



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

- Case Reference** : CHI/21UC/LVM/2013/0002
- Property** : Westhill Court, 20 Ratton Road,  
Eastbourne, East Sussex, BN21 2LS and  
St Helena Court, 7 Mill Road, Eastbourne,  
East Sussex, BN21 2LY
- Applicant** : Charles Bramly
- Respondents** : G&O Investments Limited (i)  
Leaseholders Westhill Court and Helena  
Court (ii)
- Type of Application** : Variation of an existing order for the  
appointment of a manager pursuant to  
section 24(9) of the Landlord and Tenant  
Act 1987
- Tribunal Member(s)** : Mrs J Coupe FRICS  
Mr D Banfield FRICS Regional Surveyor
- Date and venue of  
hearing** : 3 May 2023 at Havant Justice Centre by  
video hearing services
- Date of Decision** : 22 June 2022

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DECISION

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## **Tribunal's decision**

- (i) The Tribunal varies the Management Order dated 21 June 2013 (as varied) and substitutes and appoints Mr Nigel Duffy BSc MRIPM Assoc RICS as the manager of the property known as Westhill Court, 20 Ratton Road, Eastbourne, East Sussex, BN21 2LS and St Helena Court, 7 Mill Road, Eastbourne, East Sussex, BN21 2LY (“the property”) until 31 March 2028.**
- (ii) As a condition of the variation of the Management Order dated 21 June 2013 (as varied) the manager is required to comply with the revised Management Order dated 22 June 2023 (included in this decision).**

## **Background**

1. The Applicant sought a variation of the order made on 15 December 1999, which itself had been varied on 21 June 2013, by substituting the current Tribunal appointed manager Mr Charles Bramley with Mr Nigel Duffy, the reason for which is the retirement of Mr Bramley. The application was received on 11 January 2023.
2. The Tribunal first appointed a manager of the property on 15 December 1999 having found that the landlord failed to engage with the lessees or to effect required maintenance and major works. In evidence, Mr Duffy stated that the landlord continues to have little or no involvement with the property.

## **The Application**

3. Mr Bramley, the Tribunal appointed manager, has retired from Stiles Howard Williams Partnership LLP (“the practice”) and is therefore no longer in a position to manage the property.
4. In response to this change of circumstances, Mr Bramley has recommended the appointment of Mr Nigel Duffy of the same practice.
5. Mr Duffy has submitted to the Tribunal a statement dated 17 March 2023 confirming his willingness to act and providing details of his qualification and experience.
6. Neither the freeholder nor any of the lessee Respondents have submitted any objections to the application.

## **The Hearing**

7. A hybrid hearing of the application was held at Havant Justice Centre, with Mr Bramley and Mr Duffy joining remotely via the CVP video platform.

8. Mr Bramley reaffirmed that the freeholder continues to play no active role in the management of the property and that Mr Bramley was unaware of any outstanding issues requiring addressing.
9. Mr Duffy confirmed that he has over twenty years' experience in the field of residential and mixed-use estate management, predominantly throughout London and the South East, Having worked alongside Mr Bramley prior to his retirement, Mr Duffy has a thorough understanding of the building and a good working relationship with the lessees. Mr Duffy is familiar with the lease and the requirements for cyclical maintenance, the firm having already issued s.20 statutory consultation notices to lessees in regard to scheduled works of internal redecoration. If appointed, Mr Duffy intends carrying out quarterly inspections.
10. Mr Duffy is supported by five property managers and an accounts department of sixteen staff. Mr Duffy holds appropriate qualification and the firm, the required accreditation. Professional indemnity insurance of £10 million, on an each and every claim basis, is held by the firm.
11. Mr Duffy confirmed his understanding to the Tribunal that he would be personally accountable to the Tribunal and that he must act independently of the parties. Mr Duffy stated that he was not aware of any conflicts in interest which would preclude his appointment and that he is aware of his responsibility to avoid conflict of interest in the placing of contracts and discharging his other duties throughout his appointment.
12. Mr Duffy confirmed that he had considered the draft Management Order provided by the Tribunal prior to the hearing and, in such regard, Mr Duffy made the following comments:
  - i. Provision should be included for the property to be managed in accordance with the current business terms of the firm and, additionally, provide for an annual review and adjustment of the management fee in line with the market.
  - ii. Inclusion of a condition formalising the practice of collecting service charges in advance.
13. Mr Duffy stated that the current management fee is £5,337.50 + VAT per annum.
14. In addition, a fee of 2.5% + VAT in regard to works necessitated by Section 20 Landlord and Tenant Act 1985 is payable.
15. Mr Duffy proposed that a further additional fee be payable in recognition of the additional work imposed by recent legislative changes. By way of example, Mr Duffy referred to an annual inspection

of each fire door estimated, in total, at three hours and charged at £250 + VAT per hour, that being Mr Duffy's chargeable rate.

## **Decision**

16. The Tribunal determines that the Management Order of 31 June 2013 (amended) is varied and Mr Nigel Duffy MRIPM Assoc RICS of Stiles Harold Williams Partnership LLP is appointed as the Manager of the Property until 31 March 2028.

## **Reasons for the Decision**

17. Section 24(9) of the Landlord and Tenant Act 1987 states:  
The appropriate tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 of the Land Registration Act 2002, the tribunal may by order direct that the entry shall be cancelled.  
  
(9A) The tribunal shall not vary or discharge an order under subsection (9) on the application of any relevant person unless it is satisfied –  
  
(a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and  
  
(b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.
18. The Tribunal find that there have been no objections to this application by either the freeholder or any lessee Respondents.
19. The Tribunal is satisfied that Mr Duffy has demonstrated adequate competency, qualification and experience for this appointment. Accordingly, the Tribunal find Mr Duffy to be a suitable appointee.
20. The Tribunal is further satisfied that Mr Duffy is supported by a team of property managers and an accountants' department. In oral evidence Mr Bramley stated that the firm holds both appropriate regulatory accreditation and professional indemnity insurance.
21. The Tribunal has received no reports of dissatisfaction with Mr Bramley's appointment or with the management of the property, and no complaints against the firm.
22. The Respondent freeholder has expressed no intent to resume active involvement in the management of the property.

23. Consequently, the Tribunal is satisfied that the variation sought will not result in a recurrence of the circumstances that led to the original Management Order being made, Furthermore, the Tribunal finds that it is just and convenient to make the variation sought with the following points noted.
24. The Tribunal approve the proposed management fee of £5,337.50 + VAT, subject to an annual review.
25. The Tribunal approve an additional fee in regard to work necessitated by Section 20 Landlord and Tenant Act 1985. Such fee calculated as follows:
  - i. 2.5% of the first £100,000 of the final contract sum net of VAT and 1% of any additional balance of the contract sum, subject to a minimum of £750 (or a figure calculated at £50/flat if greater) with £400 payable after circulation of the Notice of Intention and the balance payable upon completion of the consultation process.
26. The Tribunal do not concur with the Applicant that an additional annual fee of £750 + VAT in regard to inspection of the fire doors is justified. Mr Duffy stated that he will inspect the property on a quarterly basis. The Tribunal find no reason as to why the fire door inspections should not be undertaken during one such visit. Alternatively, if an additional visit is required, this could be undertaken by a few earner on an hourly rate of less than £250. However, the Tribunal accept that recent legislative changes have placed an additional responsibility on managing agents in such regard and, in recognition of such burden and in relation to the current service charge year only, an additional fee of £250 + VAT is approved. In future service charge years, such costs should be subsumed within the annual management fee.
27. In accordance with Mr Duffy's request a copy of the varied Management Order is hereby attached.

### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.