

REF LON 00AE/LVM/2005/0010

IN THE LEASEHOLD VALUATION TRIBUNAL

IN THE-MATTER OF THE LANDLORD AND TENANT ACT 1987
SECTION 24

AND IN THE MATTER OF 9 Mapesbury Road London NW2 4HX

Applicant

Mr Bilesh Joshi

Respondent

(1) Miss A Cunningham
(2) Mr Simon King

The Tribunal

Mr P Leighton LLB (Hons)
Mr F Coffey FRICS
Mrs M Colville JP LLB

Hearing Date

21st March 2006

Date of Decision

6th April 2006

A Introduction

- 1 By an application dated 5th December 2005 the Applicant who is a leasehold owner of flats 3 and 4 of the property at 9 Mapesbury Road applies for the variation or discharge of a management order made in respect of that property and extended by order dated 17th December 2004 until 21st January 2007. The Applicant's wife is the freehold owner of the property and the Applicant was responsible for the management of the property prior to the making of the original management order in January 2003
- 2 The Respondents are the leaseholders of Flats 1 and 2 in the property and have indicated their opposition to the application. The Manager Mr Bruce Maunder Taylor appeared before the Tribunal to state his own position and to explain the current state of proceedings which had been commenced against the Applicant

Inspection:

- 3 The property is an old Victorian house which is converted into four flats with a further two flats in an annexe at the rear... It has been fully described in previous decisions of the Tribunal and it is not necessary to repeat it for the purpose of this application. One of the members of the tribunal had previously inspected the property and the Tribunal did not consider it necessary to carry out any further inspection

Hearing

- 4 The hearing took place on Tuesday 21st March 2006 at which the Applicant appeared in person and Mr Bruce Maunder Taylor attended at the request of the Tribunal to deal with any allegations which were raised against his management of the property by the Applicant. and to bring the Tribunal up to date on the current state of the property. This proved to be advantageous as the two Respondents did not appear and Mr Maunder Taylor was able to inform the Tribunal of their attitude to the application and the current progress in relation to the proceedings between him and the Applicant

- 5 Mr Joshi produced a letter signed by the leaseholders of Flats 5 and 6 in which, it appears, they supported the discharge of the management order and were content for the management to revert to Mr Joshi
- 6 It was clear from the undisputed evidence of both parties that all the works had been satisfactorily completed and the contractor paid. Mr Blank one of the original lessees of Flat 2 had loaned £9000 to the manager to enable the works to be completed and had since been repaid. The manager had subsequently recovered all the service charge arrears due from Mr Joshi in respect of his two flats but the proceedings in the county court related to the managers' costs incurred in the Tribunal at the hearing in August 2005 which were being pursued against Mr Joshi alone
- 7 Following further discussion it emerged that there was a multiplicity of proceedings between the parties and between Mr Joshi and Mr Blank. It would, in the opinion of the Tribunal, be very undesirable to discharge the management order while these proceedings were afoot and before they had been resolved... In particular the manager only had the right to institute proceedings by virtue of the order and it would seem unreasonable to remove this before those proceedings were disposed of
- 8 The Tribunal therefore agreed to allow the parties time to enter into constructive negotiations with a view to resolving the outstanding proceedings in order to expedite the discharge of the management order
- 9 As a result of their discussions the parties came forward with a programme which if implemented could result in the disposal of all outstanding proceedings within a reasonable period namely :-
- (a) Mr Maunder Taylor would by the end of the week (i.e. 24th March) submit his statement of case in the Lands Tribunal appeal which he was making against the decision of the Tribunal in September 2005
 - (b) If satisfied with the contents of the Statement of Case Mr Joshi would write to the Lands Tribunal withdrawing his opposition to the appeal so that the matter could be brought to a speedy conclusion
 - (c) If the appeal was allowed the parties would agree to abandon the county court proceedings

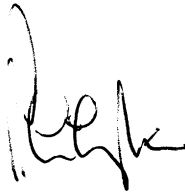
- (d) Some additional items of costs not covered by the county court proceedings amounting to some £1,400 or so were capable of agreement between the parties
- (e) Mr Maunder Taylor would prepare final management accounts up to the end of the month following the date of the likely discharge of the management order.
- (f) Mr Maunder Taylor applied for the payment of his costs of attending the Tribunal at the rate of £300 per hour. Mr Joshi agreed in principle to pay the costs of Mr Maunder Taylor attending but contended that the rate was too high. The Tribunal was asked to fix an appropriate figure

Conclusion

- 10 The Tribunal approved the arrangements which had been made between the parties and indicated that once they had been implemented and provided no further substantial objections from the manager were received the Tribunal would be prepared to discharge the management order before it was due to expire in January 2007.
- 11 The Tribunal did not set a specific date by which the proposals should be implemented but hoped that they might be in place by the middle of May. Once the proceedings have been disposed of and the programme implemented the matter should be referred back to the Tribunal, which would then discharge the order without the need for a further hearing.
- 12 The Tribunal gave careful consideration to the claim for costs by Mr Maunder Taylor in respect of the hearing. These costs would be added to the service charge account to be paid by the leaseholders jointly
- 13 The Tribunal noted that the hearing had lasted just under two and a half hours and Mr Maunder Taylor had an hour's travelling in each direction to reach the Tribunal
- 14 Whilst accepting that Mr Maunder Taylor was in fact charging his clients at the rate of £300 per hour the tribunal did not consider it was reasonable to claim this amount against the service charge account. The Tribunal noted that in the hearing in 'September 2005 the Tribunal had fixed a figure of £200 per hour and considered that this sum was reasonable and should be allowed in the sum of £500

- 15 In relation to the travel, the Tribunal was informed that Mr Maunder Taylor read the papers during his journey to the Tribunal (though not necessarily on the return journey). The Tribunal considered that it would be reasonable to allow £100 for travelling in addition to the £500 allowed for the costs of the hearing making a total figure of £600 to be added to the service charge account
- 16 Following the announcement of the decision the Tribunal received a further letter from Mr Joshi and a reply from the manager and a further reply from Mr Joshi. As the hearing had been concluded the Tribunal concluded that there was nothing in the further correspondence which would cause it to change the decision

Chairman ...Peter Leighton



Date 6th April 2006