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**LONDON RENT ASSESSMENT PANEL**

**REASONS FOR THE DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION UNDER SECTIONS 24 OF THE LANDLORD AND TENANT  
ACT 1987**

**Case Reference:** LON/00BK/LAM2012/0013

**Premises:** 42-48 Bell Street, London NW1 5AW

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**Applicant(s):** The Bell Street Partnership LLP (1)  
Howard Malin and James Malin (2)

**Representative:** Mr. J. Lott, Field Fisher Solicitors (1)  
Ms. J. Northover, Brechers, Solicitors (2)

**Respondent(s):** CEMI Limited

**Representative:** Mr. Doherty

**Interested Persons:** Capital Bridging Finance Ltd  
Rajdeep Sidhu (Flat 8)  
The Mortgage Works (UK) Plc  
A. CEMI Limited  
Ahli United Bank (UK) Plc  
Charles Edwards (Flats 3, 6, & 9)  
Paratus AMC Limited

**Date of hearing:** 5 July 2012

**Appearance for Applicant(s):** Mr. J. Bates of Counsel  
Mr. J. Lott  
Ms. J. Northover

**Appearance for Respondent(s):** Mr. Doherty

**Leasehold Valuation Tribunal:** Ms. A. Hamilton-Farey LLB, FRICS, FCIArb  
Mrs. V. Barran

**Date of Reasons:** 13 July 2012

**Reasons for the Decision of the Tribunal** – to be read in conjunction with the decision and interim Management Order made on 4 July 2012 and issued on 5 July 2012.

**Background:**

- (1) On or about 17 May 2012, the Applicants served a Notice under S.22 of the Landlord & Tenant Act 1987 (the 1987 Act) on the Respondents. The Respondents say that they did not receive that Notice and that the first they heard of it was on 19 June whilst the Director of CEMI Limited, Mr. Thompson was abroad, as was Mr. Doherty, the Representative, who had suffered a family bereavement. The Respondents admit that they made no response to the S.22 Notice having been made aware of it.
- (2) On 18 June 2012, the Applicants made an application for the appointment of an Interim Manager under the Act. They also sought a final order under the same legislation.
- (3) A pre-trial review (“PTR”), of the matter was listed for 3 July 2012 at which the parties attended. During the first part of the PTR Mr. Doherty was not present, and the procedural chair, together with the Applicants had agreed that serious health and safety issues existed in the premises, and that a substantive hearing should be held on 5 July. Mr. Doherty arrived later and the PTR was then re-opened, and he gave some background to the dispute.
- (4) The Tribunal confirmed orally, and in writing later that day, that the hearing should proceed on 5 July 2012. It exercised its powers under Regulation 14(4) of the Leasehold Valuation tribunals (Procedure) (England) Regulations 2003, shortening the notice period for hearing, because it considered that there were exceptional circumstances for doing so. Namely, that there were health and safety issues in the building that might affect the occupiers and visitors. The issue was whether to appoint a manager on an Interim Basis. We made it clear that at the hearing we would be looking only at the health and safety aspects and would rely only on section 24(2)(b) of the 1987 Act. We would need to be *satisfied that other circumstances exist which make it just and convenient for an order to be made on an interlocutory (or interim) basis.*
- (5) In addition, we expressed a possibility that we might wish to inspect the property after the PTR, but Mr. Doherty refused us access on the basis that he was not prepared for such an inspection, or the case in general and had little opportunity to study the papers or appoint Counsel to assist him.
- (6) We were informed that the premises included a block of flats over commercial premises, with 3 houses at the rear. The commercial element and houses belonged to the Respondent.

6. It was, in Counsel's submission, just and convenient for the Tribunal to make the interim order on the basis that it although not related to the health and safety issues, unreasonable service charges had been demanded of the first Applicant, as evidenced by the Judgment of District Judge Lightman, sitting in the Central London County Court on 9 May 2012. The current management was too little too late and failed to address the high risk of falls and lack of access to the front, and that the building needed a significant amount of work.
7. In summary, the Respondents had no management plan, they failed to recognise their responsibilities with respect to the retained parts and that an Interim Order should be made in much the same format as that appended to the application.
8. It was the Applicants' desire for the Interim Order to be for a period of not less than 12 months, which would give the proposed manager, Mr. Maunder Taylor an opportunity to get some management underway.

#### **The Respondent's Case:**

9. The Respondents were represented by Mr. Doherty, who explained to us that he was not a director, but that he assisted in the management of the property, primarily in the collection of service charges. He confirmed to us that the management was undertaken by Mr. Thompson, a director, with assistance from other members in the office.
10. It was his case that they were unable to attend to many of the failures listed by the Applicants because the tenants had failed to pay their service charges for several years. We informed Mr. Doherty of his right to bring an application under S.27A of the Landlord & Tenant Act 1985 in relation to this, and that today's hearing was to determine whether or not an Interim Order ought to be made, given the Applicants' view that significant health and safety issues existed.
11. Mr. Doherty disagreed with the Applicants and said that the doors to the risers and shafts were only open on the days noted by the Applicants, because engineers were on site, carrying out fire alarm and lift servicing and testing. He told us that the doors did not require handles or locks as they closed automatically in the event of a fire, and had small holes in the place where a handle would normally have been, so that the doors could be pulled closed. In his opinion, there was no risk of fall because the doors were always locked.
12. He informed us that the Respondents had been aware of the need for works to the front entrance since 2010 when they purchased the property, but that this was not a health and safety issue, since access to the building could be obtained without any risk.
13. He did not consider the lack of lighting to be an issue, because he did not accept that there was a lack, and that bulbs were regularly changed by the resident caretaker.

14. He felt that the appointment of a manager was unnecessary, as the Respondents had done everything they could to keep the residents safe, no injuries had occurred to anyone. All complaints were properly dealt with and the property had always been managed without complaint.
15. We questioned Mr. Doherty about his management plan and he informed us that the only outstanding thing was the pavement, that it was his job to pursue arrears so that the money needed to run the building could be obtained. He set service charge budgets and organised the contracts for the various mechanical and electrical installations. When asked, he thought there was a fire certificate for the building, but was unable to produce it. He was not aware of the contents of the RICS Service Charge Residential Management Code and confirmed that none of the directors or employees of the Respondents were qualified surveyors.
16. Mr. Doherty also questioned Mr. Maunder Taylor, and following a request from the latter as to the amount of co-operation he might receive, if appointed, Mr. Doherty confirmed that 'we will not co-operate in the least bit'
17. He informed us that any appointment would be unjustifiable, that the Respondents were dealing with very litigious tenants who had underlying reasons for the application. He said that the Applicants complained but did not pay.

### **The Tribunal's decision**

18. Having heard all of the evidence and read the reports, we are persuaded that it is just and convenient for an Interim Order to be made with effect from today, for a period of one year.
19. We were also informed by the Applicants that none of the other leaseholders, or interested parties have opposed the application.
20. We find that there are serious health and safety issues in the property, the worst being the risk of falling down a shaft, and that these have not been addressed by the Respondents and that there is no apparent management plan in place to deal with them.
21. The application for a Final Appointment stands and directions have been given to bring that matter to hearing on the 21 and 22 November 2012, , at which time the Interim Order can be considered and either confirmed as Final, discharged or varied as the case may be.
22. The Applicants have made an application under S.20C of the 1985 Act to limit the landlord's costs of proceedings. This Application is stayed until the hearing of the Final Appointment application.
23. The Interim Order appended to the decision was amended by the Tribunal to take in some concerns raised by Mr Doherty and with the Applicants' agreement. Mr. Maunder Taylor's remuneration within the Interim Order had

been put to the Applicants prior to him agreeing to put himself forward as Manager to the Tribunal. We reduced one item (insurance brokerage) and deleted two from the draft Order, following discussions with the Manager. The concessions were given to the Respondents concerning the powers of the Manager, to take account of the Respondent's concerns over the appointment in particular, and the relatively short period for the Interim Order.

24. The Tribunal determined that Mr. Bruce Maunder Taylor be appointed manager for a period of one year, as we were satisfied that he had a management plan for the premises, that he understood his obligations to the Tribunal and was conversant with the leases and with the RICS Management Code. We are satisfied that he would be a suitable manager for these premises.

Chairman: Aileen Hamilton-Farey

Date: 13 July 2012