



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

Case reference : **LON/AW/LSC/2020/0005**
VIDEO REMOTE

Property : **9 Holland Road, London W14 8HJ**

Applicant : **(1) Mr N Kullman (Flat D)**
(2) Mr C Magnus (Flat C)

Representative : **Paul Cleaver of Urang Property
Management**

Respondent : **(1) Ms C Norris (AKA Ms Kitty Mason)**
**(2) Mr N Cross (current tribunal
appointed manager)**

Representative : **Mr P Cleaver**

Type of application : **Appointment of a manager – variation
of order**

Tribunal member : **Judge Tagliavini**
Mr A Harris LLM FRICS FCI Arb

Venue : **10 Alfred Place, London WC1E**
VIDEO REMOTE

Date of hearing : **29 October 2020**

Date of Decision : **4 December 2020**

DECISION

Covid-19 pandemic

This has been a remote determination on the papers which has been not objected to by the parties. The form of remote hearing was V: VIDEO REMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a video hearing. The documents that the tribunal was referred to are in a bundle of 258 pages, the contents of which the tribunal has noted. The order made is described at the end of these reasons.

The tribunal's summary decision

- (1) This decision should be read with **LON/ooAW/LSC/2020/0126** in which full reasons are given in respect of both applications.
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Name: Judge Tagliavini

Date: 4 December 2020



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

Case reference : **LON/AW/LSC/2020/0126**
VIDEO REMOTE

Property : **9 Holland Road, London W14 8HJ**

Applicant : **Mr Nigel Cross BSc MRICS of TPS
Estates (Management) Ltd (Tribunal
appointed manager)**

Representative : **In person**

Respondent : **(1) Ms C Norris (AKA Ms Kitty Mason)
(2) Mr & Mrs Kullman (3) Mr and Mrs
Dahlin**

Representative : **In person**

Type of application : **Liability to pay service charges –
s27A(s) Landlord and Tenant Act 1985**

Tribunal members : **Judge Tagliavini
Mr A Harris LL.M FRICS FCI Arb**

Venue : **10 Alfred Place, London WC1E 7LR
VIDEO REMOTE**

Date of hearing : **29 October 2020**

Date of Decision : **4 December 2020**

DECISION

Covid-19 pandemic

This has been a remote determination on the papers which has been not objected to by the parties. The form of remote hearing was V: VIDEO REMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on paper. The documents that the tribunal was referred to were contained in various documents from the parties including a bundle for hearing from Mr Cross numbered 1 to 113 and a bundle numbered 1 to 81 from the lessees in respect of the two applications, the contents of all of which the tribunal has noted. The order made is described at the end of these reasons.

The tribunal's summary decisions

LON/00AW/LVM/2020/0005

- (1) The tribunal varies the Management Order dated 12 September 2012 as appended to the Consent Order of that date and appoints Mr Paul Cleaver MIRPM, MARLA on the same terms as provided in the document headed Management Order, AssocRICS replacing Mr N Cross who was previously appointed the Manager.

- (ii) The tribunal varies the Management Order so that Mr Paul Cleaver MIRPM, MARLA, AssocRICS is appointed the manager of the subject property at 9 Holland Road with effect from 14 days of the date of this Decision for a period of 5 years i.e. until 17 December 2025.

LON/AW/LSC/2020/0126

- (iii) The tribunal makes no order on this application except to formally discharge Mr Nigel Cross BSc MRICS from his appointment as the tribunal appointed Manager of 9 Holland Road, London W14 8HJ with effect from 14 days of the date of this Order.

Application – LON/00AW/LVM/2020/0005

1. This is an application made by lessees of a period property converted into four flats two of which are owned by the freeholder and situate at 9 Holland Road, London W14 8HJ ('the Property'). seeking a variation of an order appointing a

manger under section 24(9) of the Landlord and Tenant Act 1987 ('the 1987 Act'). The applicant seeks the appointment of Mr Paul Cleaver MIRPM, MARLA, AssocRICS of Urang Property Management Limited to be appointed manager for a period of 5 years in replacement of the current tribunal appointed manager, Mr Nigel Cross

Application – LON/00AW/LSC/2020/0126

2. This is an application made by the tribunal appointed manager Mr Nigel Cross BSc MRICS of TPS Estates (Management) Ltd seeking the tribunal's approval of his proposals to carry out major works in accordance with a specification drawn up by Thomas and Thomas surveyors. Mr Cross' appointment expired on 11 September 2020 but by an interim order of the tribunal dated 28 July 2020 his appointment was extended until the determination of these two applications. Mr Cross did not make a further application seeking to extend his appointment.
3. The two applications were consolidated by the tribunal in its directions dated 28 July 2020.

Background

4. Due to historic neglect and mismanagement of the Property, Mr Cross was appointed by the tribunal as the manager for a period of three years expiring on 11 September 2020 in accordance with the Terms of Appointment dated 12 September 2017. This appointment was extended by an interim Order of the tribunal dated 28 July 2020 until the determination of these two applications.

The lessees case

5. The lessee's provided the tribunal with a Statement of Case dated 27 October 2020 in respect of both applications. This statement set out the reasons for objecting to Mr Cross' proposal for major works and their application for the appointment of Mr Paul Cleaver in place of Mr Cross.
6. The lessees asserted that Mr Cross has been unwilling to engage with them in respect of the major works identified as being required at the Property and their cost. Consequently, confidence in his ability to continue as the manager of the Property has been called into question. The lessees asserted that they had obtained a much cheaper quote for the works than obtained by Mr Cross and wished this to be implemented. Mr Cross however, refused to comply with this request as the contractor put forward by the lessees had not been approved by Mr Cross' surveyor.
7. The applicants indicated the need for a tribunal appointed manager to continue in situ due to the past long history of mismanagement and neglect of the Property and the absence of uniform agreement among the lessees as to management of the Property and the need to carry out major works required to the rear elevation

Mr Cross' case

8. In a signed but undated Statement of Case, Mr Cross informed the tribunal that he intended to have repaired and redecorated the rear elevation of the Property and to this effect had commissioned Thomas and Thomas to draw up a specification of works with a provisional start date of 1 March 2021.
9. Objections to the works and their costs was raised by two lessees and the proposed works to be carried out by PJ Harte at a cost of £45,931. Mr Cross informed the tribunal that unless the tribunal approved these works he was no longer willing to continue as the tribunal appointed manager as he believed he would no longer have any credibility with the majority of the lessees.
10. In addition, the tribunal was also provided with a copy of the Thomas and Thomas report and the tender documents.

The hearing

11. An oral hearing was held by way of video of the two consolidated applications. The tribunal heard the oral evidence of Mr Cross and Miss Mason in support of the application for works and Mr Dahlin, Mr Kullman and Mr Cleaver in support of the application for a variation of the appointment of manager Order.
12. Miss Mason spoke in favour of Mr Cross' continued appointment although she had not submitted a written statement to the tribunal. Miss Mason told the tribunal that Mr Mason had done a 'good job' and she would like him to continue in his post as the tribunal appointed manager.
13. Although Mr Cleaver had not been directed to serve a statement detailing his qualifications and experience, he told the tribunal that he had previously been appointed as a manager by the tribunal in respect of several properties. Mr Cleaver also told he tribunal that he continued in post as a manager of a number of these properties after his reappointment and had at no time been replaced before his term had expired.

The tribunal's decision and reasons

14. During the course of the hearing, it quickly became apparent to the tribunal that the relationship between Mr Cross and two of the three lessees had broken down. Having heard from Mr Cleaver and explored his qualifications as a manager having previously been appointed by the tribunal in respect of other properties and Mr Cross's unwillingness to continue in post unless his chosen contractor was approved, the tribunal determined it was appropriate to grant the lessees' application for a variation of the Order appointing a manager.

15. Having decided this was the most reasonable and appropriate determination the tribunal was no longer required to reach any decision about the works proposed by Mr Cross.

16. Therefore, the tribunal appoints Mr Paul Cleaver MIRPM, MARLA, AssocRICS as Manager of 9 Holland Road, London W14 8HJ with effect from 18 December 2020 for a period of five years i.e. until 17 December 2025 on the same terms of the Management Order made by the Tribunal dated 12 September 2017.

Name: Judge Tagliavini

Date: 2 December 2020

Rights of appeal from the decision of the tribunal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).