



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

**Case reference** : **LON/00AW/LVM/2022/0001**

**HMCTS code** : **P: CVPREMOTE**

**Property** : **33 Tregunter Road, London SW10 9LS**

**Applicant** : **Laura Montani Fargna (Flat 2)**

**Representative** : **Royds Withy King LLP**

**Respondents** : **33 Tregunter Road Ltd  
Rosanna Burcheri & Patrice Maffre (Flat 1)  
Roger and Sandra Lowe (Flat 3)**

**Manager** : **Alison Mooney MRIPM ARICS**

**Type of application** : **Variation of order for appointment of a manager**

**Tribunal** : **Tribunal Judge Mohabir  
Mr M Taylor MRICS**

**Date of decision** : **30 May 2022**

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**DECISION**

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## **Covid-19 pandemic: description of hearing**

This has been a remote video hearing, which has been consented to by the parties. The form of remote hearing was V: SKYPEREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing.

### **BACKGROUND**

1. The Applicant seeks the extension by 2 years of the order made on 11 March 2019 and expiring on 10 March 2022 (ref: LON/ooAW/IAM/2018/0013) appointing Mrs Alison Mooney as manager under section 24(9) of the Landlord and Tenant Act 1987 (the “Act”). In addition, the Applicant seeks a 3.5% uplift in the fees of Mrs Mooney for the proposed term of the extension of her appointment. Not all the works that it was hoped Mrs Mooney would see to completion have yet been carried out.
2. Mrs Mooney and the Third Respondents have indicated their agreement to the extension. The Second Respondents, who were the Applicants in the previous case, oppose the application.
3. The basis for opposing the application is that the Second Respondents contend that Mrs Mooney’s appointment has now served its purpose and that the restrictions on their legal rights as the leaseholders of their property is no longer warranted. An example of such a restriction was the inability to hire and dismiss a contractor. However, the Second Respondents are prepared to allow Mrs Mooney to continue to contractually manage the building pursuant to a management agreement entered into with the leaseholders.
4. The specific complaints made by the Second Respondents are, firstly, that the external works have now been completed after significant delay, save for some minor snagging works and the requirement for Mrs Mooney to supervise the works has now ended. In addition, the appointment of Mrs Mooney has prevented the Second Respondents from taking direct action to have the substantive external works and the snagging works completed sooner.
5. Secondly, the Applicant has objected to the dispensation from the requirement for Mrs Mooney to carry out statutory consultation pursuant to section 20 of the Landlord and Tenant Act 1985 in relation to the proposed redecoration works to the internal areas. They also contend that these works should have been carried out as part of a single phase of works together with the external works.
6. Thirdly, there was no continuing breach of obligations under section 24(2) of the Act or a failure to progress the maintenance works as the external works have largely been completed and the scope of the proposed internal redecoration works has been drafted and circulated.

7. Fourthly, the concerns expressed by the buildings insurance company about the immediate need for fire safety works to comply with insurance requirements is self-serving on the part of Mrs Mooney and cannot be used to justify her continued appointment especially when these concerns were raised by the Third Respondents three and a half years ago and have not been undertaken by Mrs Mooney as yet.

### **Relevant Law**

8. Section 24(9) of the Act provides (so far as material) as follows:

*“The appropriate tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section”.*

9. Section 24(9A) of the Act does not apply as the Applicant, as a lessee, is not a “relevant person” within the meaning of the section.
10. As was correctly submitted by Counsel for the Applicant and the Third Respondent, the correct test to apply was whether it is “just and convenient” for it to exercise its discretion to extend the management order as proposed. The Tribunal does not need to also be satisfied that the statutory criteria in section 24(2) are met again: see ***Orchard Court Residents’ Association v St. Anthony’s Homes Ltd*** [2003] 2 EGLR 28 at [11] to [15], per Keene LJ [381][383-4].
11. In addition, there is no statutory limit on the length of time that a management order can be made to last: see ***Orchard Court Residents’ Association*** above.

### **Hearing**

12. The remote video hearing in this case took place on 10 May 2022. The First and Third Applicants were represented by Miss Lamont of Counsel. The Second Respondents appeared in person. Also present was the Tribunal Manager, Mrs Mooney.
13. The Tribunal heard submissions from both parties.
14. Mrs Mooney told the Tribunal that she had enjoyed a good working relationship with all of the leaseholders. She confirmed that the external works had largely been completed last year, but had been delayed as a result of the COVID-19 pandemic. However, no additional costs had been incurred to the leaseholders as a result.
15. She also confirmed that the proposed internal works had to be done in two tranches, with the emergency fire safety works being the first because insurance companies were becoming more risk averse. Both the contractor and tender had been agreed for these works. She was now considering the financing of the works, which she estimated would take 3-4 weeks. The proposed works would take approximately 6 weeks

to complete.

16. Mrs Mooney said that the proposed internal redecoration works would commence on or about September or October of this year and should be completed by Christmas.
17. Mrs Mooney told the Tribunal that a Licence for Alterations had been granted in relation to the Second Respondents flat in July 2021. She understood that this involved the removal of load bearing walls in the flat, which would have to be checked with a Surveyor in advance and monitored. She further understood that the proposed works were due to commence in late summer of this year.
18. Materially, when asked by the Tribunal, Mrs Mooney accepted that it would be possible to continue managing the building under a management agreement with the leaseholders, but in her opinion this would lead to further debate and delay. She considered that a 12 month extension of her appointment by the Tribunal would be sufficient for her to complete the remaining internal works and oversee the proposed alterations to the Second Respondents flat.

### **Decision**

19. The Tribunal granted the application to extend the appointment of Mrs Mooney for the following reasons:
  - (a) in the Tribunal's judgment, she appears to be a highly competent Manager. It was common ground that she has enjoyed the co-operation of the leaseholders. Indeed, the Second Respondent had no objection to her being reappointed in that capacity, albeit under a management agreement.
  - (b) Mrs Mooney had largely achieved a satisfactory completion of the external works, save for some minor snagging. The Tribunal was satisfied that the delay that occurred in relation to these works had been result of the COVID-19 pandemic and not the result of any failure on the part of Mrs Mooney to progress the works.
  - (c) the Tribunal was satisfied that there are a number of good practical reasons why, initially at planning stage, it was not considered both the external and internal works could not be completed as part of single phase of works as suggested by the Second Respondents. However, Mrs Mooney acknowledged, that with hindsight her conclusion may have been different.
  - (d) it was clear to the Tribunal that the proposed phase 2 works relating to the fire safety works and the internal redecorations were significant. In addition, there were the internal alteration and the proposed rear extension to the Second Respondents flat. Given the stance taken by the Second Respondent just in

relation to the extension of Mrs Mooney's appointment, the Tribunal was satisfied that it is very likely the leaseholders would fail to reach any consensus on one or more of these works, especially having regard to the historic relationship between them. This would in turn lead to the very same situation reoccurring that gave rise to the original application that resulted in Mrs Mooney's appointment. The Tribunal did not share the same optimism expressed by the Second Respondent about the parties reaching agreement on these matters.

- (e) even if the Tribunal was minded not to extend Mrs Mooney's appointment, in reality, the Second Respondents' wish to have more control of the choice of a contractor and the timing of any work could not be achieved unilaterally by them. This would require the consent of all of the leaseholders. Given the likelihood of the scope for further disagreement between them expressed above, this would inevitably lead to further delay and/or a breakdown in the effective management of the building again.
20. Accordingly, for the reasons given above, the Tribunal considered it just and convenient to extend the appointment of Mrs Mooney. However, the Tribunal limits the extension of her appointment until 10 May 2023 on the basis that she said that a 12 month extension would be sufficient for her to complete the remaining internal works and oversee the proposed works to the Second Respondents' flat.
21. In addition, the Tribunal grants an increase of 3.5% for the fees that may be claimed by Mrs Mooney under paragraphs 19, 21 and 22 of the Tribunal's order dated 11 March 2019.

**Name:** Tribunal Judge Mohabir                      **Date:** 30 May 2022

### **Rights of appeal**

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).