

Commercial Property Management

Case study of management in distress

1. The property concerns a parade of blank shops being the ground floor part of a large block of flats in West Kensington. Our client owns a long leasehold interest in the ground floor shops, the freehold is owned by a resident-controlled company of the block of flats.
2. The shops were self managed by our client with on-going management issues and disputes with the freehold company and some of the tenants.
3. Prior to our appointment at the beginning of July 2014, the freehold company had obtained a County Court Order for forfeiture of our client's lease on the grounds of breach of lease and the judge's opinion that things would not get better. Our client had sought and obtained leave to appeal that decision. That appeal was due to be heard in early February 2015 but is now not expected to be heard until summer.
4. On appointment, all shops were inspected and matters put in hand to identify and resolve all Health & Safety issues.
5. One double shop unit was vacant, a tenant was found with a Re Max franchisee, the freehold company's consent was obtained and that shop is currently in the process of fitting out and refurbishment prior to occupation.
6. Another double shop unit has been closed for business since we were first instructed. The lessee has been unsuccessfully attempting to sell his lease and there are arrears of rent with on-going recovery procedures. On behalf of our client we are attempting to find an assignee (as well as the local agent acting for the present tenant) and currently have interest from two parties from which we hope to agree an assignment on the basis that all rent arrears are paid up.
7. Another double shop unit is occupied as a restaurant and this unit has required intensive management on Health & Safety issues, duct cleaning issues and noise issues from restaurant staff affecting residents of the flats on the upper floors. Most issues have now been resolved but give rise to fairly frequent communications between the managers for the freehold company and ourselves.

8. There is a wide frontage double shop let to a tenant who has been using the window space for advertising purposes but running no other business within the shop. There is on-going litigation with a claim by the landlord and counterclaim by the tenant which should have come to Court in January but the Court case has been deferred and we are currently suggesting alternatives to find a solution in order to be able to re-let the premises. There are arrears of rent, we have introduced a possible party which, if successful, would lead to a considerable improvement to the premises and the parade generally.
9. One of the small single shops was found to have the shop keeper using the basement part as his dwelling. This shop has been repossessed by peaceable re-entry and there are ongoing negotiations which we hope will lead to a re-letting in the near future.
10. There are two other single shops: one operated as a hairdresser, well-presented and up to date with rental payments; the other as a computer shop, not particularly well-presented but up to date with rental payments and no other breaches of lease.
11. The first stage in improving commercial investments is to investigate the premises, the occupier and the lease terms. Steps are taken to ensure that there is compliance with lease terms and to establish a working relationship with those tenants who are likely to prove long-term tenants.
12. The next stage is to take action in respect of any and all breaches of lease in order to either bring the investment up to an acceptable standard or obtain possession (subject to the client's wishes and instructions) and re-let.
13. As far as possible, litigation should be regarded as a last resort because of litigation risks and costs. Persuading lessees of the inevitable results of wrong actions or inaction can save a great deal of risk and cost. Persuasive communication of that type is a matter of training, skill and experience which is where a good property manager is of considerable value.
14. It is not just a matter of ensuring rental payments are up to date and all other lease terms are in compliance, but a matter of enhancing the parade as a whole as well as the capital value/security of the landlord's investment.
15. At our February meeting in 2016 we expect to be in a position to give a further report on improvements to the management and investment in this parade. We will hope to be doing that with exhibits of photographs showing the parade at the point when we were first instructed and photographs showing a greatly improved frontage presentation and overall investment value.