



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

Case reference : **LON/00AU/LVM/2023/0012**

HMCTS : **V: CVPREMOTE**

Property : **Hunter House and Fisher House,
Ward Road, London N19 5QE**

Applicant : **Bruce Roderick Maunder Taylor
FRICS MAE
(Tribunal appointed manager)**

Representative : **In person**

Respondents : **1. G & O Estates Limited
2. The lessees of Hunter House and
Fisher House as listed in the
application
3. Hunter House RTM Company
Limited
4. Fisher House RTM Company
Limited**

Representative : **In person**

Type of application : **Variation of order for appointment
of a manager made pursuant to
Part II of the Landlord and Tenant
Act 1987**

Tribunal members : **Judge Robert Latham
Stephen Mason FRICS**

**Date and venue of
hearing** : **10 January 2024 at
10 Alfred Place, London WC1E 7LR**

Date of Decision : **10 January 2024**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has not been objected to by the parties. The form of remote hearing was V: CPVEREMOTE. A face-to-face hearing was not held because of a threatened rail strike.

Decision of the Tribunal

1. The Tribunal joins Hunter House RTM Company Limited and Fisher House RTM Company Limited as respondents to this application.
2. The Tribunal directs that Mr Maunder Taylor's appointment as manager shall end on 30 September 2024.
3. The Tribunal gives permission to any party to this application to make an application to vary the terms of this Order. Any such application shall be reserved to this Tribunal (if available).

The Application

1. On 21 August 2023, Mr Bruce Maunder Taylor, the tribunal appointed manager, issued this application seeking a variation of a management order which was made by consent on 20 August 2003. The management order was varied by consent on 16 March 2004 and 7 June 2018 to deal with deficiencies in the leases. The management order, made on 20 August 2003, continues until further Order. Mr Maunder Taylor seeks to end his appointment.
2. The application relates to two standalone purpose-built blocks, namely Hunter House and Fisher House which were constructed in about 1960. Hunter House has 20 flats, whilst Fisher House has 16 flats. The Tribunal has been provided with the lease for 14 Hunter House, dated 3 March 1961 and 8 Fisher House, dated 24 June 1963. A number of the leases have been extended. However, none seem to have been varied to remedy the defects that Mr Maunder Taylor has identified.
3. On 31 May 2023, Mr Maunder wrote to the parties to notify them of his intention to apply to discharge the management order. He alerted the parties to the range of options that would be open to them. However, he alerted the parties to the likelihood that the Tribunal would need to be satisfied that the original issues would not repeat themselves, were the Order to be discharged. Those problems arose from the fact that the leases make inadequate provision for an advance service charge, a reserve fund and insurance. He therefore recommended an application under section 35 of the Landlord and Tenant Act 1987 to vary the terms of the leases. The options would be for the management responsibility to pass back to the landlord or for the lessees to establish a Right to Management ("RTM") Company.
4. The Tribunal gave Directions 6 September 2023 which were amended on 13 October 2023 with a view to the application being heard today.

The Hearing

5. The following attended today's hearing:
 - (i) Mr Maunder Taylor who has filed a Bundle that extends to 104 pages.
 - (ii) Mr Andrew Lappage, the lessee of 4 Hunter House.
 - (iii) Mr Peter Churcher, the lessee of 1 Fisher House.
 - (iv) Ms Lynne Thorogood, the lessee of 3 Fisher House.
 - (v) Ms Vicky Farmer the lessee of 9 Fisher House.
6. G & O Estates Limited, the freeholder/landlord, did not attend. On the morning of the hearing, Mr Nasir Adnan notified the tribunal that the landlord was happy for the management order to be discharged and for the lessees to acquire the RTM.
7. On 8 January, Bolt Burdon, solicitors acting for Hunter House RTM Company Limited and Fisher House RTM Company Limited, wrote to the tribunal requesting us to postpone our decision to discharge the management order until such time as the RTM companies have assumed management over the two blocks. By way of separate applications, the RTM companies also seek to vary the existing leases on the basis that they contain defective service charge and insurance provisions. These applications are to be issued forthwith, subject to their client's instructions. The Tribunal is asked to hear these applications in conjunction with the variation of the management orders.

Our Determination

8. On 31 May 2023, Mr Maunder Taylor notified the parties that he intended to apply to discharge the management order. Although all the parties agree that the way forward is that (i) the RTM should assume the management of the two buildings; (ii) the leases must be varied; and (iii) the management order should be discharged, there have been substantial delays in seeking to secure these outcomes.
9. Fisher House RTM Company Limited and Hunter House RTM Company Limited were incorporated respectively on 10 and 11 October 2023. On 20 December 2023, the RTM Companies served their Notices of Invitation to Participate in the RTM pursuant to Chapter 1 of Part 2 of the Commonhold and Leasehold Reform Act 2002. We were told that 10 out of the 16 lessees at Fisher House are now members of the RTM Company, whilst 11 of the 20 lessees at Hunter House, are members.
10. On 8 January 2024, the RTM Companies served their Notices of Claim to acquire the RTM. The deadline for any counter notice to be served is 15 February. The proposed date on which the RTM will be acquired is 16 May 2024. It seems unlikely that anyone will oppose the application. Therefore,

on 16 February, it should be apparent whether the RTM Companies will acquire the RTM on 16 May 2024.

11. The parties have identified a number of defects in the leases:
 - (i) no provision is made for an advance service charge;
 - (ii) no provision is made for a reserve fund;
 - (iii) the provision for the insurance of the buildings and the garages; and
 - (iv) the 10% sum which the landlord is entitled to charge in respect of their administration expenses in respect of repairs, redecorations or renewals.
12. It is not for this Tribunal to determine what variations are required. However, it is apparent that the deficiencies in these leases would deter any informed potential purchaser from acquiring a lease in either of the buildings. It seems that it was these deficiencies which led to the management order being made in 2003. Therefore, both landlord and tenant have a common interest in ensuring that these defects are remedied. Indeed, it is unlikely that any managing agent would be willing to manage the buildings until these defects have been remedied.
13. Sections 35 and 37 of the Landlord and Tenant Act 1987 afford two options for any lease variation. Mr Maunder Taylor suggested that section 35 is the preferable route. Having considered the matter, the Tribunal suggests that the RTM Companies would not have the standing to make an application until they have acquired the RTM. However, an application could be made by the landlord, a tenant(s) or the manager. The RTM Companies could be joined as parties, when they have acquired the RTM. The Tribunal indicated that any such application should be issued no later than 31 January.
14. Mr Churcher suggested that the landlord should pay compensation as a condition of any variation. Ms Farmer stated that this has been considered by the directors of both RTM Companies who had concluded that no compensation should be sought. It is not for this Tribunal to express any concluded view on this matter. However, any lessee seeking compensation would have to establish that they would be financially prejudiced by any variation and adduce expert valuation evidence as to how such loss should be computed.
15. The Tribunal is satisfied that the management order should end on 30 September 2024. The Tribunal has selected this date for two reasons: (i) it is the end of a service charge year; and (ii) this should give the parties sufficient time to vary the leases and achieve their desired objective of the management responsibility passing to new managing agents under the control of the RTM Companies. The Tribunal is giving the parties permission to apply to vary this order. However, the Tribunal will only be willing to do this if satisfied that the parties have taken all reasonable steps to achieve their desired objectives. The Tribunal is joining the two RTM Companies as parties, as they may wish to apply.

16. Ms Farmer stated that the RTM Companies have a shortlist of three candidates for appointment as managing agents. The earliest date on which the RTM Companies could acquire the RTM is 16 May 2024.
17. Mr Maunder Taylor agreed to cooperate with the RTM Companies and the managing agents whom they may choose to appoint. There will be a window between 16 May and 30 September for the parties to discuss the transfer of the management responsibilities. The parties will need to discuss what arrangements should be made for the handover, including:
 - (i) Up-to-date service charge accounts; and
 - (ii) The balance of service charge monies held by him, with a statement showing how the sum handed over is reached, starting with an opening balance and ending with a closing balance and showing all relevant transactions.
18. In the event that there is any dispute over the handover arrangements, it is open to the parties to apply to this tribunal for further directions. Any application relating to this order, must be made using form Order 1¹.
19. Mr Maunder Taylor proposes to pass on the costs of this application and the tribunal fees through the service charge. There is no application for any order pursuant to section 20C of the Landlord and Tenant Act 1985.
20. The parties agreed that any applications relating to this order, any application to vary the leases, and any application relating to the RTM, should be reserved to this Tribunal (if available). The Tribunal would hope to be able to determine any application to vary the leases on the papers (i.e. without an oral hearing). Any delay in determining such applications will merely increase costs which may ultimately be met by all lessees through the service charge. This Tribunal is a problem-solving jurisdiction which will work with the parties to ensure that the two buildings can be well managed at reasonable expense, for the mutual benefit of both landlord and tenant.
21. The Tribunal will serve a copy of this decision on the manager, the landlord and the lessees who indicated that they would attend the hearing. The Tribunal directs the manager to email a copy of this decision to all the other lessees.

Robert Latham
10 January 2024

RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to

¹ Form Order 1 is available at <https://www.gov.uk/government/publications/ask-the-first-tier-tribunal-property-chamber-for-case-management-or-other-interim-orders>

the First-tier Tribunal at the Regional office which has been dealing with the case.

2. 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.
3. 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.
4. 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.