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**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **LON/OOAG/LVM/2014/0006**

Property : **Palace Court, 250 Finchley Road,
London NW3 6DN (the Property)**

Applicant : **Mrs L Berwin – Tribunal appointed
manager**

Representative : **Mrs Berwin and Mr P Bird BSc PG
Dip Surv MIRPM**

Respondent : **Palace Court Residents (Finchley
Road) Limited and the lessees of
the Property**

Representative : **Dr Ali, Mr M Joseph, Mr Elkhodair
and Misses A and T Abiola**

Type of Application : **Variation of the order of
Appointment of a manager dated
24th January 2014
Tribunal Judge Dutton**

Tribunal Members : **Miss M Krisko BSc (Est Man)
FRICS
Mrs R Turner JP BA**

**Date and venue of
Hearing** : **17th March 2014 at 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **17th March 2014**

DECISION

BACKGROUND

- (1) The applicant seeks an order varying the Order dated 24th January 2014 (“the Order”) under section 24(9) of the Landlord and Tenant Act 1987 (the “Act”).
- (2) The Order appointed the Applicant, Mrs Berwin of Premier Management Partners (PMP), as the Manager of the Property upon the terms set out therein. Such appointment followed a hearing of various issues in September and November 2013 in cases numbered LON/OOAG/LVM/2013/002, 005 and 0027, which resulted in a decision being issued dated 7th January 2014. Mrs Berwin sought to vary the Order by substituting Mr Paul Bird, also of PMP, as the Manager in her stead.
- (3) The reason for the proposed change was that Mrs Berwin had been head-hunted, successfully, by Crabtree Management and she had joined that company on 3rd March 2014. This involved her now working in Victoria on a full time basis and she was not therefore able to continue with her duties under the Order
- (4) The hearing to consider the substitution of Mr Bird for Mrs Berwin took place on 17th March 2014. Those persons named on the front page of this decision were in attendance.
- (5) We had received a scant bundle both from the Applicant, which contained the application and a statement in support, together with the decision of our colleagues referred to at paragraph 2 above. Mrs Abiola had also provided a small bundle containing her statement and accompanying documents. We had the opportunity of reading both in advance of the hearing.

HEARING

- (6) We invited those in attendance to let us have their thoughts. Mr Joseph and Mr Elkhodair expressed their willingness to allow Mr Bird to take on the responsibilities of managing the Property. They expressed their contentment with PMP’s involvement. Dr Ali had intimated that she would like to put forward an alternative candidate but no details were provided, other than a name and she had no objection to Mr Bird. Miss Abiola, on behalf of her mother raised concerns. These related to the departure of Mrs Berwin, the historical problems associated with the management of the Property and the lack of status of Mr Bird within PMP, that is to say he was not a director or shareholder, which she thought might make him unsuitable.
- (7) Mrs Berwin outlined her reasons for leaving and apologised to the Tribunal for the difficulties associated with her departure. She was sure that Mr Bird would be able to meet the requirements of the appointment as he was “extremely competent”

- (8) Mr Bird told us he had been in property management since 2008 and had been with PMP for some 13 – 14 months. Prior to that he had been a property manager with Countrywide for some 4 ½ years. He had not been a Tribunal appointee but told us he understood his responsibilities.
- (9) Unfortunately he had not reviewed the standard lease nor the Order since that was made in January. He thought a three year period sufficient and one of the first tasks would be to put in place a cyclical repair plan. This he thought could be created within a month in conjunction with the chartered surveyor, Mr Richard Reidy. As to recalcitrant lessees he said he would discuss with each one the reasons for non payment but if proceedings were required to recover outstanding service charges they would be commenced. Indeed Mrs Berwin told us that proceedings had been commenced against one lessee who was allegedly substantially in arrears.
- (10) It was confirmed to us that the funds held by the previous appointee (Mr Maunder-Taylor) had been transferred over and was in the region of £26,000 which could be utilised to meet the costs of Mr Reidy in preparing the plan.
- (11) We were told that Mr Bird managed 13 blocks in London and that he estimated he would need to spend 1 ½ days a week for the first 6 weeks or so to get on top of the management requirement and that notwithstanding his responsibility to manage 13 blocks he felt confident this could be achieved. He had a dedicated assistant and could call upon a team of a 6 operations personnel to provide additional support.
- (12) Miss Abiola raised concerns she had about the insurance and we asked Mr Bird to meet with her after the hearing to allay her worries in that regard. She also thought that funds should be collected in to enable the Property to be brought up to good order as quickly as possible as it had been neglected for some years.

FINDINGS

- (13) It is accepted by those in attendance that a manager appointed by the Tribunal is required to manage this Property. The majority present supported the appointment of Mr Bird. The Misses Abiola, speaking for their mother, raised concerns but could put forward no alternative candidate.
- (14) Mr Bird hopes to become a member of the Royal Institute of Chartered Surveyors later this year and we wish him well in that regard. He told us that he had experience of managing properties of this nature and size.
- (15) We must say that we were a bit disappointed at his preparation for this hearing. He had not read a lease of a flat at the Property since the last case in November 2013. He was not familiar with the terms of the

Order and did not even seem to know how many flats made up the Property. These are matters that can easily be corrected.

- (16) **We are satisfied that Mr Bird has the requisite qualifications to undertake the role as a Tribunal appointed manager and in the absence of any other candidate, and accepting that Mrs Berwin cannot maintain the role in her new position, we duly appoint him. His appointment is on the same terms as the Order and the only amendment that needs to be made is to substitute his name for that of Mrs Berwin.**
- (17) We did express a wish to those present that Mr Bird be given some time to get up to speed and that he would get the support of the leaseholders in that regard. It must be remembered that, as we understand it, the Freehold company Palace Court Residents (Finchley Road) Limited is wholly owned by the residential leaseholders and that accordingly they have responsibilities both under the terms of their respective leases but also as shareholders. They must work together with Mr Bird to achieve the desired results from this appointment.

Name: Andrew Dutton –
Tribunal Judge

Date: 17th March 2014