

9458



Case Reference : CHI/OOHN/LAM/2013/0003

Property : Halebrose Grange, 729-735 Christchurch Road, Bournemouth, Dorset BH7 6AQ

Applicant : Miss C Bevis (Flat 4)
Mr & Mrs P.D. Nickowski (Flat 1)
Miss D Rendell (Flat 6)
Mr P Lord (Flat 7)
Mr P Mathews (Flat 8)

Representative : Acting for themselves

Respondent : Long Term Reversions Ltd

Representative : Countrywide Estate Management

Type of Application : A) Under section 24 Landlord & Tenant Act 1987 for the appointment of a Manager
B) Under section 20 (c) Landlord & Tenant Act 1985 (limitation of landlord's costs of the proceedings)

Tribunal Members : Judge S B Griffin (Chairman)
Mr A J Mellery-Pratt FRICS (Member)
Ms T Wong (Member)

Date and venue of Hearing : 5th August 2013 – Court 8, Bournemouth County Court, Deansleigh Road, Bournemouth, Dorset BH7 7DS

Date of Decision : 29th August 2013

DECISION

(A) THE STATUTORY PROVISIONS

1. Section 24 (2) of the Landlord and Tenant Act 1987 (“the 1987 Act”) as amended by section 85 of the Housing Act 1996 provides that the Tribunal may only make an Order in respect of an application for the appointment of a Manager in the following circumstances, namely;

a) Where it is satisfied:

- (i) that the Landlord either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent upon notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice and
- (ii) that it is just and convenient to make the Order in all the circumstances of the case

OR

ab) Where the Tribunal is satisfied:

- (i) that unreasonable service charges have been made or are proposed or likely to be made and
- (ii) that it is just and convenient to make the Order in all the circumstances of the case

OR

ac) Where the Tribunal is satisfied:

- (i) that the landlord has failed to comply with any relevant provision of a Code of Practice approved by the Secretary of State under section 87 of the Leasehold Reform Housing and Urban Development Act 1993 (Codes of Management Practice) and
- (ii) that it is just and convenient to make the Order in all the circumstances of the case.

OR

b) Where the Tribunal is satisfied that other circumstances exist which makes it just and convenient for the Order to be made.

(B) In respect of the application under Section 20 (c) of the Landlord and Tenant Act 1985 (as amended by section 83 of the Housing Act 1996) the ... Tribunal to which the application is made may make such Order on the application as it considers just and equitable in the circumstances.

THE LEASE

2. The Tribunal had a copy of a lease dated 19th June 1990 made between Viscount Properties (Bournemouth) Limited (1) Eileen Muriel Boys and Valerie Jean Mylius (2) and Halebrose Grange Management Company Limited (3) in respect of Flat 6 Halebrose Grange.

The Tribunal understood that all leases of flats within the building are drawn in similar terms.

The relevant clauses in the lease with regard to the responsibility of the landlord are as follows:

- 4.1 SO long as the Tenants do not contravene any terms of this lease to allow the Tenants to possess and use the property without interference from the landlord, anyone who derives title from, or any trustees for the landlord.
- 4.2 TO comply with all the obligations undertaken in the head lease by the person named in it as tenant except for those obligations passed on to the tenants under this sub-lease.
- 4.3 TO take all reasonable steps to enforce promptly the obligations undertaken by the Head Landlord in the head lease.
- 4.4 TO insure the property under a policy which satisfies the conditions and the requirements of the head lease if the Head Landlord fails to do so.
- 4.5 TO pay all rates, taxes and outgoings imposed in respect of the common parts including any which are imposed after the date of this lease (even if of a novel nature).
- 4.6 TO provide the services listed in the Fifth schedule for the occupiers of the building and in doing so
 - (i) the Landlord may engage the services of whatever employees, agents, contractors, consultants and advisors the Landlords consider necessary.
 - (ii) the Landlord shall not be liable for any failure or delay caused by industrial disputes, shortage of supplies, inclement weather and other causes beyond the control of the Landlord.
- 4.7 TO maintain a reserve fund in accordance with the Sixth schedule.
- 4.8 AT the Tenants request and on the following terms to enforce the obligations undertaken in their respective leases by Tenants of other parts of the building. The Tenants must
 - (i) meet all expenses and
 - (ii) comply in advance with the Landlords' reasonable requirements as to payments on account and/or giving security for payment

FIFTH SCHEDULE

Services to be provided

1. Repairing the roof, outside main structure, and foundations of the building

2. Contributing a fair proportion of the cost of repairing, maintaining and cleaning any building, property or sewers, drains, pipes, wires and cables of which the benefit is shared by occupiers of the building.
3. Decorating the outside of the building once every three years
4. Repairing and whenever necessary decorating and furnishing the common parts
5. Lighting and cleaning the common parts
6. Repairing and maintaining those services in the building and its grounds which serve both the property and other parts of the building
7. Providing within the building reasonable facilities and arrangements for
 - (i) security
 - (ii) displaying at the entrance announcements of occupiers names and locations
 - (iii) Rubbish disposal
8. Insuring against liability to anyone entering the common parts or the grounds of the building and insuring against employer's liability to anyone employed to provide any of these services
9. Paying all rates and taxes assessed on or payable in respect of the common parts if any
10. Obtaining insurance valuations of the building from time to time
11. If the proceeds of any insurance claim are not enough to pay for repairing the building after damage by an insured risk contributing the extra sum needed to pay for the work
12. Keeping accounts of service costs, preparing and rendering service charge statements and retaining accountants to certify those statements.

THE PREMISES

3. The property comprises a converted three-storey residential building containing 11 self contained flats in total all of which are located above ground floor commercial premises and which front Christchurch Road, Boscombe. The main entrance is by an entrance door located beside one of the ground floor shops which gives access to an entrance lobby from which access to the first floor and above is obtained by a flight of stairs.

INSPECTION

4. The Tribunal in company with the Applicants and representatives of

the Respondent inspected the external areas of Halebrose Grange together with its common parts on the morning of 18th April 2013. The Tribunal noted at the time of that inspection that there was graffiti on certain of the exterior walls and a rear downpipe was loose and disconnected. Internally, carpeting was soiled and torn albeit some attempt had been made to address the torn areas with sealing tape. The Tribunal was asked to note by the Applicant (inter alia) the insecure entrance door and dampness to the interior of flats 4, 6 and 9 affecting internal walls and ceiling respectively.

HEARING

5. A hearing was held in Court 8, Bournemouth County Court, Deansleigh Road, Bournemouth, Dorset BH7 7DS after that inspection. The Applicants appeared in person and the Respondent was represented by Mr Matthew Boyden of Counsel who spoke on behalf of and assisted Mr John Butler, Branch Manager of Countrywide Estate Management. The hearing commenced by the Chairman reminding all parties of the provisions of section 24 of the 1987 Act. The Applicant had to satisfy the Tribunal that there had been a breach of covenant or one of the provisions of the RICS Service Charge Code or unreasonable service charge demands etc., had been made as well as persuading the Tribunal that it was just and convenient to make an Order appointing a Manager. Before making an application under section 24 of the 1987 Act, Section 22 of that Act requires the Applicant to serve a Notice on the landlord specifying the breaches and if relevant giving him time remedy such breaches. Such a Notice had been served and had set out a number of allegations.

THE APPLICANTS FIRST CONTENTION namely;

Being concerned with alleged breaches of the obligation owed to the tenant by the landlord under the terms of the lease. Specifically in respect of repair to the exterior of the building and the lighting and cleaning of the internal common parts and security. Mr Boyden on behalf of the Respondent informed the Tribunal that the landlord had insufficient sums with which to effect the required remedial works by virtue of the fact that there were arrears on the service charge accounts. (The Tribunal apprehended that a landlord is obliged to perform the landlords covenants whether or not some or all of the leaseholders are actually paying their service charges. It is not a condition precedent to such performance by the landlord. Viz. *(Yorkbrook Investments v Batten [1985] II EGLR 100 CA)*).

6. Mr Butler stated that since the responsibility for the management of the property had passed to him in October 2012 he had made two quarterly visits to the premises. After the first visit he had arranged for the cleaning of the internal parts to be recommenced. Following his second visit he had instigated a Section 20 consultation process in respect of the external works and thought once the external works had been completed then the internal redecoration could be dealt with. The Tribunal apprehended

that Section 20 of the Landlord and Tenant Act 1985 provides that where a landlord proposes to carry out works of repair, maintenance or improvement which will cost an individual service charge payer more than £250 (inclusive of VAT) he must before proceeding formally consult all those expected to contribute towards the cost. This has the dual effect of giving notice of his intention to the leaseholders and seeking their views on the proposed works. Mr Butler went on to state that the intention would be to carry out external decorations once the building had been scaffolded but that when he had issued the Section 20 Notice he had sent an accompanying letter stating that he would be happy to meet with the leaseholders to discuss the plan of going forward. However, to date none of the leaseholders had engaged with him pursuant to the Section 20 consultation procedure. The Notice had been issued on 31st December 2012 and it had expired on 4th February 2013. The intention had been to appoint the Morgan Sloan Partnership on service of the subsequent notice of proposals to supervise tenders. However this had been deferred by virtue of this present application but would be pursued straight away should the tenants application prove unsuccessful.

At this juncture the Tribunal adjourned for luncheon. After the lunch break it was intimated by Mr Boyden that an agreement was close to being reached between the parties on the basis of the matter being discontinued on the back of an undertaking on terms yet to be formally agreed. The Tribunal considered that the lack of legal representation put the Applicant at a disadvantage and accordingly adjourned the matter to a date to be agreed as early as possible in July. All parties were to inform the Tribunal within two weeks of their availability in that month. If before that date all parties had agreed then a joint application for withdrawal of the present application was to be made, otherwise the matter would proceed on the basis of a part hearing on 18th April. Suffice to say it became apparent that the parties had not been able to reach an accord within the stated time and accordingly the matter was reconvened on 5th August 2013. A further inspection was dispensed with. Again the hearing was in Court 8, Bournemouth County Court with the same parties as before in attendance with the exception of Mr Boyden. This latter being on vacation was replaced by Ms Rowena Meager of Counsel.

7. Once again the Chairman reminded all parties of the provisions of Section 24 of the 1987 Act. It was noted that of the alleged breaches of obligation owed to the tenant under the lease there was still to be considered the contention by the Applicant that the landlord had failed to enforce the obligations undertaken in their respective leases by tenants of other parts of the building, namely; not to carry out any development on the property which requires permission (Clause 3.19(c)). The Applicant contended that there had been an unauthorised alteration of a one bedroom flat to a two bedroom flat. Ms Meager on behalf of the Respondent stated that a mere lack of

planning consent for the alteration did not constitute a breach by the landlord. However, it was accepted by Counsel that Clause 3.9 of the lease requires prior written consent from the landlord to any alteration but that on this issue Ms Meager stated that her client had not received notification of any alteration hence was not liable for any breach in this respect. The Applicant disputed the matter of notification.

THE APPLICANTS SECOND CONTENTION namely;

8.
 - (i) that unreasonable service charges have been made or are proposed or are likely to be made and
 - (ii) that it is just and convenient to make an Order in all the circumstances of the case

9. Under this ground the Applicant set forth the following concerns, namely;
 - (a) Notwithstanding a previous decision by a differently constituted Tribunal on 18th June 2012 the Respondent had still failed to correct the previously erroneous Service Charge Accounts in line with the earlier Tribunal Direction in a sufficiently transparent manner to enable the Applicants to be assured that there were now no anomalies being erroneously stated as sums in arrears. Mr Paul Mathews (Flat 8) informed the Tribunal that he was seemingly in arrears of £1,000 although he had regularly paid in full each and every demand as raised upon him by the Respondent. Counsel for the Respondent reminded all parties that there was no right of set-off provided by the lease and it was not in order for any individual tenant to withhold from the service charge the sum which they perceived as being an appropriate reduction. (The Tribunal apprehended that unfortunately this appeared to be the case which was of course exacerbating the situation).
 - (b) Again despite the previous Tribunal decision there had been no reduction in the management fee as directed by that Tribunal.
 - (c) That the 50% reduction in cleaning charge as directed by the previous Tribunal decision had similarly been ignored.
 - (d) That a demand for 3 years premium for building insurance had been requested (notwithstanding no insurance schedule had ever been produced).

10. Mr Butler was unable to explain why the previous Tribunal Directive had been ignored and confirmed that this indeed appeared to be the case. As regards the insurance premium the demand had been raised by Pier Management not the Respondent. A rather unusual feature of the lease is that such building insurance is arranged by the head landlord not by the Respondent. Upon enquiry by the Tribunal it appeared that notwithstanding Mr Butler's request of Pier Management to supply a schedule of cover, he himself had never received one and was thus unable to supply any copy to the tenants.

THE APPLICANTS THIRD CONENTION namely;

11. (i) that the Landlord has failed to comply with any relevant provision of a Code of Practice approved by the Secretary of State under Section 87 of the Leasehold Reform Housing and Urban Development Act 1993 (Codes of Management Practice), and
(ii) that it is just and convenient to make the Order in all the circumstances of the case
12. Under this ground the main thrust of the Applicants argument concerned an alleged failure to ensure fire safety in the building. Mr Butler upon enquiry by the valuer member of the Tribunal confirmed that a fire safety inspection had been undertaken although no logbook of inspection was maintained at the premises. The Applicant informed the tribunal that no alarm bell testing had ever been heard . Mr Butler disputed that an audible test was required. Seemingly the safety equipment was capable of being tested on a purely diagnostic basis without the need for alarms. The Applicant also alluded once more to the insecure front door and (unsatisfactory) out of hours service.
13. Mr Butler stated that in his opinion he had done his best and could do no more and felt that there should be a new appointment and that he would recommend such to Countrywide Estate Management. Whereupon Counsel for the Respondent reminded the Tribunal that the Respondent had by two letters dated respectively 25th March 2013 and 18th July 2013 (albeit drawn in exactly the same terms) and under the hand of Pier Management Limited and addressed to Miss C Bevis recommended either Burns Property Management or SPL Property Management. Alternatively that letter stated if the residents had a preferred agent in mind he would be happy to do some research and advise if he was prepared to transfer management to that firm. Mr Butler then reminded the Tribunal that both Burns Property Management and SPL Property Management were members of ARMA. Miss Bevis on behalf of the Applicant stated that in the light of the previous experience of managing agents appointed by the Respondent prior to the appointment of Countrywide they had no confidence in the Landlord's recommendation.
14. Both sets of proceedings had throughout been attended by Mr Neil Cliff, NMC Property, Number One Trinity, 161 Old Christchurch Road, Bournemouth BH1 1JU who had already set out somewhat briefly, terms of his knowledge and experience in managing properties. In answer to the Tribunal's questions he gave the following evidence:
 - (i) Mr Cliff confirmed that he was still willing to be appointed as the manager despite the obvious breakdown of relations between the parties. He said that he had not been appointed as a manager by a Tribunal before. His knowledge of what the appointment would entail had been gleaned from speaking to other people and background reading.
 - (ii) Mr Cliff also confirmed that he had externally inspected the property and was familiar with the current issues in dispute between the parties. He

said that he had no proposed management plan but hoped to agree a programme of works with the parties at an initial meeting.

(iii) When asked if he was familiar with the service charge terms in the leases Mr Cliff said that he had seen a copy of one of the leases. He said that the management of the property would principally be dealt with by himself with the help of 5 assistants. He also said that he had out of hours cover for which no extra charge was made.

(iv) That his professional indemnity cover was £100,000.00 .

(v) His management fee for the first year would be £125 per flat plus VAT.

Upon enquiry by Counsel for the Respondent it emerged that Mr Cliff had no professional qualifications as such nor was he a member of ARMA. Counsel also expressed concern that the intended fee of £125 plus VAT seemed somewhat on the low side and queried whether there would be any uplift in the future.

The Applicant argued that the appointment of Mr Cliff should be made under a Tribunal Order because of the breakdown in the relationship between the parties.

DECISION

15. The first issue the Tribunal considered was whether a manager should be appointed under an Order. It concluded that it was just and convenient that a manager should be appointed under Section 24 (2) (a) (iii) of the Act, because whilst the Tribunal does not make any specific findings under Section 24 (2) (a) of the Act that the Respondent as freeholder has breached any management obligations under the terms of the Applicants' lease, it appears to be common ground that there has been little or no effective management for some years. It was beyond doubt that the historical breakdown in the relationship between the parties has resulted in the situation where the repair and maintenance of the property has been neglected for some time. That breakdown was self evident at the hearing with little or no prospect of improvement in the near future.
16. The Tribunal then turned to consider whether Mr Cliff should be appointed as the manager. It had the benefit of hearing him give evidence. The Tribunal found him to be a competent and credible witness. It concluded that he possessed sufficient experience to be appointed as a manager for a period of 12 months. Whilst the Tribunal recognised that Mr Cliff was in effect a sole practitioner he had sufficient administrative support to effectively manage this relatively small building. Therefore the application is granted and Mr Cliff is appointed as the manager of the property for a term of 12 months . The management Order is annexed to this Decision.

SECTION 20 (c) APPLICATION

17. In respect of the Applicant's application for an Order under Section 20 (c) of the Landlord and Tenant Act 1985 that the landlord's costs arising from the proceedings are not to be recharged through the Service Charge Account , the Tribunal decided that even though the leases are unlikely to enable the

landlord to make any such charge through the Service Charge Account, it is reasonable to make such an Order. The Applicant had succeeded in satisfying the Tribunal that the landlord had demanded unreasonable service charges and to that extent should be given the protection of such an Order.

Dated – 29th day of August 2013

Signed

Judge S B Griffin (Chairman)

APPEALS

- 1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.**
- 2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.**
- 3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.**
- 4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.**

**IN THE MATTER OF PART II OF THE LANDLORD & TENANT ACT 1987
AND IN THE MATTER OF HALEBROSE GRANGE , 729-735 CHRISTCHURCH
ROAD, BOURNEMOUTH, DORSET, BH7 6AQ**

CHI/OOHN/LAM/2013/0003

BETWEEN:

**C.BEVIS
MR & MRS P.D.NICKOWSKI
D.RENDELL
P.LORD
P.MATTHEWS**

Applicants

-and-

LONG TERM REVERSIONS LIMITED

Respondent

ORDER

1. That Mr Neil Cliff of NMC Property, Number 1 Trinity, 161 Old Christchurch Road, Bournemouth BH1 1JU ("the Receiver/Manager") be appointed as the Receiver and Manager of the land and premises at and known as Halebrose Grange, 729-735 Christchurch Road, Bournemouth, Dorset BH7 6AQ ("the property") in place of the freeholder, the above named Respondent and their successors in title and to exercise in that capacity the rights of the freeholder and to carry out in that capacity all the responsibilities of the freeholder under and in respect of the various leases granted in respect of the property on the terms of this Order.
2. The Respondent shall as soon as possible but no later than 16th September, provide the Receiver/Manager with all sums of monies held on trust for the lessees together with bank statements, invoices and documents relating to the property, together with transparent details of service charge accounts with clear audit trails up to the year ending March 2013 and period up to 29th September 2013 and together also with a statement and all supporting documentation showing all income and expenditure in respect of the property until the date of this Order. Upon receipt thereof, the Receiver/ Manager shall establish the current balance of the service charge account and reserve account (if any) for the property.

3. In particular the Receiver/Manager shall:
 - (i) account to the freeholder for the payment of the ground rent he receives; and
 - (ii) comply with all applicable statutory provisions, including the Landlord and Tenant Acts 1985 and 1987, as though the Receiver/Manager was the freeholder of the property and act in accordance with the duties of a Manager as set out in the Service Charges Residential Management Code, 2nd edition (“the 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
 - (iii) apply to be a member of the Association of Residential Managing Agents (ARMA) within 12 months of appointment.
4. That the Receiver/Manager be appointed from the 29th September 2013 for a period of 12 months (“the Management Period”).
5. The Receiver/Manager shall have permission to apply to the Tribunal for such further directions as he may require in order to give effect to this order and the Applicant, the Respondent and the Receiver/Manager (as an interested party) shall have permission to apply to the Tribunal to vary or extend this Order.
6. That the Receiver/Manager be otherwise appointed under the terms set out in the schedule attached hereto.

Dated – 29th day of August 2013

Signed

Judge S B Griffin (Chairman)

SCHEDULE

1. General duty during the Management Period

- 1.1 The Respondent does not have the right to carry out any works to the property save as such works constitute development works relating to the premises and are agreed in advance with the Receiver/Manager (such agreement not to be unreasonably withheld or delayed) and is not liable to the tenants under the leases for any breach of the landlord's covenants under those leases.
- 1.2 That the Receiver/Manager will manage the property in a proper and businesslike manner.
- 1.3 That the Receiver/Manager shall be responsible for carrying out the freeholder's obligations as to the repair, maintenance, decoration, management and supervision of the premises at the property and for the provision of services and upkeep of the amenities thereof and for enforcing against the tenants under the leases their obligations under and in accordance with the terms of those leases and this Order.
- 1.4 Specifically, the Receiver/Manager shall scrutinise all invoices issued in respect of goods and services supplied to the property to ensure the property is managed in an economic manner.
- 1.5 The Receiver/Manager owes a duty to the Respondent and to the lessees under the leases to use reasonable skill and care in carrying out the Receiver/Manager's duties and in exercising the Receiver/Manager's powers under this Order.

2. Specific Responsibilities

Without prejudice to the generality of the foregoing, it shall be the duty of the Receiver/Manager during the Management Period to do the following:

- (i) To deal in a reasonable fashion with all items of repair and maintenance for which the freeholder is responsible provided that in respect of major works of repair and maintenance as defined hereafter, the Receiver/Manager shall be entitled to reasonable additional remuneration payable out of the Service Charge Account, which remuneration shall not exceed 10% of the cost of the works (before VAT) involved. For the purpose of this Order "major works" are defined as any works requiring the service of a notice or notices under section 20 of the Landlord and Tenant Act 1985 (as amended).
- (ii) To purchase all such items as may be necessary to effect such aforesaid repair,

maintenance, service and amenities. Notwithstanding that responsibility, the Receiver/Manager will not be required to make purchases thereunder if this would result in the Service Charge Account for the property becoming overdrawn.

- (iii) To enter into contracts for the maintenance and supply of goods and services.
- (iv) To recruit, employ, supervise and pay the salaries or wages of such residential and non-residential staff as the Receiver/Manager may reasonably consider necessary, at such rates of remuneration as reasonably appear to him to be proper in order to maintain adequate staff and ensure the efficient running of the property.
- (v) To deal with all PAYE, VAT and National Insurance matters arising in relation to such staff where relevant.
- (vi) To estimate in advance the anticipated cost of services for each year and the cost of each item of expenditure which is other than annual in nature. Such items will include (but will not be limited to) external or internal redecoration and replacement of equipment. The total cost of the services to be provided to the property will then be apportioned by the Receiver/Manager among the lessees thereof in accordance with the lease terms.
- (vii) To prepare and serve the ground rent and service charge demands in accordance with the provisions of the leases and to pay on to the Respondent in a timely manner such ground rents as are received.
- (viii) To arrange and vary from time to time and keep in force the insurance of the contents of the common parts of the property against such risks as the Receiver/Manager reasonably sees fit. The Receiver/Manager will also effect and keep full insurance against public liability. The Receiver/Manager will agree the terms of such insurance and pursue claims arising therefrom expeditiously. The Receiver/Manager shall endeavour to make payment directly to the insurance company or broker concerned and shall obtain a receipt from such company or broker confirming that such insurance is paid after date. The Receiver/Manager shall declare to all interested parties any commission that he may receive upon and in respect of the placing of any insurance.
- (ix) To maintain efficient records and books of account which will be open to inspection together with relevant vouchers by appointment at all reasonable times by all interested parties and to maintain on trust an interest bearing client account with a bank or building society into which the Service Charge monies will be paid when they fall due (the "Service Charge Account") together with such other accounts as the Receiver/Manager may think necessary and appropriate.
- (x) To deal with all enquiries, reports, complaints and other correspondence with the freeholder, individual lessees, solicitors, accountants and other professional persons in connection with matters arising from the day-to-day management of the property. The Receiver/Manager shall, however, be entitled to a reasonable fee additional to the remuneration set out in paragraph 5 of this schedule for the

provision whenever so required of a "solicitor's pack" supplied to the solicitor acting for a tenant of a lease who wishes to assign the lease. Such fee will be chargeable to the person requiring such "pack".

- (xi) To advise all interested parties in respect of:
 - (a) essential major repairs, redecoration and maintenance, and
 - (b) improvements or alterations which may be considered desirable
 - (c) and to provide quarterly reports in relation to (a) and (b) above.
- (xii) To perform such duties as are consistent with the best principles of estate management and as are necessary in order to procure and maintain all services at the most reasonable cost, including the procurement of three quotes for all major services supplied, such quotes to be available for inspection by all or any interested parties.
- (xiii) To collect all service charges and, where this Order applies to other monies, such other monies as may be payable under the lessees' leases.
- (xiv) To take any legal action which the Receiver/Manager is reasonably required to take, to make good any arrears, it being recognised that the Receiver/Manager shall be entitled to an indemnity from the Service Charge Account in respect of any legal or other professional costs arising in connection with such action.
- (xv) To pay and discharge out of the monies so collected (subject to the availability of adequate funds in the Service Charge Account) of all rates, taxes, insurance premiums, rents, wages, water, gas and electricity bills, costs of cleaning materials and other outgoings including payment of the Management Fee for which the Receiver/Manager is responsible pursuant to this appointment. The Receiver/Manager will take all reasonable steps to ensure that no liabilities accrue which cannot be financed from the Service Charge Account.
- (xvi) To manage the common parts and service areas of the building, including the arrangement and supervision of maintenance.
- (xvii) To use reasonable endeavours to require any leaseholder who sublets his flat to provide the Receiver/Manager with a written undertaking that any subletting will be for a period of not less than 90 days, and to lodge with the Receiver/Manager a copy of the letting agreement or other relevant document along with the names and principal addresses of all the sub-tenants.
- (xviii) To maintain professional indemnity insurance of at least £300,000.00 per claim.

3. Power to Contract and to Terminate Pre-Existing Contracts

Subject to the foregoing obligations, during the Management Period the Receiver/Manager is empowered to enter into contracts for supplies and services, including items of a non-recurring nature and including with solicitors,

accountants, building surveyors and other professional persons, and where necessary to terminate the same. The Receiver/Manager is further empowered to terminate remaining contracts existing prior to this Order in his discretion.

4. Authority to Negotiate Adjustments to Service Charge Payments

The Receiver/Manager is empowered to make and agree reasonable adjustments and other reasonable compromises with the tenants at the property, in respect of the Service Charges and Interim Charges where appropriate, and also in respect of any outgoings payable.

5. Remuneration

As remuneration for his services during the Management Period the Receiver/Manager will be paid a fee in accordance with the following charges:

Basic fee - £150 plus VAT per annum per unit for the flats within the property.