

Residents' Association of Canary Riverside
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FAO Ms Jacqueline Benjamin (Case Officer)
Property Chamber
London Residential Property FTT
10 Alfred Place
London
WC1E 7LR

11th October 2017

By email and first class post

Dear Ms Benjamin

Re: Canary Riverside LON/00BG/LAM/2015/0012

Thank you for the decision dated 29th September 2017 and the amended management order, received on Wednesday 4th October.

We are writing to the Tribunal to request clarification arising from the decision and revised management order, to ensure that there can be no doubt nor confusion regarding the respective responsibilities and obligations (in respect of the residential leases) that the management order confers upon Mr Coates and the landlord. We make this request because the decision appears not to address matters affecting the residential lessees that were the subject of the eight days of hearings before the Tribunal.

We also write to request that two apparent errors be corrected under the Tribunal's slip rule 50.

The decision

There is no reference in the decision clarifying responsibility in respect of granting consents for alterations, the preparation of sales packs for lessees seeking to sell their flats etc. There has been disagreement between Mr Coates and the landlord over such matters, and this was raised during the hearing.

It may be that the Tribunal considers the following two paragraphs from the management order to be sufficient clarification:

- Paragraph 5 of the management order appears clear that Mr Coates is to manage the development "in accordance with the obligations of all parties – landlord and tenant – under the Leases".
- Paragraph 6 provides that no one is entitled to exercise a management function where that function is vested in Mr Coates.

We note that these same paragraphs were in the original order which took effect on 1st October 2016 (paragraphs 2(b) and 3 of that order).

The need for clarity

We interpreted those paragraphs as meaning Mr Coates is the person who is responsible for all aspects of the residential leases, including dealing with consents for alterations and issuing sales packs. The only exception to this, clarified in the Tribunal's recent decision, appears to be in respect of placing the buildings insurance.

However, over the past year it has become clear that the landlord does not interpret the effect of these paragraphs the same way that we do. For example, the landlord's most recent communications to residential lessees suggested that they would be entitled to bring forfeiture proceedings if an individual lessee allowed their visitors or estate staff to use their demised parking space. It is our understanding that the decision as to whether there are grounds for forfeiture is Mr Coates's, as manager.

As lessees, we need the management order to be absolutely clear about the rights and responsibilities vested in Mr Coates and those, if any, that the landlord may still exercise in relation to the residential leases. The current confusion is undermining the intended effect of the management order. Many lessees assume that, as 'manager' Mr Coates has simply replaced the managing agent, with the landlord retaining ultimate management responsibility for the estate – an assumption reinforced by the landlord's letters to them concerning their lease.

We therefore ask that the Tribunal provide explicit confirmation that, unless stated to the contrary within the management order, paragraphs 5 and 6 of the order should be taken to mean that Mr Coates is responsible for all aspects of the residential leases.

Clerical errors

We ask that the following typing mistakes be corrected under the Tribunal's slip rule 50.

Decision: Paragraph 39: "...thus expiring on 31 August 2020" [not 2010].

Management order: Paragraph 18: "...for a period of three years from 1st September 2017 [1st October 2016 was the effective date of the old ('draft') order].

Finally, while we appreciate that the Tribunal has other cases to deal with, we wish to express disappointment that it took nearly four months for the Tribunal to produce a nine-page decision, especially given all the other delays we have encountered since making our application in June 2015. We hope our requested clarification can be provided swiftly, so that residential lessees can be clear as to the management order's impact on their legal rights and responsibilities per their leases, and that the Tribunal's order facilitates the effective management of the estate.

Thank you in anticipation. We look forward to hearing from you.

Yours sincerely

Pp RACR

On behalf of the joint applicants to the section 24, Canary Riverside

Cc: Mr Alan Coates
Trowers & Hamlyn