

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

DETERMINATION BY LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 Section 24

LON/00BG/LVM/2006/0007

Address: Damien Court
Damien Street
London E1 2HL

Applicant: Mr NE Banks
Ms A Holland
Mr Gerald Harris

Respondent: Glen International Ltd (in receivership)

Tribunal Members: Mr NK Nicol (Chairman)
Mr I Thompson BSc FRICS
Mr ON Miller

1. The Applicants applied on 13th October 2006 under s.24 of the Landlord and Tenant Act 1987 to vary a management order made by the Tribunal on 31st March 2003, itself having succeeded a previous order made on 28th April 2000. The application is to replace the appointed manager Mr Wales, who has now retired, with Mr Bruce Maunder Taylor. It had originally appeared that there would be no objection to the application but the Respondent's receiver, Ms Shirley Jackson, then wrote in to propose that Mr Wayne Trevail of Acorn, who is currently collecting the rents at the property, should be appointed instead.
2. The background to this application is set out in the Tribunal's most recent directions order dated 6th December 2006. From a fax dated 29th January 2007 from Mr Trevail of Acorn and an e-mail from the representative of Ms Jackson, it would appear that neither of them received a copy of that order until very recently so that they were not prepared for the hearing and would not attend. Neither asked for an adjournment. The e-mail stated that, if the Tribunal were not minded to appoint Mr Trevail, then Ms Jackson would have no objection to Mr Maunder Taylor's appointment.
3. Mr Maunder Taylor attended the Tribunal on 30th January 2007 which had been set down in the directions order of 6th December 2006 as the date to hear the application. He explained that he had spoken to Ms Jackson a number of times by telephone and she was aware before Christmas of this hearing. The Tribunal is satisfied that, even if she did not receive the latest order, she had received the previous directions order of 8th November 2006 and knew of this hearing. To date,

she has failed to comply with that order and the Tribunal has no evidence or submissions as to why Mr Trevail should be appointed in place of Mr Wales. In the circumstances, the Tribunal is satisfied that Ms Jackson has had a full opportunity to present her case but has failed to do so. Therefore, the hearing proceeded in her absence. Further, the Tribunal must refuse to appoint Mr Trevail as manager.

4. None of the Applicants attended the hearing either. Mr Maunder Taylor said he did not know why. It is extremely unfortunate that none of them attended, put any submissions in writing or produced any evidence in accordance with the directions. The Tribunal is obliged to deal with the application as best it can in the circumstances. As explained below, the current situation is unsatisfactory and needs to be resolved as quickly as possible.
5. Mr Maunder Taylor explained that, when he retired, Mr Wales turned the majority of his sole practice at Burton Kiff over to his former firm, Crabtree. However, Crabtree would not take over two properties subject to management orders, Damien Court and Albany Yard, and Mr Wales invited Mr Maunder Taylor to do so. A meeting was held for the lessees of the two properties on 27th March 2006 at which Mr Maunder Taylor was available to answer questions. The attendees at that meeting were evidently content with Mr Maunder Taylor who was then appointed as Mr Wales's agent. At the meeting, Mr Maunder Taylor made it clear that he would have to increase the management fee from the £140 to £225 per unit (plus VAT) and no objection was raised then or since it has been included in the budget for 2006-7 which was circulated to all lessees.
6. Since his appointment, Mr Maunder Taylor has spent most of his management time sorting out the accounts, which he said had been left in a poor state, installing some electric gates and dealing with the consequences of local anti-social behaviour such as graffiti and rubbish being left around. He has liaised with Ms Jackson who he knew previously from another property where he is the manager and she holds the immediate landlord interest as receiver. Acorn have continued to collect the rents and Mr Maunder Taylor is content that that should continue. Mr Maunder Taylor professed to be happy with the relationship he has with Ms Jackson and with the Applicants. His plan is to hold another meeting around the time of the first anniversary of his appointment in order to discuss a long-term service charge structure and maintenance cycle with the lessees.
7. Mr Maunder Taylor is well-known to the Tribunal from other cases and has been appointed manager on a number of occasions. The Tribunal is satisfied that he is a proper person to hold this position and has suitable arrangements in place to comply with his duties. Mr Wales is clearly no longer in a position to comply with the Tribunal's management order. Therefore, it is clearly appropriate that Mr Maunder Taylor should replace him.
8. Mr Maunder Taylor said that he was happy with the rest of the Tribunal's existing management order and was not asking for any variation other than the insertion of his name. However, the fees provision is arguably out of date. It contains no mechanism for any increase in the fees which the appointed manager may charge. The current application also did not ask for any variation in this respect. Although it would appear that all lessees have had notice of Mr Maunder Taylor's charges, no notice has been given of any application to vary this aspect of the management order. Therefore, the Tribunal is obliged to leave the existing fee structure in place.

This is not to say that any lessee is entitled to recover sums paid in excess of that since it would appear that the lessees consented to Mr Maunder Taylor's higher charges. However, technically that would need to be the subject of a further, separate application to vary.

9. In the circumstances, the Tribunal orders that paragraph 1 of the management order of 31st March 2003 shall be varied by the replacement of Mr Wales with Mr Maunder Taylor so that it now reads:-

"1. Mr Bruce Maunder Taylor of Maunder Taylor, 1320 High Road, London N20 9HP is appointed in place of the previous manager, Mr Bernard Wales, as the manager of Damien Court, Damien Street, London E1 2HL until the expiry of the existing management order on 1st May 2008. For the remainder of this Order, Mr Maunder Taylor shall be referred to as "the Manager" and Damien Court shall be referred to as "the property"."

Chairman
N.K. Neal

Date: 30th January 2007

