



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

Case Reference : CHI/23UB/LVM/2023/0004

Property : 6 Queens Parade, Cheltenham,
Gloucestershire GL50 3BB

Applicant : Ms S Dedakis, Tribunal appointed
manager

Representative :

Respondent : (1) Mr T Underhay & Ms S Linger
(2) Mr and Mrs Blumer
(3) 6 Queens Parade Management
Company Limited

Representative : (2) Ladders Solicitors

Type of Application : Appointment of a manager

Tribunal Member(s) : Regional Judge Whitney
Mr M Ayres FRICS
Mr M Jenkinson

Date of Hearing : 18th December 2023
Date of Decision : 22nd December 2023

DECISION

Background

1. The Tribunal previously on 1st February 2023 appointed Ms Dedakis as manager for the period 1st March 2023 to 31 December 2026. The Respondents are those persons who are leaseholders at the Property and the company which owns the freehold.
2. By application dated 20th September 2023 Ms Dedakis wished to be released as manager on compassionate grounds. By determination dated 6th November 2023 it was agreed that Ms Dedakis would be released at 31st December 2023. Directions were issued to enable any party if they so wish to nominate an alternative manager.
3. Mrs Blumer, via her solicitors, has nominated a Ms Jodie Fraser to be the manager. Mr Underhay and Ms Linger oppose the appointment and have applied for the discharge of the order.
4. The directions have been complied with and the Tribunal has an electronic bundle consisting of 243 pdf pages. References in [] are to pages within that bundle.

Hearing

5. The hearing took place by video on the afternoon of 18th December 2023.
6. The Tribunal had indicated that Ms Dedakis did not have to attend, directions already having been made as to her release.
7. Below we set out a precis of what was said at the hearing. The hearing was recorded.
8. Ms Rouse, solicitor for Mrs Blumer attended as did Mr Underhay and Ms Linger. The proposed manager Ms Fraser also attended.
9. At the start the Tribunal reminded all parties that the appointment of Ms Dedakis had already been discharged. The focus today was to be on whether or not Ms Fraser should be appointed or the order should be discharged at the conclusion of Ms Dedakis management on 31st December 2023 and the management would revert to the Third Respondent whose directors were Mr Underhay and Ms Linger.
10. At the outset Ms Fraser confirmed she had not got an up to date insurance certificate confirming public liability cover of £5m as she was awaiting this from her brokers. She would be happy to supply the same upon receipt by her.

11. In terms of her previous experience of managing a similar property, Ms Fraser explained that in respect of Number 10 Queens Parade she had managed this building whilst working for a previous employer.
12. The Tribunal accepted her two statements [45-49] & [107-112] as her evidence.
13. Mr Underhay and Ms Linger then questioned Ms Fraser.
14. Ms Fraser explained that a First Notice was issued by Companies House in respect of her company due to delays in filing the company accounts. This was resolved and she had now changed accountants.
15. Ms Fraser explained she had a team of 2 employees and various outsourced resources.
16. Ms Fraser stated she understood her level of reviews was the highest in the South West. She had issues with certain clients who she believed had trolled her with fake reviews. On questioning by Ms Rouse she confirmed that she had 81% positive reviews and had won two awards in the past year.
17. Mr Underhay suggested he had tried to arrange a face to face meeting with her at her offices but had been told this was not possible as they only had virtual offices. Ms Fraser apologised he had been told this, she stated she was able to rent office space for meetings as required.
18. The Tribunal then questioned Ms Fraser.
19. She explained she was appearing today from a serviced office complex in Bristol. She had a meeting in the morning at those offices and remained for the hearing. She spent most of her time in Cheltenham.
20. She had not read the original decision dated 1st February 2023 and a copy was not in the bundle. She had read the Practice Statement issued by the Tribunal.
21. She explained she had been involved in property management for about 17/18 years. Initially commercial and latterly residential. Since 2016 she had practiced on her own account. She had a degree in Business Management, was a member of IRPM and an Associate member of RICS.
22. Ms Fraser confirmed she had spoken briefly to Ms Dedakis.

23. She confirmed she does not have client money protection.
24. On questioning as to her proposed fee for conducting section 20 consultation and major works she indicated it would be 10% of the cost of the works. She does not receive any commissions for placement of insurance or contracts.
25. Ms Fraser explained one complaint had been made to IRPM relating to the handover of a block. This complaint was upheld. She had 3 complaints made to The Property Ombudsman. 2 of these were upheld and she was ordered to provide financial compensation. Both related to the handover of a management and were during a period when she was unwell. She felt aggrieved about the findings.
26. When asked why she had agreed to be nominated Ms Fraser explained she liked being able to help where she can. She was familiar with the building although she had not inspected the same.
27. She understood there were urgent works required and that legal action was being taken against certain leaseholders. She had looked briefly at the leases and felt they covered everything necessary.
28. She explained the fee she proposed was the minimum fee her firm charged of £2500 plus vat per year.
29. She explained that in managing each block is different but she would aim to have two meetings a year plus an agm.
30. She explained she was now fit and well.
31. She had no prior relationship with Ms Blumer or Ladders.
32. The Tribunal explained that the role would be personal to her although she could delegate to her staff. It also explained she would have no role in respect of the Third Respondent company.
33. Mr Underhay and Ms Linger then made their submissions as to discharge.
34. They referred to the various concerns they had about Ms Dedakis and the fact that it appeared she may have carried out certain actions relating to the Third Respondent.
35. They explained they are now living permanently in one of their flats at the Property. They had used all of their equity to buy the units they owned in the building and had invested the past 15 years of their life into it. They are happy for a tribunal to oversee works but

think spending money on a manager is a waste of funds which could be better spent on the maintenance of the building.

36. Ms Blumer is an absentee owner who is based overseas. If she wishes to have her own management company to look after her flat and liaise with the management company so be it but it should not be imposed on them.
37. Mr Underhay and Ms Linger explained given the cost of living crisis and rise in mortgage rates they would struggle to pay for the works and a manager. They had money set aside to undertake the works and could complete these next year.
38. At the conclusion all parties confirmed they had nothing to add. The Tribunal adjourned to deliberate and then orally announced its decision with these written reasons to follow.

Decision

39. We decline to appoint Ms Fraser.
40. Given no other proposed manager was nominated and we have already determined that Ms Dedakis' management should be discharged at 31st December 2023 as at 1st January 2024 the management will revert to the Third Respondent.
41. We thank all parties for their submissions and particularly Ms Fraser for allowing herself to be nominated. We hope that Ms Fraser will not take what we say as negative. It is not intended in that way.
42. Ms Fraser set out her background and experience. It is clear from the awards she has won that she is well regarded. We take little notice of the poor reviews themselves.
43. However we do note that Ms Fraser has only limited support immediately available to her within her company. We also felt she did not fully grasp the complexities and some of the difficulties being a Tribunal Appointed Manager bring. It is different from being a manager appointed by a freeholder or management company. You are responsible for making the decisions.
44. This is a building which already is plagued with problems as Ms Dedakis found, notably the failure by Mr Underhay and Ms Linger to pay Ms Dedakis what was demanded. We were told litigation is underway or contemplated in respect of the same.
45. Overall having considered all of Ms Fraser's evidence we were not satisfied that it is just and convenient for Ms Fraser to be appointed.

In our judgment on the evidence before us we are not satisfied that Ms Fraser would be able to achieve the objective of the original management order and in all the circumstances of this instant case her appointment would not be appropriate.

46. What this means is that given no other person has been nominated the management will revert to the Third Respondent.
47. We have reservations over Mr Underhay and Ms Linger managing. Even at this hearing they referred to Mr and Mrs Blumer having not made payments. As was noted at the original hearing this was because no proper demands had ever been levied.
48. If as directors of the Third Respondent Mr Underhay and Ms Linger wish to continue to manage the Property they need to ensure they familiarise themselves with the leases, the statutory requirements and the Service Charge code. Equally they need to get on and complete the repairs identified in the management order. Upon the handover from Ms Dedakis they should have all that is required to proceed as they acknowledged at the hearing.
49. To be clear as was explained if the Third Respondent does not properly manage it will be open to any party to the leases to consider appointment of a manager. Whilst this may cause financial pressure for Mr Underhay and Ms Linger they should be under no misapprehension that a Tribunal is likely to appoint a manager if they do not move forward properly with all works given the previous findings and the assurances they gave at the hearing of this matter.

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
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.

