

**DECISION AND ORDER OF THE LEASEHOLD VALUATION
TRIBUNAL ON AN APPLICATION FOR AN ORDER UNDER
SECTION 24(9) OF THE LANDLORD AND TENANT ACT 1987
TO VARY OR DISCHARGE AN ORDER APPOINTING A MANAGER**



**Residential
Property
TRIBUNAL SERVICE**

LON/00BK/LAM/2006/0013

Property: 50 Sutherland Avenue, London, W9 2QU

Applicants: Ms C Gatti
Mr M Miller
Mr J Davidson
Ms J Shasha

Respondents: Mark Hamilton Heward
Theresa Hamilton Heward

Date of Application: 21 June 2006

Date of Hearing: 4 September 2006

Appearances: Mr M Miller

For the Applicants

The proposed manager Mr C Metherell of
TLC Residential Property Management attended the
hearing

The Respondents did not appear and were not
represented

Members of the Leasehold Valuation Tribunal:

Mrs F J Silverman LLM
Mr D Banfield FRICS
Mr N Gerald

50 SUTHERLAND AVENUE, LONDON, W9 2QU

THE TRIBUNAL'S DECISION

PRELIMINARY

1. This is an application dated 21 June 2006 made under Section 24(9) of the Landlord and Tenant Act 1987 (as amended) ("The Act"), to vary the order dated 30 May 2003 appointing Ms Fisher of N G Properties as manager of 50 Sutherland Avenue, London, W9 2QU ("the property"). That order expired on 30 June 2006. The applicants are the leaseholders of 3 of the flats, which are let on long leases ("the leases"). These are the garden flat (Mr M Miller), flat 3 on the third floor (Ms Gatti) and flat 4 also on the third floor (Mr J Davidson). Flat 2 on the first floor together with a room on the half landing between the first and second floors, is owned by freeholders, Mr & Mrs Hamilton Heward.
2. The applicants proposed that Mr C Metherell of TLC Residential Property Management, be appointed as manager.

REPRESENTATIONS

3. At the hearing the applicants were represented by Mr Miller. Mr Metherell gave oral evidence. Mr & Mrs Hamilton Heward did not attend the hearing and had not submitted a statement of case following the Directions given by the Tribunal on 27 July 2006.
4. The Applicants were unhappy with the management style and approach taken by the previous manager, Mrs Fisher.
5. The applicants had interviewed several prospective managers and felt that Mr Metherell would provide them with the type of service they required.
6. Mr Metherell had been appointed as interim manager under an order of the Tribunal dated 27 July 2006.
7. Mr Metherell was questioned by the Tribunal and although he was not professionally qualified as such the Tribunal felt that he had sufficient experience to be able to carry out his tasks in a satisfactory manner.
8. The interim order made on 27 July 2006 is hereby discharged.

THE DECISION

9. The Tribunal decided that it would exercise its jurisdiction under Section 24(9) and vary the order dated 25 July 2003.

The Tribunal considered that although Mr Metherell was not a property professional he would provide a service suitable to the needs of the tenants. There was no evidence indicating that he was not a fit and proper person to manage the subject premises.

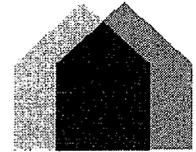
Accordingly the Tribunal makes the Order attached hereto.

CHAIRMAN.....*[Signature]*.....

DATE.....*5/9/06*.....

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

**LANDLORD AND TENANT ACT 1987
HOUSING ACT 1996**



**Residential
Property
TRIBUNAL SERVICE**

CASE NO: LON/00BK/LAM/2006/0013

RE: 50 SUTHERLAND AVENUE, LONDON, W9 2QU ("the property")

**ORDER OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTION 24 (9) OF THE LANDLORD AND TENANT ACT 1987 TO
VARY OR DISCHARGE AN ORDER APPOINTING A MANAGER**

BETWEEN: (1) Ms C Gatti
(2) Mr M Miller
(3) Mr J Davidson
(4) Ms J Shasha

Applicants

and

(1) Mark Hamilton Heward
(2) Theresa Hamilton Heward

Respondent

ORDER

UPON HEARING Mike Miller on behalf of the Applicants ("the tenants") and having heard oral hearing from Mr C Metherell of TLC Residential Property Management.

AND upon the Tribunal being satisfied that the grounds for the appointment as a Manager under Section 24 of the Landlord and Tenant Act 1987 ("the Act") have been made out and that it is just and convenient to make an Order.

IT IS ORDERED THAT:

1. Mr C Metherell of TLC Residential Property Management be appointed Receiver and Manager ("the Manager") of the property with effect from 4 September 2006.

The Manager's general duties:

2. That he shall manage the property in accordance with:

- (a) The respective obligations of the landlords and the tenants under each of the leases, and in particular but without prejudice to the foregoing, with regard to the repair, decoration, maintenance, provision of services to and insurance of the property and
- (b) In accordance with the duties of a manager set out in the Service Charge Residential Management Code published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Code").

Without prejudice to the generality of the foregoing it shall be the duty of the Manager:

- 3. To collect and receive all sums whether by way of ground rent, insurance premiums, service charges or otherwise arising under the leases.
- 4. To take any legal action that the Manager shall see fit in order to recover any arrears of ground rent, service charges or other sums arising under the terms of the leases.

For the avoidance of doubt, the sums arising under the terms of the leases referred to in paragraphs 3 and 4 hereof include sums arising pursuant to obligations of the landlords to pay the service charge in respect of flat 2.

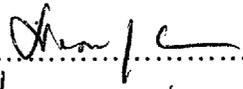
- 5. To take all necessary steps in respect of all items of repair and maintenance for which the landlords are responsible under the terms of the leases.
- 6. To arrange and keep in force the insurance of all buildings and the contents of the common parts of the property in accordance with the terms of the leases.
- 7. To maintain on trust an interest bearing client account into which service charge monies will be paid together with such other accounts as the Manager may think necessary in connection with the management of the property.
- 8. To account forthwith to the freeholders for the time being of the property for the payment of ground rent received by him and apply the remaining amounts received by him (other than those representing his fees hereafter specified) in the performance of the landlords' covenants contained in the leases.
- 9. To maintain efficient records and books of account that will be open to inspection together with relevant vouchers at all reasonable times by all persons interested.
- 10. To enter into contracts for the maintenance and supply of goods and services.
- 11. To deal with all enquiries, requests, reports, complaints and correspondence with the tenants, the landlords, and with solicitors, accountants and other professional persons in connection with the management of the property.

Remuneration

12. The Manager will be entitled to the following remuneration (which for the avoidance of doubt will be recoverable under the service charge).
- (a) A basic annual fee of £250 per flat plus £120 for post and telecoms (including for the avoidance of doubt flat 2) for performing the duties set out under paragraph 2.5 of the Code and
 - (b) In the case of works involving service of a Section 20 notice and engagement of a surveyor, the Manager shall further be remunerated at a rate of 3% of the net cost of the works or such lesser rate as the Manager may agree from time to time.
 - (c) In the case of works not involving the retention of a surveyor to manager shall further be remunerated at a maximum rate of 7.5% of the net cost of the works or such lower figure as the parties may from time to time agree.
 - (d) An administration fee for negotiating insurance claims of 10% of net value of claim not exceeding a maximum sum of £500 per claim; and
 - (e) For site attendance in excess of 45 minutes a maximum fee of £50.
13. Value Added Tax (if applicable) shall be payable in addition to the remuneration mentioned in the paragraph 12 thereof.

IT IS FURTHER ORDERED THAT:

14. In accordance with section 24(4) of the Act, the Manager shall have liberty to apply for directions.
15. In accordance with section 24(9) of the Act, any person interested has liberty to apply for variation or discharge of this order.
16. This Order shall remain in force until 3 September 2007.

CHAIRMAN..... 

DATE..... 5 / September / 2007