabilities of the manager;
7. The manager may place, supervise and administer contracts and check demands for payment of goods, services and equipment supplied for the benefit of the Property.
8. The manager may prosecute or defend court or tribunal proceedings relating to the management of the Property (whether contractual or tortious) and may continue to prosecute or defend proceedings commenced during the appointment after the end date.

Repairs and maintenance

9. The manager shall, subject to receiving sufficient prior funds, carry out all required repair and maintenance issues relating to the Property, as identified in the leases in the leases, including instructing contractors

to attend and rectify problems, and is entitled to recover the cost of doing so as service charge payable under the leases.

10. The manager shall by 1 September 2020 draw up a planned maintenance programme for the period of the appointment allowing for the periodic re-decoration and repair of the exterior and interior common parts of the Property and shall send a copy to every lessee and to each respondent.

Remuneration

11. The lessees are responsible for payment of the manager's fees, which are to payable under the provisions of this Order but which may be collected under the service charge mechanisms of their leases.
12. The sums payable are:
 - (a) an annual fee of £250 per flat for performing the duties set out in paragraph 3.4 of the RICS Code (so far as applicable).
 - (b) A standalone fee of 1.5% of the contract sum for the management of the major works in connection with the replacement of the external cladding; and
 - (c) VAT on the above fees.

Reporting

13. By no later than one year, the manager shall prepare and submit a brief written report for the tribunal on the progress of the management of the Property up to that date, providing a copy to the lessees of the Property and the Respondents at the same time.

End of Appointment

14. No later than 28 days before the end date, the manager shall:
 - (a) apply to the tribunal for directions as to the disposal of any unexpended monies; and
 - (b) include with that application a brief written report on the progress and outcome of the management of the Property up to that date (a "Final Report").
15. By no later than 28 days after the application referred to in the previous paragraph is determined by the tribunal, the manager shall:
 - (a) reimburse any unexpended monies in accordance with the tribunal's directions;
 - (b) prepare final closing accounts and send copies of the accounts and the Final Report to the landlord and lessees, who may raise queries on them within 14 days;

(c) answer any such queries within a further 14 days.

Disputes

16. In the event of a dispute regarding the payability of a service charge a lessee, or the manager, is entitled to pursue an application to this tribunal under section 27A of the Landlord and Tenant Act 1985.
17. In the event of a dispute regarding the payability of any sum payable under this Order, rather than under a lease (including as to the remuneration payable to the manager and litigation costs incurred by the manager), a lessee, or the manager, may apply to the tribunal seeking a determination as to whether the sum in dispute is payable and, if so, in what amount.
18. In the event of a dispute regarding the reimbursement of unexpended monies at the end of the manager's appointment, the manager, a lessee, or the landlord may apply to the tribunal for a determination as to what monies, if any, are payable, to whom, and in what amount.