

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

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

**REFERENCE: LON/00AE/LVM/2004/0005**

**Premises : 9 Mapesbury Road, London, NW2 5HX**

**Parties**

**Applicant : Miss A Cunningham & Mr M Blank**

**Respondent: Mrs T Joshi**

**Appearances**

**Applicant : Mr B Maunder Taylor**

**Respondent: Mr B Joshi**

**Tribunal Members: Mr A A Dutton (Chair)  
Mr J R Humphrys FRICS**

**Date of Application – 28 July 2004**

**Date of Hearing - 03 December 2004**

**Date of Decision - 17<sup>th</sup> December 2004**

## **DECISION**

### **A. BACKGROUND**

1. On the 22<sup>nd</sup> January 2003 an Order was made by the Leasehold Valuation Tribunal in case number LVT/AOM/023/013/02 which resulted in the appointment of Mr Bruce Maunder Taylor as the Manager of the property at 9 Mapesbury Road, Willesden, London NW2. The Decision given by the Tribunal leading to the appointment of MR Maunder Taylor as Manager was within the papers and will be referred to as necessary in this Decision. The appointment was for a period of two years. On the 28 July 2004, Miss Cunningham and Mr Blank made application to the Tribunal under s24 of the Landlord and Tenant Act 1987 ("the Act") for an extension of the management order for a further period of two years. The grounds of the application were that the Manager was still required to make sure that dry rot works were completed. By a letter of 28 July 2004 which accompanied the application Miss Cunningham and Mr Blank expanded on those grounds.

### **B. EVIDENCE**

2. Mr Maunder Taylor appeared on behalf of the Applicants and had written to the Tribunal on the 1<sup>st</sup> November 2004 in which he made six comments and attached copies of diary entry notes confirming the actions that had been taken since the commencement of the Order. He accepted that it had taken longer than he had hoped to motivate the surveyors to carry out the works but that there had been difficulties obtaining access to the flats owned by Mr Joshi which were flats 3 & 4 in the property. There had also been difficulties in agreeing the contractors to be used to carry out works and the responsibilities for such works and the recovery of service charges, in particular from Mr Joshi.
3. In evidence to the Tribunal Mr Maunder Taylor confirmed that not only had there been difficulties in getting access to Mr Joshi's flats but also to flats 5 & 6. He told us there was a dispute with Mr Joshi concerning the dry rot, which it was alleged emanated from a leaking shower in flat 3. In addition Mr Joshi had put forward a contractor to carry out the works but when the premises of the

contractor had been inspected, Mr Maunder Taylor's employee had indicated that they would not be acceptable contractors. We heard also about the proceedings being taken in the Hertford County Court against Mr Joshi for arrears of service charges. Mr Maunder Taylor told us that insofar as the works to flat 3 were concerned he would be prepared to agree that Mr Joshi could use his own contractors to carry out the works but that he would need a watching brief to ensure that the works to the common parts were carried out properly.

4. On the question of insurance it transpired that for some reason which was not wholly clear, the premises had been uninsured for some time from September 2003 to May 2004. Mr Maunder Taylor then responded to Mr Joshi's case in support of his application on behalf of his wife that the Order be discharged. Mr Joshi had commented upon the letter written by Mr Maunder Taylor dated the 1<sup>st</sup> November 2004 in which he disputed the difficulties associated with gaining access to his flat and responded to the other points raised by Mr Maunder Taylor therein. He complained there had been an inordinate length of time taken to progress matters and that he believed Mr Maunder Taylor should be removed from his manager's position. In particular he relied on the follow issues, to which Mr Maunder Taylor responded. They were as follows:
  - Dry rot works. Mr Joshi alleged that Mr Maunder Taylor had failed to deal with the works promptly; had unreasonably allocated service charges in respect of works carried out in flats 1&2 and had failed to comply properly with the procedures of s20.
  - On the question of insurance, Mr Joshi raised the failure to insure and the failure to serve s20 Notices when the insurance appeared to be for a period extended over 13 months. There was also an allegation that there had not been timely disclosure of commissions.
  - On the question of service charges Mr Joshi alleged that Mr Maunder Taylor had lied over the use of scale fees, had tripled certain payments, that certain works provided, in particular the survey report was poor value for money and that Mr Maunder Taylor appeared to have an inability to read the Lease correctly.

- On the question of parking Mr Joshi raised concerns that rights had been given to certain persons to park and that there had been evidence of complacency, incompetence or favouritism.
  - On the issue of gardening it was alleged that the manager had failed to ensure that the lawn and hedges were properly maintained and that a fence which had been broken was repaired.
  - It was alleged that there were certain breaches of covenant including the failure by the Lessee of flat 2 to carpet and failure to remove a vent that had been installed in the premises by Lessees.
  - Mr Joshi then made complaints concerning false accusations in respect of tenants in the premises, the use and provision of dustbins and an allegation of harassment against Mr Joshi's wife. All these matters Mr Maunder Taylor responded to and we noted all that was said.
5. In the course of the hearing Mr Joshi confirmed that he accepted responsibility for the damage caused to flat 3 by the leaking shower and the consequential damage to the common parts. He told us that the dry rot works had been completed and it was merely the making good that needed to be done. Mr Maunder Taylor indicated that he had no notification of any works or ability to proceed but confirmed that the matter would be reviewed and hopefully resolved. Mr Joshi also put forward a proposal that he would be prepared to accept a 50/50 split in connection with the works of repair carried out to flats 1&2 in the premises which had presently been designated as being wholly payable from the service charge account. It did not appear that this proposal for settlement by Mr Joshi had been acted upon by Mr Maunder Taylor. Mr Joshi told us that he believe Mr Maunder Taylor had committed 28 breaches of the RICS code of management and he felt that he would be able to manage the property. He told us that he had learnt lessons from the previous application and that he had experience in managing two properties in multiple occupancy and three blocks that were owned by his family.

6. Mr Maunder Taylor told us, in response to these allegations, that he had not made any charge for the time he had spent in his involvement relating to the managing of these premises. Mr Cable apparently dealt with the day-to-day works. Mr Maunder Taylor explained to us the set up of his company insofar as residential management was concerned and told us he spent half-a-day per month in meetings with the staff going through the blocks that were being managed.
7. In addition to the documentation provided by the applicants and Mr Joshi we received a bundle of correspondence from Collins Benson Goldhill Solicitors on behalf of Mrs Tanya Roberts. Her husband was a partner in that firm of solicitors. They indicated that Mrs Roberts did not intend to be represented at the hearing but that there were matters that they wished to draw to our attention, in particular dissatisfaction at the services provided by Mr Maunder Taylor. We were told that
  - a. they had not received accounts from the Managing Agents;
  - b. they were not informed of the commencement date of work being carried out nor the nature of those works to flats 1-4 in the block.
  - c. there was no explanation given as to why it had taken so long for these works to have been carried out;
  - d. The gardens were still in a poor state and were better managed by the old freeholder;
  - e. There was inadequate supply of wheelie bins leaving wrapped rubbish to collect at the premises.

**C. THE LAW**

8. Section 24(9) of the Act states *"a Leasehold valuation Tribunal may on the application of any person interested vary or discharge (whether conditionally or unconditionally) an Order made under this section; and if the Order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 1925 the Tribunal may by Order direct that the entry shall be cancelled"*.

9. Section (9)(A) of the Act states as follows: *"the Tribunal shall not vary or discharge and Order under subsection (9) on a Landlord's application unless it is satisfied*  
*(a) that the variation or discharge of the Order will not result in a recurrence of the circumstances which led to the Order being made and*  
*(b) that it is just and convenient in all the circumstances of the case to vary or discharge the Order".*

**D. DECISION**

10. Mr Joshi on behalf of his wife made a number of allegations relating to the management carried out by Mr Maunder Taylor in relation to these premises. We will deal with those matters briefly as follows:

a. Dry Rot Works: There is no doubt that it has taken an inordinate length of time to deal with the building works that Mr Maunder Taylor was specifically instructed to deal with as a result of his appointment. We heard from Mr Maunder Taylor as to the reasons why matters had taken so long and we are in no doubt that there has been a certain lack of cooperation from Mr Joshi in respect of these building works. That being said, Mr Joshi confirmed at the hearing, it would appear for the first time, that he was prepared to accept the responsibilities for the damage to flat 3 and the common parts and told us that he had already put forward proposals to resolve the allocation of service charges in relation to flats 1&2 of the premises. These are matters that now need to be taken forward by Mr Maunder Taylor in the hope that these works can now be concluded satisfactorily. So far as the alleged breach of the s20 procedures are concerned, we heard that Mr Maunder Taylor had given consideration to the appointment of Albatrades but had decided they would not be appropriate. We note the criticism but are not required to make a determination in this case. It would be a matter for another Tribunal if the matter were to be pursued further.

b. Insurance: We were extremely concerned to discover that Mr Maunder Taylor had allowed the property to be uninsured for a substantial period of

time. All we can say in this regard is that had the same problem arisen in Mr Joshi's management period the likely upshot of any problems in that regard could have been more traumatic for the Lessees in that it is unlikely that he would have had professional insurance cover. Mr Maunder Taylor of course would have professional insurance cover for this negligence. Mr Maunder Taylor could do no more than apologise for this shortcoming but as we will refer to later in this Decision we are concerned at the lack of hands-on management that Mr Maunder Taylor appears to be exhibiting with regard to the Management of this block and this failure to insure must not be allowed to occur again. It was also suggested that Mr Maunder Taylor had failed to comply with the new provisions of s20 as provided for in the Commonhold and Leasehold Reform Act 2002 because this particular contract of insurance had been for a period of 13 months instead of 12 months. There is no application before us to dispute the level of service charges. This application is to deal with the extension of the period of management. It was not possible at the hearing to take detailed arguments from both sides as to the provisions of the new s20 but all we can say is, had the Respondent been able to have persuaded us that the new consultation process would apply it seems to us that if there was a breach it was technical only and not of its own account something which would have caused us to have found against the Applicants.

c. Service Charges. On the question of service charges Mr Joshi had accused Mr Maunder Taylor of lying on the question of scale fees. There is no doubt that Mr Maunder Taylor had referred to scale fees which would be inappropriate but the level of Management Charge which he was able to recover for his services was set out in the original order and any other fees that may arise as a result of additional works were of course open to negotiation and challenge if found to be excessive. On the allegation of triple payments, there was no real evidence put to us by Mr Joshi that this was the case although Mr Maunder Taylor appeared to have a limited working knowledge of the accounts. He confirmed that he was intending to review the charges to ensure they complied with the terms of the lease as

there was some concern as they may not do so. This of course also led to the allegations made by Mr Joshi that the Lease had been incorrectly interpreted.

d. Parking: in relation to parking there was some concern that the management order enabled the Manager to deal with the totality of the property including front and rear gardens or whether it was confined merely to the building itself. For the avoidance of doubt we will confirm at the end of this Decision the extent of the Managers rights in this regard. However we would say that the evidence on the question of parking was inconclusive and the problems caused as much by Mr Joshi's willingness to allow his tenants to park not only motorcars but vans at the premises which appeared to have blocked access to the rear garden. This had an impact on the allegations made in respect of the gardening which we will now turn to.

e. Gardening: Mr Joshi had maintained that the rear garden, front hedges and fences had not been repaired. Mr Maunder Taylor told us that because of the parking to the front, contractors were not able to get to the rear garden and certainly from the photographs shown to us at the hearing. It would appear that could well be the case. There is however, no physical reason why works to the front hedge, if required, or repairs to the fence, cannot be undertaken.

11. The other allegations in respect of breaches of covenant, general harassment, complacency and incompetence were, if anything evidence of Mr Joshi's discontent at the fact that he was removed from the managership of the property nearly two years ago and do not in our mind raise substantial issues which would have themselves resulted in Mr Maunder Taylor being prevented from receiving an extended management period.
12. Having heard all the evidence given to us at the hearing and read the documentation we have concluded that it would be appropriate to extend the management period for a further two years to the 21<sup>st</sup> January 2007. In addition also we specifically include within those management provisions the right for Mr



Maunder Taylor to deal with the totality of the "estate" which includes the front car parking and the rear garden. In addition also as it is not wholly clear from the original order made, we confirm if it needs to be so confirmed, that Mr Maunder Taylor's appointment is as Receiver as well as Manager.

13. We must say however that we were unhappy at the standard of management which has so far been provided by Mr Maunder Taylor. We were unimpressed with his lack of knowledge of the details of the management of the property in particular the service charges, whether offers had been made by Mr Joshi to settle certain items and of course, the lack of insurance cover. It appeared that Mr Maunder Taylor had not received the papers until shortly before the hearing and his working knowledge was limited. Although it is not for us to tell Mr Maunder Taylor how to run his business we cannot help but feel that a half-day per month to meet with his staff for the purposes of the management of some 60-70 blocks may be insufficient. In addition also Mr Maunder Taylor appears to wholly delegate his responsibilities to three, no doubt hard working and excellent members of staff, but who are nonetheless unqualified. We must remind Mr Maunder Taylor that his appointment of Manager was to him personally and we would expect therefore, in the next two years, for him to take a more pro-active and hands-on approach than he has exhibited to date. However we conclude that if we were to not extend the management period for a further two years there, in our view, was a likelihood, if not a certainty, that there would be a recurrence of the circumstances which had led to the Order being made in the first place. We appreciate that the provisions in respect of s(9)(A) relate to a Landlord's application however we must in our view consider the implications to the Lessees if the Order is not extended to enable the works to be completed and there was sufficient evidence at the hearing before us that there was still animosity and potential difficulties between the Lessees and Mr Joshi which would not be resolved if the Management were to be handed back to him.

14. That being said, it seems to us that steps do need to be taken to push this matter on and we would be expecting Mr Maunder Taylor to deal with same without further delay. We therefore direct the following.
- a. Within one month from the date of the hearing, namely 4<sup>th</sup> January 2005, Mr Maunder Taylor must produce correct and up-to-date service charge figures in accordance with the terms of the Lease.
  - b. One month after delivery of those service charge accounts Mr Maunder Taylor must endeavour to agree those figures with the Lessees and in the absence of agreement shall consider bringing an application before the Leasehold Valuation Tribunal to deal with any outstanding service charge dispute matters that he believes are necessary for the purposes of collecting in sufficient funds to enable the building works to be completed. We also direct that he must resolve the car parking problems to the front of the property and in that regard we would recommend that there should be a prohibition against parking of commercial vehicles.
14. We hope that in the remaining two years of his tenure Mr Maunder Taylor will ensure that the purposes for which he was appointed in the first place will now be completed and that all outstanding building works to the property will be finalised and service charge matters resolved.



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Chairman

17 December 2004

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Dated

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**  
**LON/00AE/LVM/200/0005**

**LEASEHOLD VALUATION TRIBUNAL for THE LONDON RENT ASSESSMENT**  
**PANEL**

**SECTION 24(9) OF THE LANDLORD AND TENANT ACT 1987 (as amended)**

**IN THE MATTER OF 9 Mapesbury Road London NW2 5HX**

**BETWEEN:**

**Miss a Cunningham and Mr M Blank**  
**And**  
**Miss T Joshi**

**Applicants**

**Respondent**

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**VARIATION OF ORDER FOR THE APPOINTMENT OF**  
**MR B MAUNDER TAYLOR AS MANAGER AND RECEIVER**

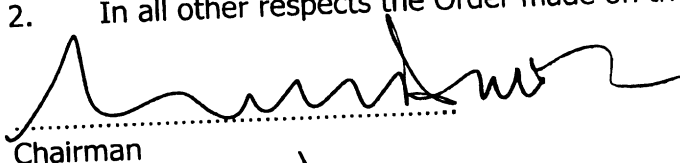
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Upon hearing Mr B Maunder Taylor for the Applicants and Mr B Joshi for the Respondent

**IT IS ORDERED THAT:**

The Order for the appointment of Mr B Maunder Taylor as Manager made by the Leasehold Valuation Tribunal and dated 22 January 2003 shall be varied as follows:

1.
  - a. The period of the Management Order shall be extended until the 21 January 2007.
  - b. For the avoidance of any doubt Mr Maunder Taylor is appointed both as Manager and Receiver in respect of the property.
  - c. It is confirmed that the management responsibilities of Mr Maunder Taylor will include the totality of the property to include the front car parking area and rear garden.
2. In all other respects the Order made on the 22 January 2003 is confirmed.



Chairman

Dated.....23rd December 2004