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## **Application by a tenant for the appointment of a manager or for the variation or discharge of an order appointing a manager**

**Section 24 of the Landlord and Tenant Act 1987**

**It is important that you read the notes below carefully before you complete this form.**

This is the correct form to use if you want to ask the Tribunal to appoint a manager under section 24 of the Landlord and Tenant Act 1987, or to discharge or vary an order that has already been made. This form also allows you to ask for a dispensation of the requirement to serve a notice under section 22 of the 1987 Act.

**A fee is payable for this application (see section 15 for Help with Fees).** Please note that fee changes were made on 25 July 2016 in respect of all applications made on or after that date. The new fees are set out in this form.

**Please send your completed application form and fee (if applicable), together with the documents listed in section 15 of this form to the appropriate regional Tribunal.** (See the Annex to this form for regional office addresses). **Please do not send any other documents.** If and when further evidence is needed, you will be asked to send it in separately.

**If you have any questions about how to fill in this form, the fee payable, or the procedures the Tribunal will use, please call the appropriate regional office.**

If you are completing this form by hand please use BLOCK CAPITAL LETTERS.

**1. DETAILS OF APPLICANT(S) (if there are multiple applicants please continue on a separate sheet)**

Name: Alan John Coates MIBFM MIRPM

Address (including postcode):

94 Park Lane  
Croydon,  
CR0 1JB

Address for correspondence (if different from above):

Telephone:

Day:

Evening:

Mobile:

Email  
address:

Fax:

Representative name and address, and other contact details: Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting for you.

Name: Angus J Storar

Reference no. (if any) COAT008.4

Address (including postcode):

Downs Solicitors LLP  
156 High Street,  
Dorking, Surrey RH4 1BQ

Telephone:

Day:

01306 502291

Mobile:

Email  
address:

a.storar@downslaw.co.uk

Fax:

01306 502283

**Note:** The Tribunal may copy the application form to other appropriate persons (e.g. other service charge paying leaseholders in the building or development). If you do not want your telephone/fax number or email address to be disclosed to other such persons please omit those details from Box 1 and attach them on a separate sheet.

Where details of a representative have been given, all correspondence and communications will be with them until the Tribunal is notified that they are no longer acting.

**2. ADDRESS (including postcode) of SUBJECT PROPERTY (if not already given)**

Canary Riverside Estate  
Westferry Circus, Canary Riverside,  
Canary Wharf London E14

**3. BRIEF DESCRIPTION OF BUILDING (e.g. purpose built block of flats)**

Development of mixed residential and commercial use leasehold properties

**4. DETAILS OF RESPONDENT (S) the person against whom an applicant seeks determination from the tribunal – this will only be the landlord's managing agent if they are a party to the lease. If there are multiple respondents, please continue on a separate sheet.**

Name:

Capacity

Address (including postcode):

Reference no. (if any)

Address for correspondence (if different from above):

Telephone:

Day:

Evening:

Mobile:

Email address:

Fax:

**Note:** This form asks you to provide the details of parties to the application. (For example the landlord and any management company which owes management obligations to you under your tenancy). Additionally, the Tribunal needs to know the names and addresses of other people who may be significantly affected by the application such as other lessees in the building. Please provide a list of the names and addresses of any such person(s). If this is not possible or is impractical, then a written statement should be provided with this application.

**5. DETAILS OF LANDLORD (if not already given)**

Name

Address (including postcode):

Reference no. (if any)

Telephone:

Day:

Evening:

Mobile:

Email address:

Fax:

**6. DETAILS OF ANY RECOGNISED TENANTS' ASSOCIATION (if known)**

Name of Secretary

Address (including postcode):

Telephone:

Day:

Evening:

Mobile:

Email address:

Fax:

## 7. ORDER SOUGHT

### Applications where no manager yet appointed by a Court or a Leasehold Valuation Tribunal or the First-tier Tribunal

- Are you asking for the Tribunal to appoint a manager?  Yes  No
- If so, have you served a section 22 notice?  Yes  No
- If not, are you seeking a dispensation? (see *Guidance Note*)  Yes  No

### Applications where a manager has previously been appointed by a Court or a Leasehold Valuation Tribunal or the First-tier Tribunal

What is the date of the order appointing a manager and when is the order due to expire? 5<sup>th</sup> August 2016 as amended by various Orders the last being 24<sup>th</sup> July 2018  
Expiry 30<sup>th</sup> September 2021

- Do you seek a variation of the order?  Yes  No
- Do you want the order to be discharged?  Yes  No

Please complete the section entitled '**GROUND'S FOR APPLICATION**'

#### Please note

No application for the appointment of a manager may be made to the Tribunal unless a notice under section 22 of the 1987 Act has first been served. Service of such a notice may only be dispensed with by the Tribunal if it is satisfied that it would not be reasonably practicable to serve such a notice.

## 8. MANAGER TO BE APPOINTED

If you are making an application to appoint a manager or to vary an order appointing a manager by the substitution of a new manager, please give details of the person you wish to have appointed.

Name

Professional qualification (if any)

Address (including postcode):

Telephone:

Fax:

## 9. OTHER APPLICATIONS

Do you know of any other cases involving either: (a) related or similar issues about the management of this property; or (b) the same landlord or tenant or property as in this application?

Yes  No

If Yes, please give details

LON/00BG/LVM/2016/0020 LON/00BG/LVM/2016/0023 LON/00BG/LDC/2016/0141  
LON/00BG/LDC/2018/0004 LON/00BG/LVM/2018/0005 LON/00BG/LVM/2018/0006  
LON/00BG/LVM/2018/0014 LON/00BG/LVM/2018/0018

## 10. LIMITATION OF COSTS

Some leases allow a landlord to include costs they have incurred in connection with proceedings before a Tribunal (eg. costs of using a professional representative) as part of a service charge. If you want to apply to the Tribunal for those costs to be limited, you need to complete a separate application form – Leasehold 7 (no fee payable).

## 11. CAN WE DEAL WITH YOUR APPLICATION WITHOUT A HEARING?

If the Tribunal thinks it is appropriate, and all the parties and others notified of their right to attend a hearing consent, it is possible for your application to be dealt with entirely on the basis of written representations and documents and without the need for parties to attend and make oral representations. ('A paper determination').

Please let us know if you would be content with a paper determination if the Tribunal thinks it appropriate.

Yes  No

**Note:** Even if you have asked for a paper determination the Tribunal may decide that a hearing is necessary. Please complete the remainder of this form on the assumption that a hearing will be held. Where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.

## 12. TRACK PREFERENCES

We need to decide whether to deal with the case on the Fast Track or the Standard Track (see Guidance Note for an explanation of what a track is). Please let us know which track you think appropriate for this case.

- Fast Track  
 Standard Track

Is there any special reason for urgency in this case?

- Yes  No

If Yes, please explain how urgent it is and why:

This application is for the discharge of the S.24 Manager, Mr Coates. It is important to ensure that there is sufficient time after the Tribunal makes its decision to effect an efficient and comprehensive handover of the Estate to a new manager. The application should be heard at the same time as the application made by Palm Trees Paradise Holdings Ltd. for the replacement of the manager. The Tribunal must therefore issue directions urgently to ensure both applications can be heard together. The Manager has already proposed directions to accommodate both applications in the letter from Downs LLP dated 13 February 2019.

### Note

The Tribunal will normally deal with a case in one of three ways: on paper (see section 11 above) or 'fast track', or 'standard track'. The fast track is designed for cases that need a hearing but are very simple and will not generate a great deal of paperwork or argument. A fast track case will usually be heard within 10 weeks of your application. You should indicate here if you think your case is very simple and can be easily dealt with. The standard track is designed for more complicated cases where there may be numerous issues to be decided or where for example, a lot of documentation is involved. A standard track case may involve the parties being invited to a Case Management Conference which is a meeting at which the steps that need to be taken to bring the case to a final hearing can be discussed.

## 13. AVAILABILITY

If there are any dates or days we must avoid during the next four months (either for your convenience or the convenience of any expert you may wish to call) please list them here.

Please list the dates on which you will NOT be available:

All of March, 2,3,7, 27- 31 May, 17 - 21, 28 June

## 14. VENUE REQUIREMENTS

Please provide details of any special requirements you or anyone who will be coming with you may have (e.g. the use of a wheelchair and/or the presence of a translator):

Hearing Loop

*Applications handled by the London regional office are usually heard in Alfred Place, which is fully wheelchair accessible. Elsewhere, hearings are held in local venues which are not all so accessible and the case officers will find it useful to know if you or anyone you want to come to the hearing with you has any special requirements of this kind.*

## 15. CHECKLIST

Please check that you have completed this form fully. The Tribunal will not process your application until this has been done. Please ensure that the following are enclosed with your application:

- A copy of the section 22 notice (if any) is enclosed.
- A copy of the previous order appointing a manager (if applicable) is enclosed
- A list of the names and addresses of persons who might be significantly affected by this application is enclosed
- A crossed cheque or postal order for the application fee of £100 (if applicable) is enclosed. Please put your name and address on the back of any cheque you send.

**DO NOT send cash under any circumstances. Cash payment will not be accepted.**

**Fees should be paid by a crossed cheque made payable to, or a postal order drawn in favour of, HM Courts and Tribunals Service.**

**Please note where there is to be a hearing, a fee of £200 will become payable by you when you receive notice of the hearing date.**

### Help with Fees

If you think you may be entitled to a reduced fee, the guide EX160A 'Apply for help with court, tribunal and probate fees' outlines how you can submit an application for Help with Fees.

You can submit your Help with Fees application online at [www.gov.uk/help-with-court-fees](http://www.gov.uk/help-with-court-fees) or by completing the form EX160 'Apply for help with fees'. You can get a copy of the 'Apply for help with fees' form online at [www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees](http://www.gov.uk/government/publications/apply-for-help-with-court-and-tribunal-fees) or from your regional tribunal office.

If you have completed an online application for Help with Fees please enter the reference number you have been given here.

H	W	F	-				-			
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If you have completed form EX160 "Apply for Help with Fees" it must be included with your application.

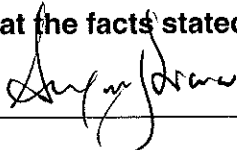
The 'Apply for help with fees' form will not be copied to other parties.

## 16. STATEMENT OF TRUTH

The statement of truth must be signed and dated.

I believe that the facts stated in this application are true.

Signed:



Dated:

26 February 2019



## GROUNDS FOR APPLICATION

**Please use the space below to summarise the ground(s) of your application.**

You will be given an opportunity later to give further details of your case and to supply the Tribunal with any documents that support it. At this stage you should give a clear outline of your case so that the Tribunal understands what your application is about. Please continue on a separate sheet if necessary.

**Please select as appropriate:**

This is an application for the appointment of a manager

**and/or**

Dispensation from the need to serve a notice under section 22

An application for the discharge of an order appointing a manager

An application for the variation of an order appointing a manager

**Now complete the rest of this form:**

The grounds for the application are as follows

See attached Grounds

## ANNEX: Addresses of Tribunal Regional Offices

### NORTHERN REGION

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential  
Property, 1<sup>st</sup> Floor, Piccadilly Exchange, Piccadilly  
Plaza, Manchester M1 4AH

**Telephone:** 01612 379491

**Fax:** 01264 785 128

**This office covers the following Metropolitan districts:** Barnsley, Bolton, Bradford, Bury, Calderdale, Doncaster, Gateshead, Kirklees, Knowsley, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne, Oldham, Rochdale, Rotherham, St. Helens, Salford, Sefton, Sheffield, Stockport, Sunderland, Tameside, Trafford, Tyneside (North & South), Wakefield, Wigan and Wirral.

**It also covers the following unitary authorities:** Hartlepool, Middlesbrough, Redcar and Cleveland, Darlington, Halton, Blackburn with Darwen, Blackpool, Kingston-upon-Hull, East Riding of Yorkshire, Northeast Lincolnshire, North Lincolnshire, Stockton-on-Tees, Warrington and York.

**It also covers the following Counties:** Cumbria, East Cheshire, Durham, Lancashire, Lincolnshire, Northumberland, North Yorkshire and West Cheshire.

### MIDLAND REGION

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential  
Property, Centre City Tower, 5-7 Hill Street,  
Birmingham, B5 4UU

**Telephone:** 0121 600 7888

**Fax:** 01264 785 122

**This office covers the following Metropolitan districts:** Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton.

**It also covers the following unitary authorities:** Derby, Leicester, Rutland, Nottingham, Herefordshire, Telford and Wrekin and Stoke-on-Trent.

**It also covers the following Counties:** Derbyshire, Leicestershire, Nottinghamshire, Shropshire, Staffordshire, Warwickshire and Worcestershire.

### EASTERN REGION

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential  
Property, Cambridge County Court, 197 East Road  
Cambridge, CB1 1BA

**Telephone:** 01223 841 524

**Fax:** 01264 785 129

DX 97650 Cambridge 3

**This office covers the following unitary authorities:** Bracknell Forest, West Berkshire, Reading, Slough, Windsor and Maidenhead, Wokingham, Luton, Peterborough, Milton Keynes, Southend-on-Sea and Thurrock.

**It also covers the following Counties:** Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Essex, Hertfordshire, Norfolk, Northamptonshire, Oxfordshire and Suffolk.

### SOUTHERN REGION

HM Courts & Tribunals Service

First-tier Tribunal (Property Chamber) Residential  
Property, Havant Justice Centre, The Court House,  
Elmleigh Road, Havant, Hants, PO9 2AL

**Telephone:** 01243 779 394

**Fax:** 0870 7395 900

**This office covers the following unitary authorities:** Bath and Northeast Somerset, Bristol, North Somerset, South Gloucestershire, Bournemouth, Plymouth, Torbay, Poole, Swindon, Medway, Brighton and Hove, Portsmouth, Southampton and the Isle of Wight.

**It also covers the following Counties:** Cornwall and the Isles of Scilly, Devon, Dorset, East Sussex, Gloucestershire, Hampshire, Kent, Somerset, Surrey, West Sussex and Wiltshire.

**LONDON REGION**

HM Courts & Tribunals Service  
First-tier Tribunal (Property Chamber) Residential  
Property, 10 Alfred Place, London WC1E 7LR

**Telephone:** 020 7446 7700

**Fax:** 01264 785 060

DX 134205 Tottenham Court Road 2

**This office covers all the London boroughs.**

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

For details of the standards we follow when processing your data, please visit the following address <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

To receive a paper copy of this privacy notice, please call 0300 123 1024/ Textphone 18001 0300 123 1024.

**IN THE FIRST TIER TRIBUNAL PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**IN THE MATTER OF CANARY RIVERSIDE ESTATE, WESTFERRY CIRCUS, LONDON  
E14**

**BETWEEN:**

**ALAN COATES  
(Tribunal Appointed Manager)**

**Applicant**

**-and-**

**OCTAGON OVERSEAS LIMITED (1)  
CANARY RIVERSIDE ESTATE MANAGEMENT LIMITED (2)**

**Respondents**

**VARIOUS LEASEHOLDERS OF CANARY RIVERSIDE ESTATE**

**Interested Parties**

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**GROUND OF THE APPLICATION**

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**Introduction**

1. Alan Coates was appointed as the Manager of Canary Riverside Estate (“the Estate”) on 1 October 2016 under section 24 of the Landlord and Tenant Act 1987. The appointment was opposed by Canary Riverside Estate Management Limited (“CREM”) and Octagon Overseas Limited (compositely referred to as “the Landlord”).
  
2. The Tribunal determined, inter alia, that:
  - a. The Landlord had failed to maintain the Estate;
  - b. The Landlord had failed to manage the Estate adequately and failed to recognise any failings in their management;
  - c. CREM had failed to provide invoices, receipts and other evidence to support the accounts and expenditure, or had provided inadequate evidence, such as bank statements which had been so heavily redacted so as to be rendered useless;
  - d. The service charge and reserve funds were not held in accounts in accordance with the requirements contained in the RICS Code;

- e. CREM had misallocated expenditure, for which it was responsible, to the service charge account; and
  - f. CREM failed to credit the tenants' accounts in a timely manner.
3. As background, in 2010, the Landlord previously avoided an appointment being made under the 1987 Act on the basis that the Landlord's new manager should be given time to demonstrate an improvement on the Estate. Soon after, the "new manager" was replaced by Marathon Estates Limited ("MEL"), a special purpose vehicle set up to manage the Estate and CREM's other development, West India Quay.
4. The Landlord has opposed Mr. Coates' appointment at all material times. The relationship between the Landlord and the Manager is acrimonious and recognised by the Tribunal as poor.
5. Mr. Coates seeks to be discharged as manager due to his health. There are, however, two other relevant grounds, which either alone, or in combination with his condition, justify his discharge. Those grounds relate to:
  - a. the time and costs of litigation; and
  - b. the financial situation.

## **Health**

6. In August 2018, Mr. Coates was hospitalised due to acute chest pains. He had two stents inserted: one in August; the other on 3 September 2018. Whilst it was not considered a third stent was required, he was advised to rest and thereafter take a sensible approach to his work.
7. Whilst Mr. Coates has been able to cope following his short break, his health conditions are put under great strain.
8. Mr. Coates' diagnosis relevant to this application is as follows:
  - a. Ischaemic heart disease;
  - b. Hypertension;
  - c. Previous transient ischaemic attacks.

9. Mr. Coates' consultant cardiologist, Dr. Richard Allen, considers that the unavoidable stress related to his work commitments is very likely to be detrimental to his health in the short and longer term and increases his chances of having further cardiac events."
10. His health condition alone justifies his discharge as a manager.
11. Moreover, the other reasons for his discharge (as set out below), increase the chances of a worsening of his condition.

### **Litigation**

12. Mr. Coates' management of the Estate has been plagued by litigation since the beginning of his appointment.
13. The scale of the litigation, whilst being usual for large commercial disputes, does not lend itself to a statutory scheme of management to be governed by the Tribunal and paid by leaseholders' service charges.
14. Since October 2016, approximately 22 different proceedings have been issued.
  - a. These include claims brought by Mr. Coates necessitated by leaseholders' failure to pay the service charges (for example, Yianis Hotels Ltd, YFSCR Ltd, Mr. Yiannikis Christodoulou).
  - b. 6 of those proceedings have been issued by the Landlord in the High Court, County Court and Tribunal.
  - c. The Landlord have made various interim applications, applications for costs and appeal.
  - d. In January 2019, the Landlord sought to bring a claim against Mr. Coates in his personal capacity (making good a threat in August 2018 when Mr. Coates' was hospitalised) concerning matters which have been the subject of applications in two other sets of proceedings.
15. The relentless litigation has resulted in significant time and cost being expended to: (a) defend the powers conferred by the Tribunal; (b) secure a workable management order; and (c) enforce the management order.

16. Mr. Coates has been successful in large part in the litigation. The Landlords' success is limited to: (a) the insurance following several failed attempts to appeal the management order itself; and (b) the enforcement of the order which involved a point of law not hitherto considered by the appellate court.
17. Mr. Coates, however, is forced on a frequent basis to deal with the various strands of litigation driven by the Landlord. The Landlord's zest for litigation cannot be controlled.
18. Moreover, the correspondence from the two last firms of solicitors (Trowers & Hamblins LLP and subsequently Freeths LLP) has been relentless. In 2019, the Manager's solicitor, Downs LLP, received over 61 letters from Freeths. In the last 12 months, communications from the Landlord's solicitors have included threats personal to Mr. Coates.
19. The Landlord's objective has been to force Mr. Coates to step down, and, in turn, to act as a deterrent to any other attempts to appoint a manager who is not favoured by the Landlords.
20. The Manager is, however, no longer in a position to continue to contest the Landlord given the financial situation and his health.

### **Financial situation**

21. The financial situation is poor as a result of: (a) the litigation with the Landlord; and (b) outstanding monies.
22. The issues regarding litigation are set out above.
23. In relation to the outstanding service and utility charges, the amount currently owed is approximately £3.1 million. The sum includes, inter alia:
  - a. £404,035.56 monies owed by CREM in respect of the Car Park;
  - b. £97,157.57 owed by CREM in respect of service charges for the Battery Club and the empty restaurant unit;
  - c. Monies received by CREM as service charges but not given to Mr. Coates (e.g. £156,436.93 from Circus Apartments Limited);
  - d. £91,390.45: legal costs which had been paid by CREM using service charge funds;

e. £947,353: service, utilities and car park charges in respect of the Hotel. Mr. Christodoulou is a director of YFSCR Limited and Yianis Hotels Limited who in turn are also represented by Freeths.

24. By virtue of the Tribunal's decision dated 29 January 2019, the Manager is not permitted to offset these outstanding amounts under paragraphs 24(a)-(c) above against the Insurance premium. Nor is the Landlord permitted to do vice versa. The Landlord, however, shows no sign of being willing to paying those sums with the resulting cash flow difficulties.

25. HML Group Plc ("HML") have informed Mr. Coates that they will no longer guarantee the service, utility, or staff contracts beyond 30 September 2019 as the financial risk is too great for them to continue to bear. Mr. Coates cannot guarantee those contracts.

26. In the absence of financial backing, the levels of outstanding debt, and the delays in being able to enforce orders, the Manager is unable to continue to manage the Estate.

## Conclusion

27. In the premises the Manager wishes to retire from the management of the Estate with effect from 30 September 2019, which will afford sufficient time to ensure a smooth and effective transition, of liabilities, and obligations.

28. I am authorised by the Applicant to make this statement of truth

29. I believe that the facts set out in this statement are true.

Signed 

Angus Storar

Solicitor for the Applicant

Downs Solicitors LLP

156 High Street,

Dorking,

Surrey RH4 1BQ

DX:57300 Dorking



Tel: 01306 502291

Ref: COAT008.4