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

Case reference : **LON/00AM/LSC/2014/0392**

Property : **Various flats King Edwards
Mansions, 17-19 Mare Street,
London E8 4RP**

Applicants : **Phillip Schone
Sophie Williamson
Daniel Theophanous
Behrad Mirmiran
Nicholas Phillips
Naomi Johnstone**

Representative : **Mr Schone in person**

Respondent : **Mr Mohammed Yusuf Sarodia**

Representative : **Mr Singh**

Type of application : **For the appointment of a manager,
lease variation, reasonableness of
service charges**

Tribunal members : **Mrs S O'Sullivan – tribunal judge
Mr F Coffey FRICS
Ms Jayam Dalal**

**Date and venue of
hearing** : **2 March 2015 at 10 Alfred Place,
London WC1E 7LR**

Date of decision : **12 April 2015**

DECISION

Decisions of the tribunal

- 1) The tribunal appoints Mr Malcolm Star of Drivers Norris as manager of the property known as Various flats King Edwards Mansions, 17-19 Mare Street, London E8 4RP from the date of this decision for a period of 3 years on the terms of the Management Order attached hereto.
- 2) The parties have agreed the issue of the service charges on the terms recorded in this decision
- 3) The parties have likewise agreed that the leases be varied on the terms recorded in this decision and the tribunal makes an order for variation.
- 4) The Respondent agrees to pay the sum of £430 to the Applicants in respect of the application and hearing fees paid.
- 5) The Respondent having consented thereto the tribunal makes an order under section 20C of the 1985 Act.

Background

1. This case involves an application by various leaseholders (“the Applicants”) for the appointment of a manager in respect of the property known as Various flats King Edwards Mansions, 19-19 Mare Street, London E8 4RP (“the Property”). The Property comprises 5 residential flats with commercial premises below. Applications were also made for the variation of the leases and for the tribunal’s determination in relation to the reasonableness and payability of the service charges from 2010 -2014 under section 27A of the Landlord and Tenant Act 1985 (the “1985 Act”).
2. Directions were made which set out steps to be taken by the parties in advance of the hearing and provided that a hearing would take place on 2 March 2015.
3. The tribunal did not inspect the Property. No inspection was requested by the parties and given the nature of the dispute and the photographic evidence produced to it the tribunal did not consider an inspection would be either necessary or helpful.

Hearing

4. The hearing took place at 10am on 2 March 2015. It was attended by Mr Schone for the Applicants. The proposed Manager, namely Mr Malcolm Star, head of property management at Drivers Norris also attended. The freeholder Respondent, was represented by Mr Singh, a solicitor.

Application under section 27A

5. The tribunal was informed that the parties had reached agreement in relation to the application under section 27A of the 1985 Act. The terms of this agreement were that the Respondent agrees to seek no further contributions than those sums already paid in full and final satisfaction of all sums due or falling due from 1 January 2010 up to the date of the appointment of the manager. The Applicants agree that all sums paid are non refundable and agree that they shall not request any reimbursement and shall not make further applications in respect of the service charge paid for the period 1 January 2010 to the date of the appointment of the manager.
6. The tribunal heard that the parties had also agreed a schedule of apportionments included at A16 of the bundle and that the service charges would be applied by reference to these apportionments until such time as the floor area of the Property should change. The tribunal was informed that there is currently a planning application for the construction of a further floor at the top of the Property and should this be successful the apportionments would need revision in due course.

Application for lease variation

7. The lease variations sought were set out at paragraph 31 of the Applicants' statement of case. These were agreed by the Respondent. These were to amend the definition of the "building" in the lease to properly reflect its full address of 17-19 Mare Street rather than 17 mare Street as currently defined. Secondly the parties had agreed to vary the definition of the tenant's proportion to mean "fair and reasonable" proportion. The parties having agreed the variations the tribunal makes an order for variation as set out in Schedule 1 of this decision. The tribunal notes that the parties agreed that each party shall bear its own costs of the variation.

Application for appointment of a manager

8. The application is made under section 24 of the Landlord and Tenant Act 1987 (the "1987 Act"). It was accepted that a valid notice under section 22 of the 1987 Act had been served by the Applicants. The parties had agreed in principle that Drivers & Norris be appointed for a 3 year period at the cost of £250 plus Vat per flat.
9. In summary, the allegations are that Respondent landlord is in breach of his obligations under the lease, that there has been no management of the Property over the last 4-5 years, that there have been unreasonable service charges and that and that there are other circumstances which make it just and convenient to appoint a manager. The tribunal heard that there had been some concerns that the Property was not properly insured at one point but that the Applicants were satisfied that insurance was in place.
10. The Applicants' main concern was that the Respondent did not have any clear plan for the Property. It was confirmed that none of the breaches set out in the section 22 notice had been remedied. There were also issues in relation to the service charge and the tribunal heard that statements of account were unclear and items not supported by invoices. A surveyors report had been obtained marked as A90 in the bundle which identified essential works of repair to be carried out as soon as possible.
11. The tribunal also heard that communication had been very difficult although the Applicants had tried hard to communicate and engage but had often received inadequate responses.
12. In response Mr Singh informed the tribunal that the landlord's general position was that things had not been managed as well as they could have been. It was accepted that there had been difficulties with the major works and that notices under section 20 of the 1985 Act may not have been properly served. The appointment of a manager was not opposed.
13. The tribunal then heard from the proposed manager, Mr Malcolm Star of Drivers Norris as to his management experience. He was the head of property management of Drivers Norris. Although he had no professional qualifications he had worked in the industry for over 20 years. He confirmed that he had been appointed by the tribunal previously although this appointment had expired, they continued to act as managing agents in respect of that property. If appointed he planned to carry out an initial visit and would set up and implement a service charge budget. He informed the tribunal that he would expect to invoice the commercial tenants and would need to consider the terms

of all relevant leases. He confirmed that he was familiar with the RICS Code of Management.

The Tribunal's decision

14. The tribunal considered whether for the purposes of section 24(2)(b) of the Act “ *...circumstances exist which make it just and convenient for the order to be made*” . Having heard evidence from the parties the tribunal considers that there has been a total lack of engagement on the part of the landlord with the Property and with his duties as a landlord pursuant to the terms of the leases. The tribunal has no doubt that given the poor management and lack of insight on the part of the landlord circumstances do exist which make it just and convenient for a management order to be made under section 24. We also noted that the landlord consented to the appointment.
15. The tribunal had the opportunity of hearing evidence from Mr Star, and is satisfied that he is an appropriate person to act as manager,
16. Accordingly, the tribunal appoints Mr Star to be manager of the Property from the date of this decision for a period of 3 years on the terms of the Order attached hereto.

Application for costs

17. The Respondent agrees to pay the sum of £430 to the Applicants in respect of the application and hearing fees paid.
18. The Respondent having consented thereto the tribunal makes an order under section 20C of the 1985 Act.

Name: S O'Sullivan

Date: 12 April 2015

SCHEDULE 1

Order for Variation

The tribunal orders that each of the residential leases of the Property as set out in the application shall be varied as follows;

- 1) The definition of “the building” shall be amended to “17-19 Mare Street, London E8 4RP”.
- 2) The definition of the “tenant’s proportion” shall be replaced with the following definition ;

“tenant’s proportion” means in relation to the services in the Fourth Schedule a fair and reasonable proportion, determined conclusively from time to time by the Landlord, of the service charge costs”.
- 3) Each party shall bear its own costs of the variation.



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**Date and venue of
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Place, London WC1E 7LR**

Date of decision : **12 April 2015**

MANAGEMENT ORDER

ORDER FOR THE APPOINTMENT OF MR JASON MORRIS AS MANAGER

1. Mr Malcolm Star of Drivers Norris (“the Manager”) is appointed Manager of the property for a period of 3 years from the date of this decision.
2. The Manager shall manage the property in accordance with:
 - (i) the respective obligations of the landlord and the lessees under the various leases by which the flats at the property are demised, and in particular, but without prejudice to the generality of the foregoing, with regard to the repair, decoration, provision of services to, and insurance of the property, and
 - (ii) in accordance with the duties of a Manager set out in the Service Charge Residential Management Code (“the Code”) (published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State from time to time).
3. He shall receive all sums whether by way of, insurance premiums, payment of service charges or otherwise arising under the said leases. Insurance commissions and all other sources of income to the managing agent arising out of the management should be declared to the landlord and the tenants.
4. The Manager shall immediately make enquiries as to whether the property is properly insured and if not shall make arrangements to insure the property.
5. He shall obtain copies of the leases of the residential units and the commercial units to ascertain the position in relation to the payment and apportionments of service charges.
6. The Manager shall hold an initial meeting with the leaseholders and commercial tenants to agree priorities. He shall also ensure that the leaseholders are able to access the electricity meters at the Property.

7. The Manager shall clarify the position in relation to the extent and liability for the common parts and shall seek legal advice if necessary.
8. He shall be entitled to the following remuneration (which for the avoidance of doubt shall be recoverable as part of the said service charges in accordance with the leases) namely a basic annual fee of £250 plus VAT per flat for performing the duties set out in the Code Part 2 at paragraph 2.4. Such charge to be fixed for the appointment period. Additional items
9. Value added tax will be payable, for the avoidance of doubt, in addition to the remuneration mentioned above.
10. The Manager shall have liberty to apply to the Tribunal for further Directions, and any interested party is entitled to apply for further Directions during the course of the appointment if so required.

Dated: 12 April 2015
Name: Sonya O'Sullivan