



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

Case Reference : **CHI/21UC/LAM/2013/0017**

Property : **Greystoke, 22 Carlisle Road, Eastbourne,
East Sussex, BN20 7EN**

Applicant : **Mr N Pope
(Tribunal Appointed Manager)**

Respondent : **Mr A B Burton**

Type of Application : **Variation of a Management Order, s24 LTA
87**

Tribunal Members : **Judge D Dovar
Mr M J F Donaldson FRICS
Mr P A Gammon MBE BA**

Date of Decision : **14th September 2020**

MANAGEMENT ORDER

© CROWN COPYRIGHT

1. The Management Order dated 21st October 2014 (as varied from time to time), is varied on the terms set out herein.

2. In this order:
 - A. “The property” includes all those parts of the property known as Greystoke, 22 Carlisle Road, Eastbourne, East Sussex, BN20 7EN, but not the driveway to the left of the residential building on the property, nor the garages at the rear. For the avoidance of doubt, this includes not just the residential building but all the surrounding areas including the boundaries, the physical boundary features, the garden, gates, bin areas and paths.
 - B. “The landlord” means Mr A B Burton 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 Mr Geoffrey Pearce, FRICS, C Build E MCABE.
 - D. “The Date of this Order” and the “Date of Appointment” means the date that this Order was made, namely 14th September 2020.

It is hereby ordered as follows:

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

4. In accordance with s.24(9) of the Landlord and Tenant Act 1987, the Tribunal varies the Management Order made on 28th March 2014 and varied on 21st October 2014 and 13th March 2017.

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

6. 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-leases 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 (2016) (“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.



.....

Judge D Dovar

Chairman

14th September 2020

DIRECTIONS

1. That from the Date of Appointment and throughout the appointment the manager shall ensure that he 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. 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 from 28th April 2014 become rights and liabilities of the manager.
3. That the manager shall account forthwith to the landlord for the payment of ground rent received by him and shall apply the remaining amounts received by him (other than those representing his fees) in the performance of the landlord's covenants contained in the said leases.
4. That he shall be entitled to remuneration (which for the avoidance of doubt shall be recoverable as part of the service charges) in accordance with the Schedule of Functions and Services attached.
5. That the landlord shall afford access to the manager to Flat 2 on reasonable notice (save in the event of an emergency) for the purposes of carrying out his functions and services under this Order.
6. 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.
7. The Manager shall register the order against the freehold title of the Property pursuant to section 24(8) of the 1987 Act and is entitled to recover his reasonable legal costs for doing so from the Service Charge Fund.

8. The Manager shall register a restriction against Title in Land Registry standard form N, with the following wording “No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without the written consent of Mr Geoffrey Pearce c/o Stredder Pearce, 29 Compton Pl Rd, Eastbourne BN21 1EB” who is entitled to recover his reasonable legal costs for doing so from the Service Charge Fund.
9. In the event of any inconsistency between these directions and/or the schedule of functions and services set out below and the Leases, the provisions of these Directions and/or the Schedule of Functions and Services shall prevail.

SCHEDULE OF FUNCTIONS AND SERVICES

A. SERVICE CHARGE, RENTS, INSURANCE PREMIUMS AND OTHER SUMS RECOVERABLE

- 1.1 The service charge payable by the leaseholders and landlord shall include all those items referred to in the residential leases of the Property as well as, for the avoidance of doubt:
 - 1.1.1 Cleaning of the communal parts;
 - 1.1.2 The electricity for the communal parts;
 - 1.1.3 All necessary assessments and testing on the Property, including Fire, Health and Safety, asbestos, electrical, gas, water and insurance (reinstatement valuations).
- 1.2 Prepare an annual service charge budget, administer the service charge and prepare and distribute appropriate service charge accounts to the lessees and the

landlord as per their percentage share, which is currently, for the avoidance of doubt: Flat 1, 36.5%, Flat 2, 35%; and Flat 3, 28.5%.

1.3 Demand and collect rents, service charges, insurance premiums and any other payments due from the lessees (in the manner laid out in the terms of the lease) and the landlord. For so long as there is no specific provision for service charges to be recovered from the occupier of Flat 2, on a like basis with Flats 1 and 3, the manager shall be entitled to recover a proportion of all service charge expenditure from the landlord. This includes both under the terms of the residential leases (the landlord being party to each), under the terms of this Order and in advance as set below. As set out above, the landlord's proportionate share of expenditure is currently 35%.

1.4 Further, for the avoidance of doubt and whether or not provided for in the said residential leases:

1.4.1 The manager shall be entitled to collect service charge contributions in advance from the leaseholders and the landlord by:

1.4.1.1 Compiling a budget of estimated expenditure on 25th March each year (or as soon as practicable thereafter) and providing a copy of the same to the tenants and the landlord; and

1.4.1.2 Making a demand for payment on account of those estimated costs to be payable in two equal instalments on 25th March and 29th September each year, upon which the sums specified therein shall be payable within 14 days.

1.4.2 At the end of each service charge year (or as soon as practicable thereafter) the manager shall reconcile the actual expenditure from the estimated expenditure and credit the service charge account or make further demand as appropriate.

- 1.5 Instruct recovery agents or solicitors to recover unpaid rents and service charges and any other monies due to the landlord upon the landlord's instructions.
- 1.6 Place, supervise and administer contracts and check demands for payment for goods, services and equipment supplied for the benefit of the property within the service charge budget.
- 1.7 Ensure that the buildings are insured for their reinstatement value with an insurance company of repute.
- 1.8 Where by reason of a failure of a leaseholder or the landlord to adhere to the terms of this Management Order or by reason of their conduct, the manager has in pursuit of their functions and services under this Order, incurred additional costs or expenses (to include the legal of costs of solicitor and/or counsel in enforcing the terms of this Order), then the manager shall be entitled to charge such sums in whole or in part directly from the leaseholder or landlord responsible.

A. 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 in accordance with the guidance on accounting and reporting as issued by the Institute of Chartered Accountants of England and Wales (ICAEW).
- 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, with funds being held in an account specifically for this property and no others. Any reserve fund monies to be held in a separate client account with interest accruing to the landlord.

B. 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 lessees. The landlord is to be consulted with as if they were a tenant for the purposes of s20 of the Landlord and Tenant Act 1985 (and all other legislation providing for consultation in the event of qualifying works or qualifying long term agreements).
- 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.
- 3.4 In respect of any works, the cost of which, is £2,500 or more, the works should be supervised by a Chartered Surveyor or other similarly qualified surveyor.

C. FEES

- 4.1 Fees for the above mentioned management services would be a basic fee of £600 per annum per unit for the flats within the property. Those services to include the services set out in paragraph 3.4 of the Service Charge Residential Management Code (2016) 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 is 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.

D. 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 should be made available on request.