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LON/00BK/LAM/2007/0016

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

DECISION OF THE LONDON LEASEHOLD VALUATION TRIBUNAL
UNDER SECTION 24 OF THE
LANDLORD AND TENANT ACT 1987

Property: Flats 1, 2 and 3, 14 Hyde Park Gardens, London W2 2LU

Applicants: Jonathan and Jane Varey

Respondent: Giovanna Grassi

Tribunal: Lady Wilson

Date: 25 February 2008

1. This decision is made on the basis of written representations and without an oral hearing in accordance with the procedure authorised by regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003, the parties having agreed to such a method of disposal.
2. On 1 December 1998 I made an order by consent under section 24 of the Landlord and Tenant Act 1987 appointing Bruce Maunder Taylor FRICS of Maunder Taylor, chartered surveyors, as manager of 14, 15 and 16 Hyde Park Gardens, three substantial buildings which form part of a terrace of similar buildings, now converted into flats. The order was made on the application of the leaseholders of two flats in those buildings and against Hyde Park Estates (Guernsey) Limited.
3. The freeholds of 14, 15 and 16 Hyde Park Gardens, which, along with a large number of other buildings in the locality, forms part of the Hyde Park Estate, are owned by the Church Commissioners. I understand that Hyde Park Estates (Guernsey) Limited held at the date of the order and still holds a headlease of 14, 15 and 16, although the official copy of the register of title with which I have been supplied does not appear to show that it has title to 16. However I assume that it has. Hyde Park Estates (Guernsey) is, and has for some years, been under the control of Shirley Jackson of B N Jackson Norton, as receiver. Flats 1, 2 and 3 in 14 Hyde Park Gardens have their own internal common entrance hall and their own lift, and they are to that extent separate from the remainder of 14, which contains part of a laterally converted flat the entrance of which is in 15 and a porter's flat which serves 15. Flats 1, 2 and 3 are subject to an underlease dated 18 September 1979, originally held by Michael Dunkerly but acquired in September 2007 by the respondent, Giovanna Grassi. Ms Grassi also holds a sub-underlease of Flat 1, which she occupies. The sub-underlease of Flat 2 is owned by J D O Associates Limited and the flat is occupied by Richard Nagy, who is Ms Grassi's partner. J D O Associates have, by a document dated 26 October 2007, appointed Mr Nagy as its representative for the purpose of these proceedings. The sub-underlease of Flat 3 is held by the applicants, Mr and Mrs Varey, who occupy the flat.
4. Although the order dated 1 December 1998 appointed Mr Maunder Taylor as manager of the whole of 14, 15 and 16 Hyde Park Gardens, Mr Dunkerly, the then

underlessee of Flats 1, 2 and 3 at 14, was not a party to the proceedings whereby the manager was appointed. It was subsequently agreed between the manager and Mr Dunkerly that, notwithstanding the order, Mr Dunkerly would continue to undertake the landlord's functions set out in the underlease, including the provision of some, but not all, of the services to Flats 1, 2 and 3, and Mr Maunder Taylor has, to date, exercised no management functions in relation to those flats. Mr Maunder Taylor continued, and still continues, to manage the other parts of 14, 15 and 16. As I have said, Ms Grassi acquired Mr Dunkerly's interest in September 2007.

5. Problems arose in relation to the provision of services to Flats 1, 2 and 3 at 14, and on 11 October 2007, having given preliminary notice to Ms Grassi of their intention to do so under section 22 of the Act, Mr and Mrs Varey applied to the tribunal for an order under section 24 of the Act appointing a manager of that part of 14 which contains Flats 1, 2 and 3. He proposed that Andrew Lyle, of County Estate Management, should be appointed manager. By a separate application under section 24 dated 31 October 2007 Ms Grassi applied for an order appointing Mr Maunder Taylor as manager of the part of 14 containing flats 1, 2 and 3, or alternatively to vary the order dated 1 December 1998 to extend its ambit to Flats 1, 2 and 3.

6. Discussions have now taken place between Mr and Mrs Varey, Ms Grassi and Mr Nagy on behalf of J D O Associates. They have agreed that Mr Maunder Taylor, and not Mr Lyle, should be appointed manager of the premises. This seems eminently sensible since he has managed the remaining parts of 14, as well as 15 and 16, for a number of years. He has agreed to manage the parts of 14 which are the subject of the present application, and he has said that he wishes to harmonise the service charge structure of the three flats and of other flats within 14, 15 and 16 which he manages by adjusting the proportions of the service charges payable for costs which are shared with the leaseholders of all the flats in 14, 15 and 16. Whether that is feasible remains to be seen, but if a sensible result can be achieved by negotiation that will obviously be welcome.

7. In these circumstances I am satisfied that circumstance exist which make it just and convenient for a manager to be appointed to manage those parts of 14 Hyde Park Gardens which contain Flats 1, 2 and 3, and that Mr Maunder Taylor is the

appropriate manager. I am also satisfied that all those persons who are likely to be affected by the order are aware of these proceedings. It seems to me more straightforward to make a new order than to vary the original order, which had wholly different parties and particularly bearing in mind that it already purports to cover the whole of 14, 15 and 16. The making of a new order in relation to Flats 1, 2 and 3, rather than varying the existing order does not, I am satisfied, prevent Mr Maunder Taylor, as manager of Flats 1, 2 and 3 by virtue of the presently proposed order, and of the remainder of 14, 15 and 15 by virtue of the order dated 1 December 1998, from seeking, subject to the direction of the tribunal in the event of disagreement, to rationalise the service charges percentages of all the occupying leaseholders. I therefore propose to make an order under section 24 of the Act appointing Mr Maunder Taylor as manager of the premises comprising Flats 1, 2 and 3 at 14. But in view of the complexity of the history and because the order is intended to be made by consent I consider it appropriate to give the parties an opportunity to comment on the draft. If comments are received by 7 March 2008 I will consider them. Otherwise the order will take effect, as drafted, on that date.

CHAIRMAN.....

DATE..... 25 February 2008.....