



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

Case Reference : CHI/00HB/LAM/2019/0019

Property : 24 Montrose Avenue, Bristol BS6 6EQ

Applicant : Ms Sandi Marshall, Mr Ewan Marshall & Ms Kerry Marshall

Respondent : 24 Montrose Avenue Management Ltd

Representative : Mr Daniel George, Company Secretary

Interested Parties : Dr Edgar Buhl, Ms Aline Moreira -
Ms Kate O'Loughan -

Outgoing Tribunal appointed Manager : Mr Grant Cloke MIRPM AssocRICS of
Hillcrest Estate Management Limited

Proposed Manager : Mrs Shelley Fisher of South West Relocations Limited

Type of Application : Application to vary and extend a management order section 24(9) of the Landlord and Tenant Act 1987

Tribunal Member(s) : Mr W H Gater FRICS MCI Arb (Chair)
Judge Tildesley OBE
Mrs Jane Herrington

Date of Hearing : 15 December 2021 by Cloud Video Platform

Date of Decision : 26 January 2021

MANAGEMENT ORDER FINAL

INTERPRETATION

IN THIS ORDER

“The Property” means the flats and other premises known as 24 Montrose Avenue Redland Bristol BS6 6EQ under title number AV7406 and shall include the building, outhouses, gardens, amenity space, drives, pathways landscaped areas, flower beds passages, bin-stores, common parts, storage rooms basements, electricity and power rooms; and all other parts of the property.

“The Freeholder” shall mean the person who is named as proprietor of the freehold under Title Number AV7406 or their successors in title

“The Landlord” shall mean 24 Montrose Avenue Management Ltd or their successors in title to the reversion immediately expectant upon the Leases.

“The Tenants” shall mean the proprietors for the time being of the Leases whether as lessee or under-lessee and "Tenant" shall be construed accordingly.

“The Leases” shall mean all leases and/or underleases of flats in the Property

“The Manager” means Mrs Shelley Fisher FARLA of South West Relocations Limited, The Stables Hortham Farm, Hortham Lane, Almondsbury, Bristol. BS32 4JW.

“The Functions” means any functions in connection with the management of the Property including any obligations and powers of the landlord under the Leases.

IT IS ORDERED that

1. In accordance with section 24(1) and (9) Landlord and Tenant Act 1987, Mrs Shelley Fisher FARLA of South West Relocations Limited The Stables Hortham Farm, Hortham Lane, Almondsbury, Bristol. BS32 4JW.
2. The Order shall continue until 25 July 2022. If a party wishes to extend the Order s/he should apply three months before the end of the Order.
3. The primary purposes of the management order are to carry out the repair and replacement of the roof, to undertake any necessary maintenance to the exterior of the property and to upgrade the fire

precautions. The Manager must apply her discretion informed by her expertise on whether a survey of the property is necessary and whether to apply for dispensation of consultation requirements. The Manager is accountable for the exercise of her discretion and powers under this Order.

4. The Manager shall manage the Property in accordance with
 - a. the directions and schedule of functions and services attached to this Order;
 - b. save where modified by this Order, the respective obligations of the Landlord and the Lease whereby the Property is demised by the Landlord and in particular with regard to repair, decoration, provision of services and insurance of the Property; and
 - c. the duties of a Manager set out in the RICS Service Charge Residential Management Code (“ the RICS Code”) (3rd Edition) 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.
 - d. The provisions of sections 18 to 30 of the Landlord and Tenant Act 1985.

5. The Manager shall register the Order against the Landlord’s registered title as a restriction under the Land Registration Act 2002 or any subsequent Act. The wording of the restriction shall be:

“No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be completed by registration without a certificate signed by the applicant for registration [or their conveyancer] that the provisions of paragraph 10 of the Order of the Tribunal dated 26 January 2021 have been complied with.”

DIRECTIONS

6. From the date this Order comes into effect, no other party including the freeholder shall be entitled to exercise a management function in respect of the Property where the same is the responsibility of the Manager under this Order.

7. Where there is a conflict between the provisions of the Management Order and the lease, the provisions of the Management Order take precedence.

8. That the Landlord, Freeholder and Tenants shall give all reasonable assistance and co-operation to the Manager in pursuance of her functions, rights, duties and powers under this Order, and shall not interfere or attempt to interfere with the exercise of any of her said rights, duties or powers by due process of law. For the avoidance of doubt this shall not prevent the Landlord or Tenants from bringing legal proceedings (or any other due process of law) should the Manager act unlawfully and/or negligently and/or contrary to the powers and duties set out in this Order.
9. That the Landlord, Freeholder and Tenant allow the Manager and her employees and agents access to all parts of the Property in order that the Manager might conveniently perform her functions and duties and exercise her powers under this Management Order.
10. On any disposition [other than a charge] of the freehold estate in the property registered under title no Title Number AV7406 the freeholder will procure from the disponee of the property, a direct covenant with the Manager, that the disponee will (a) comply with the terms of this order and (b) on any future disposition (other than a charge) procure a direct covenant in the same terms from its disponee.
11. The Manager shall act fairly and impartially in her dealings to all parties concerned in respect of the Property.
12. The Manager shall in the performance of her functions under this Order exercise the reasonable skill, care and diligence to be expected of a manager experienced in carrying out work of a similar scope and complexity to that required for the performance of the said functions.
13. From the date of the appointment and throughout the appointment the Manager shall ensure that she has appropriate professional indemnity cover in the sum of at least £1 million and shall provide copies of the certificate of liability insurance to the Tribunal and upon request being made by any Tenant of all or part of the Property, and the Landlord. The Certificate should specifically state that it applies to the duties of a Tribunal Appointed Manager.
14. That no later than two weeks after the date of this Order the Landlord and the previous Manager Mr Cloke shall provide all necessary information to and arrange with the Manager an orderly transfer of responsibilities. No later than this date, the Landlord and or Mr Cloke shall provide to the Manager details insurance of the Property.
15. The Manager shall be entitled to remuneration, which for the avoidance of doubt shall be recoverable as part of the service charges of leases of the property in accordance with the Schedule of Functions and Services

attached.

16. At the expiry of 6 months from the date of this Order 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 Tenants of the Property and the Landlord and the Freeholder at the same time.
17. Within 56 days of the conclusion of the Management Order the Manager shall prepare final closing accounts. The Manager shall also serve copies of the accounts on the Landlord, and Tenants who may raise queries on them within 14 days. The Manager shall answer such queries within a further 14 days. Thereafter the Manager shall reimburse any unexpended monies to the paying parties, or, if it be the case any new Tribunal appointed manager or, in the case of dispute, as decided by the Tribunal upon application by any interested party. The Manager shall supply a copy of the Final Accounts to the Tribunal.
18. The Manager may apply to the First-Tier Tribunal for further directions, in accordance with section 24(4), Landlord and Tenant Act 1987. Such directions may include, but are not limited to:
 - e. Any failure by any party to comply with an obligation imposed by this Order;
 - f. For directions generally;
 - g. Directions in the event that there are insufficient sums held by him to discharge his obligations under this Order and/or to pay his remuneration.

SCHEDULE OF FUNCTIONS AND SERVICES

Insurance

1. Maintain appropriate building insurance for the Property.
2. Ensure that the Manager's interest is noted on the insurance policy

Service charge

3. Prepare an estimated service charge budget for the period up to 25 July 2021 and thereafter by no later than 25 June 2021 for a 12 month period until 25 July 2022 and make provision for payment in advance,
4. Administer the service charge and prepare and distribute appropriate service charge accounts to the Tenants.
5. Demand and collect service charges due from the Tenants under the leases. The Manager shall have the authority to demand payments in advance including periodic demands in advance to meet the estimated costs of planned works and to collect arrears of service charge and insurance that have accrued after her appointment.

6. The Manager will finalise his first estimate of the service charge for the period up to 25 July 2021 within 28 days of the date of the Management order, and send it with the demand for payment on account which will be payable 14 days after issue.
7. The contributions payable by the Tenants to the service charge and insurance shall be in accordance with proportions set down in their respective leases.
8. The Manager is entitled to recover through the service charge the cost of any surveyors, architects, solicitors, counsels and other professional persons or firms fees incurred by him whilst carrying out his functions under the Order.
9. Place, supervise and administer contracts and check demands for payments of goods services and equipment supplied for the benefit of the Property from the service charge budget.

Administration Charges

10. The Manager may recover administration charges from individual Tenants for her costs incurred in collecting service charges and insurance which includes the costs of reminder letters, transfer of files to solicitors and letters before action. The Manager should publish the costs of her charges for debt recovery and the timetable allowed for each course of action. Such charges will be subject to legal requirements as set out in schedule 11 of the Commonhold and Leasehold Reform Act 2002. The Manager will not act as the Company Secretary to 24 Montrose Avenue Management Ltd as such duties are outside the scope of this Order

Accounts

11. Maintain efficient records and books of account, which are open to inspection by the Landlord and the Tenants. Upon request, produce for inspection, receipts or other evidence of expenditure.
12. Maintain on trust an interest-bearing account at such bank or building society, as the Manager shall from time to time decide, into which, service charge contributions, shall be paid.
13. All monies collected will be accounted for in accordance with the RICS Code.

Repair and Maintenance

14. Deal with routine repair and maintenance issues and instruct contractors to attend and rectify problems.
15. In addition to undertaking and arranging day-to-day maintenance and repairs, to arrange and supervise major works which are required to be carried out to the Property including preparing a specification of works and obtaining competitive tenders.
16. To liaise with the relevant statutory bodies responsible for buildings.

17. To ensure that the Landlord, and the Tenants are consulted on any proposed works to the Property and to give proper regard to their views. Copies of programmes of planned and major works should be sent to the Landlord and Tenants.
18. The Manager has the power to incur expenditure in respect of the provision of all necessary health and safety equipment and in complying with all regulatory and statutory requirements.

Right to Bring Legal Proceedings

19. The Manager shall be entitled to bring proceedings in any court or tribunal in respect of any causes of action (whether contractual or tortious) accruing after the date of his appointment.
20. Such entitlement shall include but shall not be limited to bringing proceedings in respect of any arrears of service charge attributable to any of the Flats in the property and for which these proceedings shall include any application under Part 7 or Part 8 of the Civil Procedure Rules for judgment in the County Court or High Court including a charging Order or any application made to the First-tier Tribunal under section 27A of the Landlord and Tenant Act 1985 or section 168(4) and schedule 11 of the Commonhold and Leasehold Reform Act 2002 and shall further include any appeal against any decision made in any such proceedings.
21. The Manager shall be entitled to be reimbursed from the service charge account any costs, disbursements or VAT for taking proceedings including any fees payable to solicitors, accountant, counsel or expert on a full indemnity basis. If any of those costs are recovered direct from the defaulting Tenant or Landlord those costs should be refunded to the service charge account.
22. The Manager has the right to instruct solicitors and counsel and other professionals for the taking of legal proceedings.

Fees

23. The Manager's fee for the above-mentioned management services will be a basic fee of £1,800 per annum paid monthly in advance. The basic fee will include those services for the Annual Fee at paragraph 3.4 of the RICS Code
24. Fees for additional services will be in accordance with the fees set out in the appendix to the Order. The Manager will provide an appendix setting out these additional fees within 14 days.
25. VAT to be payable on all the fees quoted above where appropriate at the rate prevailing on the date of invoicing. The Tribunal notes that at the moment no VAT is payable on management fees

Complaints procedure

26. The Manager shall operate a complaints procedure in accordance with or substantially similar to the requirements of the Royal Institution of Chartered Surveyors.