



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

Case reference : LON/00AN/LAM/2024/0007

Property : 493 Fulham Road, London SW6 1HJ

Applicants : (1) Ms Jessica Liew (2) Ms Daniela Bausano

Representative : Ms Liew in person

Respondents : Westgrove Limited

Representative : Mr Ajayi

Type of application : Appointment of a manager

Tribunal member(s) : Judge Shepherd

Stephen Mason FRICS

Venue : 10 Alfred Place, London WC1E 7LR

DECISION

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1. The Applicants, Jessica Liew and Daniela Bausano applied for the Appointment of a Manager at 493 Fulham Road, London SW6 1HJ (“The premises”) on 25th March 2024. The Respondents opposed the application.

2. The Applicants are leaseholders at the premises and the Respondent is a leaseholder run company. Mr Ajayi is the Secretary of the company. The premises consist of five flats in a building.
3. The basis of the Applicants' claim for the appointment of a manager is that the Respondents have failed in their duties. In full the application states the following:

Maintenance Neglect

- *Hallway and Front Garden Neglect: The common areas, specifically the hallway and front garden, have not been maintained, leading to an unsightly and potentially unsafe environment.*
- *Trash Management Issues: Inadequate management of trash cans, resulting in overflow and improper disposal of waste.*
- *Rat Infestation: The lack of maintenance in common areas has led to a rat infestation, posing health risks to residents and further degrading living conditions.*
- *Absence of Regular Maintenance: There is no regular maintenance schedule for the property, leading to the deterioration of communal areas and potentially the property's overall value.*

Mismanagement of Budget

- *Inefficient Use of Funds: There's evidence of inefficient or inappropriate allocation of the property's budget, impacting the overall maintenance and operation of the building.*
- *Lack of Financial Transparency: The management has not provided clear and detailed accounts of financial expenditures, raising concerns over financial mismanagement.*
- *Financial Shortcomings: Due to mismanagement, necessary repairs and maintenance are delayed or ignored, affecting the quality of life for residents.*

Conflict of Interest

- *Blocked Insurance Claims: A conflict of interest has resulted in the inability to effectively use the building's insurance for necessary repairs, such as a blocked pipe causing damage to the property.*

- *Management's Personal Interests: Decisions regarding the property are influenced by personal interests of the management, compromising the welfare and interests of the residents.*
- *Neglect of Necessary Repairs: Essential repairs, like the blocked pipe causing water damage, are not addressed promptly, exacerbating property damage and resident discomfort.*

Lack of Proper Documentation and Procedure

- *No Records of Shareholder Meetings: There is a complete absence of documentation for shareholder meetings, including minutes and decisions made, undermining transparency and accountability.*
- *Irregular Removal of Directors: Directors have been removed without following the outlined procedures and governance and fairness.*
- *Lack of Accountability: The absence of meeting records and adherence to procedures prevents accountability among the management and board, eroding trust among residents and shareholders.*

Unlawful removal of directors from Companies House

- *The unlawful removal of two freeholders exposes them to risk as they are no longer covered under the building insurance. This needs to be rectified immediately*

4. The Applicants originally proposed Urang as the Manager. At the date of the hearing this had changed to Blue Crystal who were represented by Pelin Martin their director. Mr Ajayi represented the Respondent. The matter was heard on 31st October 2024.
5. Ms Liew said the cleaning at the premises was generally poor but in the last few weeks it had improved in anticipation of the Tribunal hearing. The cleaner came on a monthly basis. There had been a pest issue due to the build up of rubbish. She said there had been no cleaning between 2021- 2024. She said the dustbins were not washed. People passing dumped things in the bins including chicken legs. The Tribunal were shown photographs. Mr Ajayi said the council were responsible for the bins and that's why council tax was paid. He said there was a cleaner now. He also said the front garden was demised to the second Applicant who was responsible for cleaning it. He said both Applicants owed service charges. This had prevented improvements. There had been no funds for anything other than insurance and lighting. A pest management company had been employed.

6. Ms Liew said the budget had been mismanaged. There was no transparency. Mr Ajayi rejected this. He said he was a banker. He produced management accounts. Fire safety works had been carried out in October 2023. He had issued a s.20 notice but the Applicants had refused to pay initially. He cancelled the works.
7. Ms Liew said there was a conflict of interest and correspondence had been withheld. This was rejected by Mr Ajayi.
8. The proposed manager, Ms Martin gave evidence. She had not been appointed previously by the Tribunal. She managed 32 buildings many with only a few flats like the present one.

Determination

9. The jurisdiction for the Appointment of Manager is fault based. The Tribunal can only appoint a manager if one or more of the circumstances in s.24(2) Landlord and Tenant Act 1987 are established and the Tribunal finds it just a convenient to make an order.
10. The breach alleged here is the breach by any relevant person of an obligation owed by him to the tenant under the tenancy and relating to management.
11. The Application was detailed in terms of alleged breaches. However, the Applicants abjectly failed to make good their application. We were not even told which terms of the lease had been breached. Whilst this may be understandable as the Applicants were in person we were left with the impression that this was a case in which the parties had fallen out and the Applicants had resorted to litigation rather than seeking to resolve their issues.
12. The Respondent had tried to carry out improvements but was prevented by a lack of funds because the Applicants had withheld payment. The Respondent company was self - funded. If service charges are not paid works can't be done unless someone else pays. It was disingenuous for the Applicants to complain of the lack of cleaning of an area that the Second Applicant owned. Overall in any event there had been improvements recently with a cleaner appointed. In summary the Applicants have not proved that the Respondent is in breach.

13. Even if we are wrong and the threshold in s 24(2) has been reached, we would not consider it just and convenient to appoint a manager in this case. This is a small - scale property where the parties need to focus on improving their relations rather than establishing a barrier between them by imposing a manager. The proposed manager appeared acceptable however her appointment did not need to be considered in the circumstances.

14. In summary the application is dismissed.

Judge Shepherd

20th December 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 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.

