



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

Case Reference : CHI/29UL/LVM/2020/0008

Property : The Grand, The Leas, Folkestone,
Kent CT20 2LR

Type of application : Landlord and Tenant Act 1987 s.24(9) –
variation of Management Order

Applicant : The Grand Folkestone (Residents) Ltd

Representative :

Respondents : Ms Alison Mooney (Tribunal Appointed
Manager)

Representative :

**Tribunal
Member(s)** : Judge M Loveday

**Date of
hearing/venue** :

Date of decision : 8 November 2021

s.24(9) DIRECTIONS

Introduction

1. This matter relates to the Grand, the Leas in Folkestone, which has a long and sorry history of litigation.
2. The premises have been subject to management orders under s.24 Landlord and Tenant Act 1987 since 11 June 2014. The current order was made on 5 July 2018 (“the 2018 Management Order”), and appointed Ms Alison Mooney MRICS as Tribunal-appointed Manager. The order was most recently varied on 30 December 2020 by extending the appointment to 8 January 2024. It should be said there have been numerous hearings and applications in relation to the premises over the years. The variation made on 30 December 2021 was no exception, involving a hearing, counsel and a detailed decision.
3. The most recent development has been a sale of the freehold. On 17 August 2021, Mr Peter Cobrin (who featured in the December 2020 decision), emailed the Tribunal as follows:

“I am pleased to advise the Tribunal that as of August 12th, the Grand (Folkestone) Residents Ltd became the new Landlord of the Grand. The new freeholder is the company set up back in February to exercise leaseholders right to take over the sale agreed at auction on June 22nd under the Right of First Refusal, as provided by Part 1 of the Landlord and Tenant Act 1987 as amended by the Housing Act 1996. This opportunity came about after the former freeholder, Hallam Estates Ltd, was placed into administration on December 17th 2020 on the application of our manager, Alison Mooney.”

The email was sent by Cobrin in his capacity of Chair of the company, although he is also a lessee of the Chilham Suite. Mr Cobrin sought a suspension of paragraph 3(e) and (j) of the 2018 Management Order or such order as the Tribunal saw fit.

4. On 22 August 2021, the Regional Judge responded to Mr Cobrin stating that the Management Order no longer existed with the change of freeholder. He pointed out that the management order is not meant to be permanent solution and had no application where a freeholder is capable of managing the property in accordance with the terms of the lease. This was copied into the Manager.
5. By an email dated 2 November 2021, the Manager responded:

“As the letter was addressed to Mr Cobrin, I did not think that I should have to respond. Mr Cobrin and the new freeholding Company of which he is Chairman, are quite content with the situation of my remaining in office until such time as the appointment expires, and as it would cause additional administration to change the arrangement at this point rather

than let it expire, I would prefer that approach unless there is a legal argument against it.

6. On 2 November 2021, Mr Cobrin replied as follows:
“Purely from a legal/procedural perspective, Mrs Mooney’s role as a Tribunal-appointed manager remains critical, and until all these issues are over, we, as freeholders, are very reluctant to change the *status quo*.”
7. The correspondence has been placed before Judge Loveday, as the tribunal judge with most recent experience of the Management Order in place at the Grand.

Decision and directions

8. The Tribunal treats the email of 17 August 2021 as a further application for a variation of the 2018 Management Order under s.24(9) of the 1987 Act. The Tribunal waives any formal requirements for applications under the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, and any required fee. For case management purposes, the application is allocated the same file number as the last application for variation. But (save as set out below) there will be no need to serve relevant parties with any correspondence.
9. The Tribunal considers the position is abundantly clear from the cases of Urwick v Pickard [2019] UKUT 365 (LC) and Benthan v Lindsay Court (St Annes) RTM Co Ltd [2021] UKUT 0004 (LC). In the latter case, the Deputy President expressly stated at [46] that: “a management order ceases to have effect when the freeholder against whom it is made sells the property”.
10. The Tribunal therefore has no power to continue Ms Mooney’s appointment. The 2018 Management Order was automatically discharged on the date the freehold transfer. The suggestion is this occurred on 12 August 2021, but the precise date depends on the date of registration of the freehold sale (“the completion date”).
11. For the benefit of the parties, there is of course no reason why the new freeholder could not employ Ms Mooney as managing agent from the date of termination of the Management Order – or employ new managing agents. But the legal position is clear. The Tribunal’s Management Order has been discharged, and proper arrangements need to be put in place to ensure a smooth handover to the new management team.
12. In the circumstances, the Tribunal makes the following directions:
 - (a) The Manager shall by 24 November 2021 write a letter (or send by email) to each and every lessee of a flat and/or business premises within the area covered by the 2018 Management Order, explaining that the 2018 Management Order terminated on the completion date of the freehold sale. The letter shall also

- briefly explain the procedures to be adopted for handing over management to the new freeholder and/or its managing agents. A copy of these directions is to be attached to the letter/email.
- (b) The Manager shall, by 8 December 2021 prepare a full set of service charge accounts for the last period of management up to the completion date. The accounts must show, *inter alia*, any service charge and/or other sums which are to be transferred to the new freeholder and/or its managing agents on the completion date.
 - (c) Paragraph 53 of the 2018 Management Order shall be varied so that the Manager shall, by 8 December 2021 prepare a final progress report to the Tribunal on the discharge of the Management Order. That progress report shall include a copy of the letter/email in paragraph 12(a) above and a copy of the accounts at paragraph 12(b) above.
 - (d) Liberty to the Manager to apply to vary the above timetable. Any such application to be dealt with (if possible) by Judge Loveday.

Mark Loveday
8 November 2021

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.