



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

Case reference : **LON/00BG/LVM/2018/0018**

Property : **Canary Riverside Estate,
Westferry Circus, London E14
(the “Estate”)**

Applicant : **Palm Trees Paradise Holdings Ltd**

**Applicant’s
Representative** : **Joseph Hage Aaronson LLP**

Respondent : **Alan Coates, tribunal appointed
manager**

**Respondent’s
Representative** : **Downs LLP**

Type of application : **Variation of order for appointment
of a manager**

Tribunal Judge : **Judge Amran Vance**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of directions : **12 February 2019**

DIRECTIONS

BACKGROUND

- (1) The applicant company seeks a variation of the order appointing the respondent manager under section 24(9) of the Landlord and Tenant Act 1987 (the "Act").
- (2) Mr Coates is the current tribunal-appointed manager under a management order initially made by the tribunal on 5 August 2016 (amended following a decision on review dated 15 September 2016) and varied by the tribunal on 29 September 2017, 18 July 2018 and 4 December 2018. The existing order of appointment expires on 1 October 2021.
- (3) The applicant is the leaseholder of four flats on the Estate. It proposes that Mr Coates is discharged as manager and replaced by Jon Edwards of Lambert Smith Hampton, North Point, Stafford Drive, Battlefield Enterprise Park, Shrewsbury, SY1 3BF.
- (4) The applicant seeks Mr Coates' removal on the grounds that, as Manager, he has incurred "inordinate sums on litigation and other matters". It also contends that he has pursued unmeritorious litigation and has failed to respond appropriately to requests for information made by its solicitor.
- (5) The issue of these directions has been delayed whilst it was clarified whether Mr Coates intended to oppose the application. By letter to the tribunal dated 5 February 2019, Mr Coates informed the tribunal that he is "considering his own application for discharge" and that he is "in the process of drawing up this document". He also states in his letter: "Whilst I am theoretically content to step down, I am not content to do so on the grounds set out within the Palm Trees Application".
- (6) It appears, therefore that Mr Coates intends issuing his own application seeking his discharge as Manager. If he makes such an application I will list it for hearing together with this application and will issue directions accordingly.
- (7) By letter date 11 February 2019, Freeths LLP, solicitors for Octagon and CREM, proposed that given the contents of Mr Coates' letter of 5 February 2019, directions should be given that will enable this application to be determined in the week commencing 4 March 2019, so that Mr Coates can be discharged as manager and his replacement appointed before the service charge accounting year ends on 31 March 2019.
- (8) I do not consider this to be a realistic timetable. This application and these directions need to be sent to all leaseholders who will need time to consider whether they wish to make representations in respect of the proposed discharge of Mr Coates and the appointment of Mr Edwards. Practical arrangements for handover to a new manager will need to be made and approved by the tribunal. Given the size of the Estate and its complex composition, as well as the extensive litigation that has arisen

since Mr Coates' appointment, there may well be disputes between the parties concerning handover arrangements, that will need to be resolved through a determination of the tribunal. I am also concerned that the two-week handover period proposed by Freeths may be far too short given that Mr Coates is still not in possession of historic service charge information previously held by Marathon Estates Limited, the former managers of the Estate. In addition, it is possible that one or more leaseholders may wish to make their own application proposing an alternative manager to take the place of Mr Coates. In these circumstances, I do not consider it in accordance with the overriding objective to list this application for an urgent determination as proposed by Freeths. Instead, I make the directions set out below.

- (9) The parties are referred to the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for guidance on how the application will be dealt with.

DIRECTIONS

1. The tribunal will reach its decision on the basis of the evidence produced to it and upon an assessment of the suitability of the proposed manager. The tribunal will need to be satisfied that it is appropriate to discharge Mr Coates and appoint Mr Edwards in his place.
2. The tribunal will also need to consider:
 - Whether the discharge and/or the appointment should be made on conditions;
 - Whether the proposed manager will be a suitable appointee and, if so, on what terms and for how long should any appointment be made?
 - What arrangements will be made for any handover, including:
 - Up-to-date service charge accounts; and
 - The balance of service charge monies held by Mr Coates, 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 transactions in-between.

Participation by Leaseholders

3. Any leaseholder who wishes to make representations in respect of the application should, either by him/herself or through a representative, complete the attached reply form and send it to the tribunal and to the applicant's solicitors and Mr Coates's solicitors by **28 February 2019**. Those leaseholders that do so will be identified by the tribunal as being "active respondents" and will be added to the application as interested persons. They will receive copies of the tribunal's directions and orders made in this application and will also be entitled to receive statements of case and witness statements relied upon by the parties to the application as well as being entitled to make their own representations.

It should be noted however that the tribunal's final determination will be binding on all leaseholders regardless of whether they are classed as being an active respondent.

The applicant's case with documents from the manager

4. In addition to the application and supporting documentation already provided to the tribunal, the applicant must prepare a bundle of relevant documents for use by the tribunal at the hearing, and **by 15 March 2019** send **three** copies of the bundle to the tribunal and **one** copy to the respondents (and to any party who has been joined to the proceedings as an interested person).
5. The bundle should be filed, indexed and numbered page-by-page, and must include:
 - A written statement of the present manager's experience of the property since their appointment, with details of the service charge account and any reserve account;
 - The future management plan, proposed remuneration and details of any professional indemnity insurance of the proposed manager;
 - Confirmation that the proposed manager has inspected the property, read the lease(s) and current Management Order, met the parties and will accept appointment;
 - Arrangements for any handover, including of service charge accounts, monies in hand and a statement of income and expenditure during the present appointment, with opening and closing balances;
 - Confirmation that the proposed manager will comply with the current edition of the Code of Practice published by the Royal Institution of Chartered Surveyors;
 - Details of other properties where the proposed manager is, or was, a manager under a tribunal appointment;
 - Any amplification of the applicant's case for asking for the variation of the order appointing a manager;
 - Any variation to the existing management order, or its terms or conditions, that the applicant wishes the tribunal to include in any order it may make (this should also be sent to the tribunal by email);
 - A specimen lease;
 - The decision of the tribunal appointing the current manager and all subsequent variations; and
 - Any witness statements of fact relied upon (with a signed statement of truth); and see below.

Mr Coates' case

6. By **5 April 2019** Mr Coates shall send **three** copies of a bundle of documents (filed, indexed and numbered page-by-page) to the tribunal and **one** to the applicant (and to any other party joined to the proceedings as an interested person).
7. The bundle shall include:
 - a statement in response, addressing the issues identified above, including whether his discharge as a manager is opposed and, if so, why;
 - Any witness statements of fact (with signed statement of truth; and see notes below);
 - Confirmation that he will attend the hearing.

Leaseholders' case

8. Any leaseholder joined to the proceedings as an interested person shall by **26 April 2019** send **three** copies of a bundle of documents (filed, indexed and numbered page-by-page) to the tribunal and **one** to the applicant (and to any other party joined to the proceedings as an interested person).
9. The bundle shall include:
 - a statement in response, addressing the issues identified above, **including whether the discharge of Mr Coates and/or appointment of Mr Edwards as manager is opposed** and, if so, why;
 - Any witness statements of fact (with signed statement of truth; and see notes below);
 - Confirmation that they will attend the hearing.

Other matters

10. Any application for an order under section 20C of the Landlord and Tenant Act 1985 and/or for the reimbursement of fees will be dealt with at the hearing. The parties may wish to make written representations on this in their statements of case, or orally at the end of the hearing.

Hearing/inspection arrangements

11. This application will be determined at a hearing estimated to last for three days. By **28 February 2019**, all parties, including any leaseholders who indicated their wish to be added as interested persons, must notify the tribunal in writing of any dates to avoid in the months of May and June 2019. If, at any time, a party considers this to be an unrealistic estimate, they should write to the tribunal (and send a copy to the other parties) explaining why,

12. **The present manager and the proposed manager shall attend the hearing.**
13. The tribunal will wish to inspect the Estate and will arrange a time to do so with the parties during the hearing.

Name: Amran Vance

Date: 12 February 2019

NOTES

- (a) **Whenever you send a letter or email to the tribunal you must also send a copy to the other parties and note this on the letter or email.**
- (b) **If the applicant fails to comply with these directions the tribunal may strike out all or part of their case pursuant to rule 9(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the 2013 Rules”).**
- (c) **If the respondent fails to comply with these directions the tribunal may bar them from taking any further part in all or part of these proceedings and may determine all issues against it pursuant to rules 9(7) and (8) of the 2013 Rules.**
- (d) **Witness statements should identify the name and reference number of the case, have numbered paragraphs and end with a statement of truth and the signature of the witness. Original witness statements should be brought to the hearing. In addition, witnesses are expected to attend the hearing to be cross-questioned as to their evidence, unless their statement has been agreed by the other party. The tribunal may decline to hear evidence from any witness who has not provided a statement in accordance with the above directions.**

Form for leaseholders

Case Reference:	LON/00BG/LVM/2018/0018
Property:	Canary Riverside Estate

ONLY COMPLETE AND RETURN THIS FORM IF YOU OBJECT TO THE APPLICATION AND WISH TO BE JOINED AS AN ACTIVE RESPONDENT

If you wish to be joined as an active respondent please complete and return this form to:

First-tier Tribunal Property Chamber (Residential Property), 10 Alfred Place, London WC1E 7LR email

and send a copy to: (a) the applicant's solicitors, Joseph Hage Aaronson LLP, 280 High Holborn, London, WC1V 7EE (ref: IPM/PAL2.2); and (b) Mr Coates' solicitors, Downs LLP, 156 High Street, Dorking, Surrey, RH4 1BQ (ref: Mr Storar).

	Yes	No
I wish to be joined as an active respondent	<input type="checkbox"/>	<input type="checkbox"/>
Will you attend the oral hearing?	<input type="checkbox"/>	<input type="checkbox"/>
Dates to avoid in May/June 2019		
Name address of any spokesperson or representative appointed for the leaseholder:		

Print Name:	
Address of Flat at Canary Riverside	
Your correspondence address (if different):	
Telephone:	
Email:	