8194.

HM Courts & Tribunals Service

Residential Property
TRIBUNAL SERVICE

**LEASEHOLD VALUATION TRIBUNAL**

In the matter of an application under
Part II of the Landlord and Tenant Act 1987

And applications under
Sections 27A and 20C of the Landlord and Tenant Act 1985

| | |
|---|---|
| Case No. | CHI/00LC/LAM/2012/0005 |
| Property: | **21-23 High Street**<br>**Rochester**<br>**Kent**<br>**ME1 1LN** |
| Between: | **(1) Mr C Burrows**<br>**(2) Miss T Waters**<br>**(the Applicants)**<br><br>and<br><br>**Aaron Paul Stone Investments Ltd**<br>**(the Respondent)** |
| Date of hearing: | 19th and 20th September 2012 |
| Date of the decision: | 2nd October 2012 |
| Members of the Tribunal: | Mr D. Dovar LLB (Hons)<br>Mr J.N. Cleverton FRICS<br>Mr T.J. Wakelin |

## INTRODUCTION

1. These are three related applications. One under Part II of the Landlord and Tenant Act 1987 ('the 1987 Act') for the appointment of a new manager and two under section 27A of the Landlord and Tenant Act 1985 ('the 1985 Act'). One of the 27A applications relates to the payability of service charges for the accounting years ending 2007 to 2012 in respect of insurance. The other is in relation to the cost of major works that were carried out in 2010 (with some remedial works in 2011). There are also applications for orders under section 20C of the 1985 Act.

2. Directions were given on 31st May 2012. Amongst other matters, they specifically raised the issue of the provision by the Applicants of like for like alternative quotations in respect of insurance for the property.

3. Mr Burrows represented the Applicants and Mr Everard represented the Respondent. The Tribunal heard evidence from Mr Thomas for the Respondent who is the present manager of the property and had been responsible for the major works. The Tribunal also had the opportunity of questioning Mrs O'Toole, who is the manager proposed by the Applicants.

## THE PROPERTY

4. The Property, which is a grade II listed building, is three storeys, comprising one commercial unit on the ground floor with four residential flats above. Mr Burrows owns a long lease to Flat 21a, and Miss Waters, Flat 21b; these flats are situated on the top floor. A company associated with the landlord owns flats 21c and 21d; these flats are situated on the first floor.

5. The Tribunal, accompanied by the parties, inspected flats 21a and 21b and the communal and external parts. Attention was drawn to: sash windows which were said to be stiff and loose; external wooden paintwork which was said to have been poorly done and to the shift of position of architraves

surrounding some sash windows. The Tribunal was also shown a section of the parapet wall and an area of staining in the front bedroom of flat 21a where it was said that water ingress had occurred around the sash window. The overall impression given to the Tribunal was that the property was in good condition and the communal areas were well maintained.

**LEASE PROVISIONS**

6. The lease for Flat 21A has been taken as the representative lease.

7. That is a lease dated 25th May 2000 in which Mart (Development) Limited demised to Christopher Edward Burrows Flat 21A for a term of 99 years from 29th September 1993. The lease contained the following provisions:

   a. '... by way of additional rent the sum of ONE HUNDRED POUNDS (£100.00) (or such other sum as the Lessor shall have previously certified in accordance with the terms hereof to be a likely or estimated contribution of the Lessee for the then current year) per annum being a one fourth share of the expenses (collective called 'the Annual Service Charge') by the Lessor in performing the covenants in the Fourth Schedule.' (clause 1 (1));

   b. 'SUCH payments as are specified in clause (1) above with the exception of the insurance premium which is to be made by one annual payment on demand to be made by equal half yearly payments in advance on the 25th day of March and the 29th day of September in every year free of all deductions whatsoever ...' (clause 1 (2));

   c. The Landlord covenanted to observe and perform the obligations set out in the Fourth Schedule which provided as follows:

      "1. At all times during the said term to take reasonable care to keep in good and substantial repair and in clean and proper order and condition those parts and appurtenances of the

Building which are not included in this demise or in a demise of any part of the Building;

2. As often as may be necessary to decorate the external and internal communal parts of the Building previously decorated in a proper and workmanlike manner and to keep all internal communal parts of the Building cleaned and lighted"

**THE STATUTORY PROVISIONS**

8. Section 18 of the 1985 Act defines service charges as those amounts payable by a tenant as part of or in addition to rent, which are payable directly, or indirectly for services, repairs, maintenance or insurance or the landlord's costs of management and the whole or part of which vary or may vary according to the relevant costs. Relevant costs are defined as the costs or estimated costs incurred or to be incurred by the landlord in connection with matters for which the service charge is payable.

9. Section 19 places a statutory limit on service charges by only allowing their recovery to the extent that they are reasonably incurred and where the service or work is to a reasonable standard.

10. Section 20B provides a limit of 18 months for the landlord to recover costs incurred by way of service charges or to notify the tenant of those costs and the intention to recover them at a later date.

11. Section 21B provides for certain information to accompany any demand for a service charge; a summary of tenant's rights. A failure to include this information means that the sums are not due until the section has been complied with.

12. Section 27A confers jurisdiction on the Tribunal to determine whether a service charge is payable and if so, (amongst other matters) the amount which is payable and the date at or by which it is payable. The

determination can be made whether or not any payment has been made and also in respect of anticipated expenditure.

13. Part II of the 1987 Act enables tenants to seek to replace the management of a building where the Tribunal is satisfied that:

    a. A notice under section 22 of the 1987 Act has been sent setting out: that it is intended to make an application for a new manager under section 24; the grounds for seeking such an order; and that if the matters complained of are capable of being remedied that they are done so within a reasonable time, in which case no application will be made; and

    b. the grounds under section 24 are made out, being either a breach of obligation; or a demand for unreasonable service charges; or a failure to comply with any relevant provision of a code of practice (e.g. the RICS Service Charge Residential Management Code); or where other circumstances exist that make it just and convenient to appoint a new manager; and

    c. That it is just and convenient to appoint a new manager.

**Section 27A application: Insurance**

14. The Applicants challenged the level of insurance premium for the years 2005 to date. No demands were made for the years 2005, 2006 and 2010 and the Applicants have paid all the other demands save for the years 2011 and 2012.

15. For the years up to 2009, the challenge is on the basis that the sums claimed include components that are purely for the benefit of the Respondent and relate to the non-residential area on the ground floor of the building. The Applicants were only able to identify one such component, being insurance for loss of rent for the landlord. The Applicants were

unable to say how much, if anything, this particular element contributed to the overall premium. In the absence of any comparable evidence or quantification, even if the Tribunal were to determine that this component was deductible, it is difficult for the Tribunal to ascribe a figure to that amount. The Tribunal noted that the Respondents had in later years deducted a sum to account for 'loss of rent', however, it wasn't clear how this had been arrived at. Further in the Tribunal's view the lease permitted recovery of insurance premiums which included the whole building and did not see any basis under the lease for ascribing a lesser amount for components that did not directly benefit the tenants.

16. For the premiums from 2010, The Tribunal noted that there had been a significant increase in the premium payable. The Applicants challenged the increase. This was a result of an increased valuation of the Property and associated rebuilding costs, based on a valuation prepared by Mr Thomas in April 2010. The Applicants only raised speculative queries as to the accuracy of the valuation. The Tribunal did not find that there was any sustainable basis for challenging this valuation.

17. The Applicants also relied on the fact that a lesser premium was paid by a resident of a neighbouring (and larger) flat. It was said that there was little difference between the properties and that they had both been in the ownership of the same freeholder at the time the leases to the subject flats had been granted. The Tribunal is not able to obtain any assistance from this evidence. Insufficient information was provided, so the Tribunal cannot be sure that if it were to take the premium for the other flat into account, it would be comparing like for like. It is unfortunate that the Applicants did not take the take up the suggestion in the directions that like for like quotations should be obtained. In the absence of any such evidence, and subject to what is said below about the years ending 2011 and 2012, the Tribunal determines that the amounts claimed were reasonable. These were:

a. For 2007:

    i. £262.02 for flat 21a

    ii. £235.06 for flat 21b

b. For 2008:

    i. £286.63 for flat 21a

    ii. £257.13 for flat 21b

c. For 2009:

    i. £292.72 for flat 21a

    ii. 262.60 for flat 21b

d. For 2011:

    i. £420.43 for flat 21a

    ii. £377.17 for flat 21b

e. For 2012:

    i. £420.43 for flat 21a

    ii. £377.17 for flat 21b

18. For the last two years 2011 to 2012, the Applicants pointed out inconsistencies between the sums invoiced and the premium set out in an email from Mr Thomas dated 3rd May 2012. The Respondent's stated that the May 2012 figures were accurate and that there was (or should have been) some form of credit note in respect of those invoices. The figures set out above for these years, which are derived from the May 2012 email, are in the Tribunal's view reasonable in amount. The Respondent stated that

they would be reissuing invoices to reflect those amounts. To that extent it seems to the Tribunal that these particular sums are not presently payable as they have not been properly invoiced.

19. Where it not for that concession, the Tribunal would still have found that the 2011 and 2012 sums were not due in any event given that they had not been demanded in compliance with section 21B of the 1985 Act in that no summary of tenants' rights and obligations accompanied the demands. This was accepted by the Respondent, whose only explanation for the default was that this had been the customary way to make demands.

20. The Applicants raised a further point which had not been canvassed before, namely that section 20B of the 1985 Act barred recovery of the premiums for 2011. The Respondent confirmed that the premiums had been paid by it for this year. The Respondent did object to the late introduction of this argument, however, the Tribunal considered that as the Applicants had raised the issue of non-compliance in correspondence and as the Respondent's objection was that this was a point of law, the Tribunal considered that it could deal with the issue without there being any prejudice to the Respondent. Given that the Respondent has effectively conceded that the sums for 2011 and 2012 have not been properly invoiced, this issue does not actually arise at the moment. However, should these premiums be re-invoiced then it appears that recovery of the 2011 premium may well be barred by section 20B. The invoice for that period of insurance was dated 7th December 2010. Therefore if payment was made by the Respondent on or around that date, then it seems that over 18 months will have lapsed since the sum was incurred and no valid demand has been made nor any notice to the tenants stating that sums had been incurred and it was intended to recover those sums at a future date.

**Section 27A application: Major Works**

*Background*

21. The Applicants set out an extensive narrative of the difficulties that they experienced in getting the Respondent to carry out works to the building. The Respondent purchased the freehold in November 2005 and the following years saw the Applicants attempting to make contact but with little response or result. One of their repeated concerns was with regard to exterior redecorations and works.

22. Eventually, in April 2009, the Respondent appointed Walter & Randall as their surveyors for the purposes of carrying out the external works. It was made clear at this point that they were not managing the property, but were simply dealing with the external works. A schedule of works was prepared in July 2009 and an estimate of cost provided in the sum of £21,301.68. The Applicants were concerned over the estimated cost as it far exceeded the cost of the works carried out by the previous freeholder. They also indicated to Mr Thomas of Walter & Randall that he had not complied with the statutory consultation requirements for major works. Mr Thomas continued on regardless and on 8th November 2009, the Applicants issued an application to the Leasehold Valuation Tribunal in respect of the failure to consult and the reasonableness of the proposed works.

23. The parties compromised that application by way of an agreement the terms of which were recorded in a letter from the Applicants dated 29th November 2009 which stated

*'we acknowledge your offer of maximum charges to flats A and B correlating to a total cost of the works of £12,000. We take this figure to include:*

*- All works and other costed items included in Walter & Randall's specification which formed the basis of the tender estimates.*

*– All additional works identified which need to be undertaken to bring the building back to a good state of repair and order, being Walter and Randall's stated objective for the works. ...*

*We also acknowledge your offer for payments to be spread, and would propose that the requested initial payment of £1,000 be made four weeks after the commencement of works. Following completion of the works we would propose two further payments – the first of £800 and a final payment of £800 or less dependent upon the final cost of the works... '*

24. The Respondent replied on 2nd December 2009 confirming their agreement to the points set out in that letter.

25. The works were commenced in January / February 2010 and ran for a period of around 15 weeks.

*Jurisdiction*

26. The Respondent, during the course of the hearing, raised for the first time an argument that given the agreement in November 2009, the payments for the major works were pursuant to that agreement and were not service charges. Accordingly, it was argued, the Tribunal had no jurisdiction to determine the payability of these items. The Tribunal rejects that argument. Section 18 of the 1985 Act is not limited to sums recovered pursuant to a lease, but is wide enough to cover any sum sought under a separate contract. All that is required is that it is a sum paid by a tenant in respect of costs incurred by a landlord for works.

*Scope of the Agreement*

27. There was also a dispute between the parties as to the scope of the agreement. As well as the works identified on the schedule of works dated June 2009, three additional sash windows were replaced and the parapet wall was rebuilt.

28. The Applicants relied on the plain wording of the agreement as recorded in their letter of 29th November 2009. These were additional works identified in the course of carrying out the works and therefore fell within the agreement. The Respondent sought to persuade the Tribunal that the agreement was only in relation to additional works which had been set down as provisional in the schedule of works. They also claimed that to find otherwise, would mean that the Respondent had been left dangerously exposed to huge unrecoverable expenditure if it were found that other substantial items were in need of repair. The Tribunal does take on board that potential risk, however, on balance the clear reading of the agreement provides for additional works and it would be straining the meaning to say that they were limited to provisional items. This interpretation is supported by the additional statement in the letter of 29th November that Walter and Randall's objective was to bring the property into a good state of repair and that that objective would be achieved with the agreed figure.

29. Therefore the Tribunal finds that the November 2009 agreement did include the additional works, being the work to the parapet wall, coping stones, render and replacement sash windows.

30. The Respondent has not yet demanded any sums separately for these additional works. It is noted that there is a threat to issue proceedings in the county court to recover these additional sums.

*Cost of works*

31. The Applicants referred to the failure to consult in accordance with the statutory regulations, but did not press the Tribunal to make a decision on that basis. The Applicants considered that they had already compromised that particular objection when they entered into the agreement in November 2009 as they had at that time issued an application for failure to consult, which was withdrawn as part of the agreement. The Tribunal does not therefore take that into account in the present case.

32. The Respondent did not provide any evidence of payment for the works. It was stated that the Respondent did not think that this was necessary given the November 2009 agreement. Further Mr Everard produced a hypothetical schedule demonstrating how reasonable the sum of £12,000 was for these works. This missed the point entirely. The arrangement was that the price would be capped. It was at the very least incumbent on the Respondent to show what costs it had actually incurred.

33. The Respondent clarified that after the November 2009 agreement, a decision was taken to save costs by going directly to sub contractors, rather than employ a main contractor. The Tribunal was left with the impression that this decision was at the very least a major factor to the poor standard of works that were carried out in 2010 and to the prolonged period that those works took.

34. Further works were carried out in 2011 to remedy the defects highlighted by the Applicants. The Applicants maintain that not all of the works have been carried out or been carried out adequately. In particular they refer to:

    a. The lack of repair to the asphalt roof. In the report to the landlord after the works, Mr Spinks for Walter and Randall, stated that there had been no repair, but some reflective paint had been applied;

    b. The tiling does not look as if it is finished;

    c. The architraves to the sash windows, have been moved over, leaving a gap which has been filled with mortar and silicone;

    d. The fascia boards have had gaps filled with silicone.

    e. The scaffolding was not to the specification set out by Walter and Randall;

    f. The cills were not hard wood;

g. Lime mortar was not used;

h. Paint had not been applied according to manufacturer's instructions and surfaces had not been adequately prepared;

35. Whilst the Tribunal notes these shortcomings, it does also note that the works included the parapet wall, coping stones, render and five sash windows. The Tribunal is not limited to the terms of the agreement in determining whether or not the sums demanded for the works are reasonable. Taking into account the above shortcomings but balancing against those the additional work that was carried out within the ambit of the agreement, the Tribunal considers that £3,000 is a reasonable sum to be recovered by way of service charge. Whilst no evidence of actual payment was produced, on the balance of probabilities, the Tribunal considers that at least £12,000 was spent on the works.

36. At present, in relation to the £3,000 agreed for the works, the Applicants have each paid £2,200, being £1,800 directly and £400 from reserves. Therefore £800 remains outstanding. Demands have been made by the Respondent directly for £800 however no notice of tenants' rights and obligations accompanies those demands and therefore they are not presently payable.

**Application to appoint a new manager**

*Section 22 Notice*

37. On 3rd March 2011, the Applicants served a notice pursuant to section 22 of the 1987 Act on the Respondent. That set out a number of failings. Although Mr Thomas had been involved with the property from 2009, he only became the manager after the works had been commenced and after the Applicants served their section 22 letter on 3rd March 2011. The letter was therefore directed at the Respondent as manager, but the Tribunal considers that it must look at the conduct of both the Respondent and then

Mr Thomas in considering whether to make an order under section 24 of the 1987 Act.

38. The 3rd March letter complained of the following:

    a. Breach of repairing obligation;

    b. A failure to comply with the statutory consultation requirements in respect of major works and the provision of a summary of tenant's rights and obligations;

    c. A failure to comply with the RICS code of practice, in particular, a lack of knowledge of legal requirements and a failure to manage finances, including the provision of estimated charges and regular invoicing.

    It required the following to be put in place within 6 months:

    a. administration procedures to be put in place;

    b. a summary of the service charge account to be provided;

    c. the major works to be completed and rectified.

    *Response to section 22 Notice*

39. It was as a response to this letter that Walter and Randall were appointed managing agents of the Property on or about March 2011.

40. Budgets were provided, demands made and payment was forthcoming from the Applicants. The Tribunal notes that the budget/demands were accompanied by a notice which was headed 'Adminstration Charges – summary of Tenants' Rights and Obligations'. This was not the appropriate wording to accompany service charges.

41. Also around this time further works were carried out in respect of a fire alarm system. The total cost of this exceeded £250 per tenant. However, Mr Thomas did not conform with the statutory consultation procedures.

42. On 31st July 2011, Mr Burrows requested details of the tradesmen who would be carrying out the remedial works. Mr Thomas did not provide any details. When asked why he had not, his response was that the Applicants could have asked them when they attended to carry out the works.

43. On 11th May 2012, Mr Thomas finally provided a service charge account for the years 2011 and 2012. However, the Tribunal was not impressed with the account. It merged payments demanded, payments received with the costs incurred. It also set out separately the charges for the major works. It did not reflect the workings of a managing agent who had set up a proper service charge system.

44. The Tribunal was concerned with the way Mr Thomas treated the issue of the funding for the major works. He had not consulted in accordance with the statutory regulations. He failed to provide any information as to how much the Respondent had paid for the works. When questioned on this point, he said that he could not give an account as full payment had not been made by the Applicants. This was an evasive response. There was no reason why an account could not be given of the sums spent by the Respondent. Further, Mr Thomas maintained that he could not authorise the works until they had paid as otherwise 'the account' would be in deficit. The Tribunal assumes that 'the account' was the service charge account. This was an odd interpretation of events as Mr Thomas also maintained that given the November 2009 agreement, the works were not service charge related.

*Breach*

45. The Tribunal finds that the Respondent was in breach of its repairing obligations under the lease in that by the time the works were carried out in 2010, the condition of the property was such that it was in disrepair. The Tribunal took into account the photographs of the condition of the property provided by the Applicants.

46. The Tribunal also finds that Mr Thomas was in breach during his tenure as managing agent for failing to comply with the RICS code of practice 'Service Charge Residential Management Code' for the following reasons:

    a. The RICS code stipulates that a managing agent should adhere to the statutory consultation requirements (Parts 7, 13 and 18). Mr Thomas candidly stated that he had not done so in relation to the major works;

    b. There was a failure to provide the appropriate notice of tenants' rights and obligations (Part 6);

    c. Mr Thomas's failed to communicate properly with the Applicants (Part 3). A stark example being the circumstances set out above whereby he simply failed to respond to enquiries as to who would be carrying out the works;

    d. Mr Thomas failed to provide an account until May 2012 and even then it was unsatisfactory (Part 10).

*Just and convenient*

47. In all, it appeared to the Tribunal that Mr Thomas did not really wish to manage the Property, but had become involved because of his initial contact over the external works. Further, although Mr Thomas stated that he managed a large number of residential properties, this experience was not well reflected in relation to this Property. On the evidence before it, the Tribunal does not consider that if Mr Thomas is left to manage the Property that he will adhere to either the statutory requirements or the code of

practice. Therefore in addition to the breaches above, the Tribunal considers for the purpose of section 24 (2) (b) that other circumstances exist which make it just and convenient to make an order.

48. Neither Mr Thomas nor the Respondent have properly managed this building. Although the works have now been done, the process involved was considerably hampered by the approach taken by the Respondent.

49. The Tribunal was impressed with Mrs O'Toole, who was the manager proposed by the Applicants. She gave a good account of herself and although charging more than Mr Thomas, it seems that this is warranted for the level of service that she would provide.

50. Accordingly, the Tribunal finds that there were breaches as set out above and that it is just and convenient to make a management order. It therefore makes the order annexed to this decision, appointing Mrs O'Toole for a period of three years.

**HEARING FEE, COSTS AND SECTION 20C**

51. The Applicants made an application under section 20C. The Respondents stated that there was no intention to recover costs of these proceedings under the service charge provisions of the lease and therefore did not oppose the making of an order. Accordingly, the Tribunal makes an order under section 20C preventing the Respondent from seeking to recover the costs of these proceedings by way of service charges.

52. In light of this determination, the Tribunal considers that the Applicants are entitled to have the cost paid by them for this hearing refunded by the Respondent. The Applicants have been largely successful in this matter and it is clear to the Tribunal that the actions of the Landlord and their agents have caused the Applicants to lose faith with their ability to manage the building.

## CONCLUSION

*Insurance*

53. The Tribunal determines that save for the years ending 2011 and 2012, all the insurance sums demanded are payable. In relation to these latter years, the Tribunal does not consider that they are presently payable because no proper demand has been made and no sums have been paid.

*Major Works*

54. The Tribunal determines that the present standard of work is to a reasonable standard and that £3,000 per flat amounts to a sum that his reasonably incurred. The demand for the balance of £800 has not been properly made and so is not yet due.

*Appointment of a Manager*

55. The Tribunal makes the attached order appointing a new manager.

D Dovar LLB (Hons)
Chairman

## ORDER APPOINTING A MANAGER

**LEASEHOLD VALUATION TRIBUNAL**

MANAGEMENT ORDER DATED 2nd October 2012

**Re: 21-23 High Street, Rochester, Kent ME1**

Case Number CHI/00LC/LAM/2012/0005

BETWEEN:

| | |
|---|---|
| Burrows and Waters | Applicants |
| APS Investments Limited | Respondent |

1. In this order:
   A. "The property" includes all those parts of the property known as 21-23 High Street, Rochester, Kent ME1.
   B. "The landlord" means APS Investments Limited or in the event of the vesting of the reversion of the residential under-leases of the property in another, the landlord's successors in title.
   C. "The manager" means Mrs Tracy O'Toole, of Omnicroft Limited, 1 Charlotte Drive, Rainham, Kent, ME8 0DA.

It is hereby ordered as follows:

2. In accordance with s.24(1) of the Landlord and Tenant Act 1987 the manager shall be appointed as receiver and manager of the property.

3. The order shall continue for a period of 3 years from the date of this order.

4. That the manager shall manage the property in accordance with:
   (a) The Directions and Schedule of Functions and Services attached to this order.
   (b) The respective obligations of the landlord and the leases and/or under-lessees by which the flats at the property are demised by the landlord and in particular with regard to repair, decoration, provision of services to and insurance of the property.

(c) The duties of manager set out in the Service Charge Residential Management Code (2009) ("The Code") or such other replacement 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.

D DOVAR LLB (Hons)

Chairman

2nd October 2012

## DIRECTIONS

1. That from the date of appointment and throughout the appointment the manager shall ensure that she has appropriate professional indemnity cover in the sum of at least £1,000,000 and shall provide copies of the current cover note upon a request being made by any lessee or under-lessee of the property, the landlord or the Tribunal.

2. That not later than four weeks after the date of this order the parties to this application shall provide all necessary information to and arrange with the manager an orderly transfer of responsibilities. No later than this date, the applicants and the landlords shall transfer to the manager all the accounts, books, records and funds (including without limitation, service charge reserve fund).

3. The rights and liabilities of the landlord arising under any contracts of insurance, and/or any contract for the provision of any services to the property shall upon the date four weeks from the date of this order become rights and liabilities of the manager.

4. That the manager shall account forthwith to the landlord for the payment of ground rent received by her and shall apply the remaining amounts received by her (other than those representing her fees) in the performance of the landlord's covenants contained in the said leases.

5. That she shall be entitled to remuneration (which for the avoidance of doubt shall be recoverable as part of the service charges of the under-leases and/or leases of the property) in accordance with the Schedule of Functions and Services attached.

6. That at the expiry of 12 months from the date of this order, the manager shall prepare a brief written report for the Tribunal on the progress of the management of the property up to that date and shall submit the same to the Tribunal by no later than 31st October 2013.

7. That the manager shall be entitled to apply to the Tribunal for further directions in accordance with section 24(4) of the Landlord and Tenant Act 1987, with particular regard (but not limited to) the following events:

   (a) any failure by any party to comply with paragraph 2 of these directions and/or;
   (b) (if so advised) upon the service of the report in paragraph 6 of these directions, and/or;

(c) in the event that there are insufficient sums held by her to pay the manager's remuneration.

## SCHEDULE OF FUNCTIONS AND SERVICES

A. SERVICE CHARGE

1.1 Prepare an annual service charge budget, administer the service charge and prepare and distribute appropriate service charge accounts to the under-lessees as per the percentage share of under the terms of their under-lease.

1.2 Demand and collect rents, service charges, insurance premiums and any other payments due from the under-lessees. Instruct solicitors to recover unpaid rents and service charges and any other monies due to the landlord upon the landlord's instructions.

1.3 Place, supervise and administer contacts and check demands for payment for goods, services and equipment supplied for the benefit of the property within the service charge budget.

B. ACCOUNTS

2.1 Prepare and submit to the landlord an annual statement of account detailing all monies received and expended on its behalf. The accounts to be certified by an external auditor if required by the manager.

2.2 Produce for inspection, receipts or other evidence of expenditure.

2.3 All monies collected on the landlord's behalf will be accounted for in accordance with the Accounts Regulations as issued by the Royal Institution for Chartered Surveyors, subject to the manager receiving interest on the monies whilst they are in his client account. Any reserve fund monies to be held in a separate client account with interest accruing to the landlord.

C. MAINTENANCE

3.1 Deal with routine repair and maintenance issues and instruct contractors to attend and rectify problems. Deal with all building maintenance relating to the services and structure of the building.

3.2 The consideration of works to be carried out to the property in the interest of good estate management and making the appropriate recommendations to the landlord and the under-lessees.

3.3 The setting up of a planned maintenance programme to allow for the periodic re-decorations of the exterior and interior common parts are and other.

D. FEES

4.1 Fees for the above mentioned management services would be a basic fee of £350 per annum per unit for the flats within the property. Those services to include the services set out in paragraph 2.4 of the Service Charge Residential Management Code (2009) published by the RICS.

4.2 Major works carried out to the property (where it is necessary to prepare a specification of works, obtain competitive tenders, serve relevant notices on lessees informing them of the works and supervising the works) will be subject to a charge of 10% of the cost (subject to a minimum fee of £250.00). This in respect of the professional fees of an architect, surveyor, or other appropriate person in the administration of a contract for such works.

4.3 If required to act in the capacity of Company Secretary an additional fee of £250 per annum will be charged.

4.4 An additional charge for dealing with solicitors enquires on transfer will be made on a time related basis payable by the outgoing lessee.

4.5 VAT to be payable on all the fees quoted above, where appropriate, at the rate prevailing on the date of invoicing.

4.6 The preparation of insurance valuations and the undertaking of other tasks which fall outside those duties described at 4.1 above, are to be charged for on a fee basis to be agreed.

E. COMPLAINTS PROCEDURE

5.1 The manager shall operate a complaints procedure in accordance with the requirements of the Royal Institution of Chartered Surveyors. Details of the procedure are available from the institution on request.