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LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION TO VARY A MANAGEMENT ORDER UNDER SECTION 24 OF THE LANDLORD AND TENANT ACT 1987

Case Reference: LON/00AY/LVM/2012/0005

Premises: Denmark Mansions, 78-96 Coldharbour Lane,
London SE5 9PX

Applicant(s): Mr Richard Peckham, Mr Matthew Starmer, Ms Charlotte Vaillant, Mr Ian Selby (leaseholders)

Respondent(s): Maryland Estates Ltd (freeholder)

Date of hearing: 26 September 2012

Appearance for Applicant(s): In person

Appearance for Respondent(s): The Respondent did not attend and was not represented

Leasehold Valuation Tribunal: Mr T J Powell LLB
Mrs H Bowers MRICS

Date of decision: 26 September 2012

Background

1. This was an application for the variation and extension of a management order made under section 24 of the Landlord and Tenant Act 1987.
2. The existing management order was first made on 11 April 2007 by a tribunal under case reference LON/00AY/LAM/2006/0026. That order appointed Mr Anthony Isbell of Haleys, Chartered Surveyors, as manager and receiver of the residential flats at the Property for a period of 5 years from 23 April 2007.

3. That order was varied on 5 September 2008 by a different tribunal under case reference LON/00AY/LVM/2008/0003, to include the commercial parts of the Property and extended to take effect from 5 September 2008 for a period of 5 years.
4. The reasons for the making of the original order and its subsequent variation are set out in detail in the decisions of the tribunals concerned and are not repeated here.
5. The leaseholders now apply for variation of the existing order on the grounds that Mr Isbell has left the employ of Haleys and that firm no longer has the expertise or the desire to continue managing the Property.
6. Some steps have been taken by the existing manager since 2008, including the replacement of leaking skylights, the upgrading of common area electrics and lighting and the reduction of the buildings insurance premium. However, there is still a need for further works including roof works, repair of the external walls, external redecoration and overhauling of rainwater goods.
7. It appears that the Respondent company and its director Mr H J Bebbington continue to have little or no interest in the management of the Property. Notwithstanding the terms of the original management order, the Respondent has not transferred to the current manager the sums it apparently holds on trust for leaseholders in the reserve fund (believed to be around £17,000). The only communication that the tribunal received from the Respondent was a letter dated 27 August 2012 seeking clarification of the new manager's proposed fee structure, which was provided to the Respondent by the Applicants by letter dated 3 September 2012. Apart from this query, the Respondent has made no representations to the tribunal about the application.
8. The tribunal had the opportunity of meeting the proposed new manager, Mr Mark Tejada MIRPM, an associate director of HML Andertons Ltd, 94 Park Lane, Croydon, Surrey CR0 1JB and asking him questions about his experience, the draft management plan for the Property that he had produced, remuneration and professional indemnity insurance. Mr Tejada is a property manager and not a building surveyor. However, he is able to call on the services of in-house chartered surveyors who work for his firm or he can call on the expertise of surveyors in a sister firm. In addition, his firm is linked to an insurance broker who can offer competitive quotations for future insurance.
9. Mr Tejada had inspected the Property and formed a preliminary view of what needed to be done to improve conditions there. He had had discussions with leaseholders and gained their trust. The tribunal noted that Mr Tejada was already an LVT-appointed manager at two other south London properties, namely at 113-117 Kirkdale, London SE26 4QJ (for 3 years) and at 31-33 Honor Oak Park, London SE23 3SL (for 2 years, extended).

10. For all of the above reasons, the tribunal is satisfied that it is just and convenient for the management order to be varied as sought, by appointing Mr Tejada as the new manager and extending the term of the order for a further 5 years from 26 September 2012. The terms of the management order will be very similar to previous orders and appear below.

Chairman: _____
Mr TJ Powell

Date: 26 September 2012

[Attachments: management order and pricing matrix]

In the Leasehold Valuation Tribunal

Reference number: LON/00AY/LVM/2012/0005

In a matter of an application under section 24 of the Landlord and Tenant Act 1987
(as amended)

And in the matter of Denmark Mansions, 78-96 Coldharbour Lane, London SE5 9PX

Between:

Mr Richard Peckham, Mr Matthew Starmer,
Ms Charlotte Vaillant, Mr Ian Selby

Applicants

and

Maryland Estates Ltd

Respondent

ORDER APPOINTING A MANAGER AND RECEIVER

UPON hearing the Applicants, the Respondents not appearing and not having made any submissions to the tribunal

AND UPON hearing the evidence of the Applicants and of Mr Mark Tejada MIRPM an associate director of HML Andertons Ltd

AND UPON reading the bundle of documents lodged by the Applicants in support of the application

IT IS ORDERED THAT:

1. Mr Mark Tejada MIRPM ("the Manager") of HML Andertons Ltd, 94 Park Lane, Croydon, Surrey CR0 1JB is hereby appointed the Manager and Receiver of the all that freehold land with the blocks of shops and flats erected thereon known as numbers 78 to 96 (even numbers) Coldharbour Lane and Denmark Mansions in the London Borough of Lambeth, London SE5 9PX as the same is registered at HM Land Registry with Absolute Title under Title Number LN191146 in the name of the Respondent ("the Property") with effect from 26 September 2012 for a period of 5 years.
2. In this Order, references to "Lessees" includes lessees of both commercial and/or residential parts of the Property and "Leases" refers to the respective leases by which the premises at the Property are demised.
3. Subject to the prior payment of monies requested by the Manager from the Lessees, the Manager shall manage the Property in accordance with the respective obligations of the Lessor and Lessees under the various Leases and, without prejudice to the generality of the foregoing:

- (i) with particular regard to the repair, decoration, provision of services to and insurance of the Property; and
 - (ii) in accordance with the duties of the 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 and its commercial equivalent ("the Codes").
4. Without prejudice to the generality of the foregoing, during the period of his appointment the Manager shall:
- (i) collect and receive the various sums reserved and made payable by the Lessees under the Leases either by way of insurance premiums, payment of service charges or otherwise, but not any ground or market rents;
 - (ii) where any unit of the Property is not subject to a long lease, raise his own service charge in respect of that unit to cover any shortfall in respect of costs incurred;
 - (iii) apply the amounts received (other than those representing his fees specified below) in the performance of the Lessor's covenants contained in the Leases;
 - (iv) immediately arrange for the remedying of any disrepair which requires urgent attention;
 - (v) commence collection of contributions;
 - (vi) enforce Lessees' covenants; and
 - (vii) comply with all statutory requirements including those set out in the Landlord and Tenant Acts 1985 and 1987 as amended, but especially those relating to the statutory consultation for major works.
5. The Manager will take over responsibility for the insurance of the Property immediately. If the Manager is satisfied with the present insurance arrangements, the Manager will notify the present insurers of his appointment and request that his interest as Manager is noted on the policy.
6. The Manager be entitled to engage, if he thinks fit, any surveyor, architect, engineer, solicitor and other appropriate person to assist him in carrying out the management of the Property and be entitled to cover the costs thereof from the Lessees through the service charge, provided always that such costs are reasonably incurred and that the services of such a person are of a reasonable standard.
7. The Manager shall maintain a policy of professional indemnity insurance and public liability insurance to cover his obligations and liabilities as manager and receiver.

8. The Manager will register this order against the Respondent's freehold title in accordance with section 24(8) of the 1987 Act.
9. The Manager shall be entitled to reasonable remuneration based on the proposed Pricing Matrix provided by HML Andertons Ltd, a copy of which is annexed to this order, or such other sum or sums as shall be agreed between the Manager and Denmark Mansions Leaseholders Association (provided its members comprise all Lessees) or otherwise determined on application to the tribunal. VAT shall be payable in addition to the fees attached.
10. Upon any written demand by the Manager, the Respondent shall:
 - (i) give all reasonable assistance and co-operation to the Manager while acting in pursuance of his duties under this Order;
 - (ii) pay forthwith to the Manager monies held by it at the date of this Order and which have been previously collected by or on behalf of the Respondent in respect of the Property (other than rents) and any money so received by the Manager shall be applied in accordance with the Manager's obligations under this Order; and
 - (iii) deliver forthwith to the Manager such records and copy documents (to include any accounting records) as it may have in its possession or under its control as are reasonably required for the proper management of the Property.
11. The Manager shall have express power to bring proceedings to enforce any of the terms of this Order, but nothing in this Order shall impose an obligation on the Manager to do so. The power to bring proceedings includes proceedings, if so advised, against the Respondent freeholder for an account and/or for the recovery of any leaseholders' money held by the Respondent, which it has not paid over to the Manager pursuant to this Order.
12. The Manager shall have permission to apply to the tribunal for any further directions which are necessary or for variation of this Order.

Chairman: _____

Mr T J Powell

Date: 26 September 2012

[See HMLAndertons Pricing Matrix attached]

HMLAndertons Pricing Matrix**Development:** Denmark Mansions, SE5 9PX**No. of units:** 14 flats and 6 commercial units

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| Management fee | <p>Flats £225 (plus VAT) per unit per annum</p> <p>Commercial £200 (plus VAT) per unit per annum</p> |
| LVT Hearing attendance & LVT preparation work (inc. production of Manager's statement & management plan) - <i>This is on the condition that the nomination is not opposed.</i> | £750 (plus VAT) |
| Major Works (anything subject to section 20 process) | <p>10% charge if work is managed and overseen in house (by HML Andertons). Or If external surveyor is to project manage we would charge a 2.5% fee for administration process in addition to surveyors costs. In addition to either cost, the section 20 process would be a one off charge of £45.00 (plus VAT) per unit.</p> |