



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

Case Reference : CHI/43UB/LVM/2024/0001/AW

Property : Coniston Court, Hanger Hill, Weybridge,
Surrey KT13 9YR

Applicant : Mr A Ellis

Representative : Mr M Palfrey, counsel

Respondent : Coniston Court (Weybridge) Residents
Association Limited

**Tribunal Appointed
Manager** : Mr G Pickard

Representative :

Type of Application : Variation of Appointment of a Manager

Tribunal Member(s) : Regional Judge Whitney
Mr C Davies FRICS
Ms T Wong

Date of Hearing : 17th May 2024

Date of Decision : 30th May 2024

DECISION

Background

1. The Applicant seeks an order extending the appointment of Mr Pickard as a Tribunal Appointed Manager.
2. Mr Pickard's appointment began in 2018 and was extended by order dated 18th June 2021 until 24th March 2024. Mr Ellis applies to extend the appointment for a further 5 years and Mr Pickard consents to an extension.
3. Mr Ellis referred to the application being made by himself and other leaseholders.
4. The application referred to residents being unable to work together. Reference is also made to a debt due to a Mr Swade which appears to relate to a court order which is more than 6 years old.
5. Directions were issued on 13th March 2024, including a direction that the management order should continue in force until this application was determined. The Applicant was required to provide an electronic hearing bundle. He did so and references in [] are to pdf pages within that bundle.
6. It was clarified that the Applicants were Mr Ellis, Mr Archer (flat 7), Mr Swade (flat 10), Mrs Pestana (flat 5) and Mr Kiener (flat 9). The bundle contained an email from Niki Mapouras-Hyder dated 24th February 2024 [101] indicating that Flats 4, 6, 8, 11, and 12 supported the extension of Mr Pickard's management. Ms Mapouras-Hyder is the owner of flat 12. The other flats are understood to belong to members of her family.
7. Nothing was received from the owners of flats 1 and 3.

Hearing

8. The hearing took place at Havant Justice Centre. Mr and Mrs Ellis attended and were represented by Mr Palfrey of counsel who had represented his client at the earlier hearings appointing Mr Pickard. The proceedings were recorded.
9. Mr Pickard was also in attendance. Various parties observed the hearing remotely by a video link. They took no part in the proceedings.
10. Below is a precis only of the hearing.

11. Mr Palfrey briefly explained the original circumstances leading to the appointment in 2018. In short there is a company which owns the freehold in which each leaseholder is a shareholder. Due to disagreements between effectively two groups, it was necessary for a manager to be appointed. Mr Palfrey explained he was presenting the case in as neutral a manner as possible given Mr Pickard appeared to have the support of all who responded to the application.
12. It appeared that there was an issue as to whether or not the Property was suitable for re-development. The Tribunal had not inspected but had viewed the Property using online resources.
13. Further Mr Swade had a charging order secured against the freehold in the original sum of about £17,000. So far he had not taken any steps to enforce payment although it appeared the company did not have such funds.
14. Mr Palfrey explained there remained issues over the running of the Company. Mr Pickard had been able to manage the Property and an extension of 5 years was sought in the hope that over that period the situation could be improved to enable the Company to take back responsibility for managing the Property.
15. Mr Palfrey called Mr Ellis. His statement was in the bundle [27-29] and he confirmed the same was true and accurate.
16. Mr Ellis explained he wanted a manager and supported everything Mr Palfrey had said. He suggested that history shows unless there is a manager the position moving forward would be difficult. He described Mr Pickard as an honest broker.
17. Mr Ellis confirmed he had approved accounts for the company to ensure it complied with its statutory requirements. The company had not held any meetings. He referred to not having been invited to any directors' meetings but accepted he had not tried to call meetings himself.
18. The building did not have a happy history.
19. The Tribunal was notified by its Clerk that Miss Mapouras-Hyder wished to speak. The Tribunal pointed out that when agreeing to provide a video feed it had been expressly on the basis that anyone who wished to address the Tribunal must attend the hearing in Havant in person. The Tribunal declined to hear from her. It noted she had not given any statements.
20. Mr Pickard then gave evidence. He relied upon his report [56-60].

21. He explained that he believed the issues relating to the running of the company were not resolved. These were not within his appointment to resolve. All seemed deep rooted.
22. He explained the building had been tired when first appointed and through discussions with the parties had managed to obtain a consensus to undertake works. He did not believe matters would work if he was simply appointed by the freehold company given the deep seated disagreements and the animosity which continued between the two groups of leaseholders.
23. He explained that currently he has gone out to tender in respect of fire doors. He thinks this may cost about £20-30K and currently has reserves of about £15,000. He also explained to the Tribunal in respect of the parking issues and his plans over the same. He believed he had an agreement from all as to his proposed plan. He explained the wall at the front of the property which is over 100 feet long requires works. He explained other works he believes are required and hence why he sought a further 5 years to ensure that the phasing of work would be affordable to the leaseholders.
24. Generally he received payment of monies due and owing. He believed he had the support of both groups of residents. To date he had not had to make any ad hoc payment requests but anticipated he would be likely to do so over the fire doors.
25. Mr Palfrey submitted it was just and convenient to continue the appointment, there was deep down distrust. He suggested no one party opposed the extension sought because all see the benefit. He invited the Tribunal to extend the appointment as sought.
26. At the conclusion the tribunal confirmed the current order would continue until this decision was issued.

Decision

27. **We are satisfied that it is just and convenient that the current appointment should be extended until 31st December 2025.**
28. It was clear from the bundle that the majority of the leaseholders supported the further extension of Mr Pickard's appointment as a Tribunal Appointed Manager. Five leaseholders had made the application and there was an email from Ms Mapouras-Hyder supporting the appointment on her behalf and 4 other leaseholders. No leaseholder had made any objection.
29. Plainly his appointment since 2018 has been successful. He has underway certain plans in respect of major works which we are satisfied it would be just and convenient to allow him time to set in motion and complete. It appears clear he has succeeded in

undertaking certain works and to ensure the Property is in good order. More works will be required over the coming years but this is to be expected in a block of this age and style.

30. However we were not satisfied that a term of 5 years was required. Tribunal Appointed Managers are generally appointed for short periods of time to allow a proper management regime to be introduced. Not generally to manage without an expected end date.
31. It is said problems continue to exist in respect of the running of the Company. We note Mr Ellis does not seem to have tried to call a meeting yet approved and filed accounts etc. Equally Mr Swade has taken no steps to enforce his charge. In our judgment simply because there may be two factions in respect of the running of the freehold company does not of itself mean a manager should be appointed. The memorandum and articles of association will set out how the company should be run. It may be that one group will have a majority over the other and as such its will should prevail. Simply because the two groups disagree does not of itself mean a manager should be appointed.
32. Equally one would hope both sides will have learnt from this experience and can see the clear benefit of ensuring the Property is properly and adequately managed in accordance with statute and the terms of the leases. Certainly it is for the freehold company to ensure its management complies with the lease terms and statute.
33. As for the monies owed to Mr Swade it must be for him to determine what if any steps he wishes to take. It would then be for the company to decide on the best course of action for itself although we are conscious all leaseholders including Mr Swade have an interest in the company.
34. We believe this should be the last extension. By the time the term we Order ends a manager will have been in place for about 7 years. As Mr Pickard explained any immediate problems have been resolved and a clear plan is now in place. As a result in our judgment an extension of about 18 months is reasonable to allow Mr Pickard to complete those works currently underway and for the members of the company to work together to get the companies affairs on a sensible footing so that it may take back the management of its freehold.
35. In all other respects save for the term the current order shall remain in effect.
36. Any applications to vary or extend this order shall be referred to the Regional Judge.

37. At the conclusion of the hearing we mentioned we may issue a new order. We have determined given the short extension this will continue on the existing terms.

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.