

LEASEHOLD VALUATION TRIBUNAL

In the matter of Section 24 of the Landlord and Tenant Act 1987

Tribunal: M J Greenleaves Chairman
K Lyons FRICS
J Mills

Re: 24 Warrior Square, St Leonards-on-Sea TN37 6BG "The Property"

Applicant James David Anthony Shields

Respondents Mrs A Yoxall
Mr K A Atkin
Mr J M McArdle
Mr T Dodd
Mrs & Miss Anderson
Mr C H R Shimwell
Mr E A Holland

Freeholder G & O Rents Limited

Decision


1. The terms of appointment of the Applicant as Manager be varied with effect from 13th November 2006 to remove any continuing obligation on the Applicant to collect or account for ground rents in respect of the premises known as 24 Warrior Gardens, St Leonards-on-Sea, East Sussex ("the Property").
2. The terms of appointment of the Manager shall from 13th November 2006, until further order, be as set out in the Appendix to this decision.

Reasons

3. The Applicant had been appointed as Manager of the Property by the Tribunal on 6th December 2004 with effect from 1st January 2005.
4. The terms of that appointment had required the Applicant (inter alia) to collect and account to the freeholder for ground rents payable under the leases of the flats at the premises.
5. The Applicant now applied for that part of the appointment terms to be removed from his obligations. The grounds for his application were, in summary, due to difficulties in obtaining information from the freeholder to enable him to carry out his duties and also because the freeholder had itself issued demands for payment of ground rent.
6. No party had requested a hearing at which representations could be made.

7. Two of the Respondents had written to the Tribunal supporting the application but otherwise no representations or objections were made by any interested party in respect of this present application and the Tribunal therefore accepted the basis of the application as made by the Application.
8. The Tribunal did not consider that the reduced obligations should result in the Applicant being entitled to reduced fees.
9. The Tribunal being satisfied that the variation will not result in a recurrence of the circumstances which led to the original order being made and that it is just and convenient in all the circumstances of the case to vary the order, made the variation accordingly.

Dated 13th November 2006.


M J Greenleaves
Chairman

APPENDIX

**LEASEHOLD VALUATION TRIBUNAL FOR THE SOUTHERN
RENT ASSESSMENT PANEL**

In the matter of Section 24 of the Landlord and Tenant Act 1987

Tribunal:	M J Greenleaves K Lyons FRICS J Mills	Chairman
Applicant	James David Anthony Shields	
Respondents	Mrs A Yoxall Mr K A Atkin Mr J M McArdle Mr T Dodd Mrs & Miss Anderson Mr C H R Shimwell Mr E A Holland	

Re 24 Warrior Gardens, St Leonards-on-Sea, East Sussex

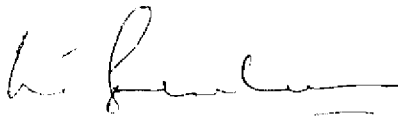
IT IS HEREBY ORDERED that:-

James David Anthony Shields of Drawflight Estates be appointed manager and receiver of the property with effect from 1st January 2005.

1. Save as set out below, he shall manage the property in accordance with:-
 - (a) The respective obligations of the Landlord and the Tenants under the various leases by which the flats at the property are demised and in particular, but without prejudice to the generality of the foregoing, with regard to the repair, decoration, provision of services to and insurance of the property and
 - (b) The duties of a manager set out in the Service Charge Residential Management Code ("the Code") published by the Royal Institution of Chartered Surveyors and approved by the Secretary of State pursuant to Section 87 of the Leasehold Reform, Housing and Urban Development Act 1993.
2. He shall not be required to collect or account for ground rents payable under the leases of the flats in the Property.
3. Other than ground rents, he shall receive all sums whether by way of ground-rent, insurance premiums, payment of service charges or otherwise arising under the said leases and shall pay such sums into a separate bank account.
4. He shall apply the amounts received by him (other than those representing the fees of the managing agent) in the performance of the Landlords' covenants contained in the leases.
5. He shall be entitled to management fees (all exclusive of VAT), as follows:-

- (a) an annual fee of £770 exclusive of VAT for all standard services set out in his "freehold management agreement" reviewable annually on the anniversary of his appointment according to the increase in the Retail Prices Index last published in the preceding month as against that published in the month 12 months earlier
 - (b) in addition, 5% of the cost of any works or services where it is necessary to invoke the Section 20 procedure, and
 - (c) for any work falling outside the scope of sub paragraphs (a) and (b) above, fees based on an hourly rate (£50 for a director, £35 for an associate, £25 for a clerk/secretary, all exclusive of VAT).
6. He shall forthwith arrange and maintain professional indemnity insurance cover in the sum of £500,000 and will within 28 days of the date of this order provide to the Tribunal written evidence that he has complied with the provisions.
7. This order shall remain in force until varied or revoked by further order of the Tribunal.
8. The Applicant and the Respondents shall each have liberty to apply to the Tribunal for further directions.

Dated 13th November 2006.



M J Greenleaves

Chairman