

MINUTES
GARDEN AGM 22nd November 2018 at 3.30 pm
Held at the VICTORIA PUB

Present Haydn Turner (Chairman)
Ian Callan
Kenneth Ibbett
Barbara Miller

In Attendance: Aaron Landeryou

Apologies: Mel Altshuler
Caroline Garnham
Stuart Glyn
Giovanna Grassi
Catherine Mason
Keith Morris
Charles Wigoder
Robert Player (Garden Associates)

Haydn Turner opened the meeting by welcoming those present.

Aaron Landeryou advised that Robert Player had sent his apologies but he had presented a written report on the garden, which Aaron read out. The report is attached herewith.

Appointment of the Gardeners:

It was moved to re-appoint Robert Player of Garden Associates and approve his plan and budget for the garden.

Appointment of the Managing Agents:

It was proposed to re-appoint Westbourne Estates as Managing Agents for the garden, and it was noted that Aaron Landeryou had been a tower of strength during some very difficult times.

Approval of the Previous Minutes:

The Minutes of the last AGM were approved.

Election of the Garden Committee going forward:

Barbara & Mel Altshuler, Ian Callan, Caroline Garnham, Kenneth Ibbett, Sam Necker, Haydn Turner.

Church Commissioners Legal Case:

In 1998, Cluttons the then agents for the Church Commissioners wrote to Lady Fermoy's solicitors stating that the Church Commissioners would pay 13.833% of the annual garden rate percentage as they had identified some leases at Falmouth House where they had a right to use the garden but no requirement to pay the annual charge. For 11 years the church's agent paid the annual invoice, but in 2011 the church's new agent Knight Frank stopping paying but provided no explanation. The previous agents for the garden committee and then Westbourne Block Management attempted to get the invoices paid but Knight Frank either ignored them or implied that they would pay the invoices only for nothing to happen.

The arrears continued to increase, reaching over £50,000 by 2016 so it was agreed last year to take legal action to recover the money.

The case was heard at county courts in January 2018 where Judge Luba ruled that as the committee was an unincorporated association they could not sue the Church so the committee could not proceed in reclaiming the arrears of £85,000.

Janice Northover representing the committee suggested taking the case to the First Tier Tribunal. A hearing took place in July where both Kenneth Ibbett and Aaron Landeryou attended and gave evidence. The ruling was received by the committee in late August where the FTT decided that the Church were not liable to undertake the 13.833% as there was no contract in place requiring them to pay but it agree with garden committee that the Estate Management Scheme was no longer fit for purpose and that it should be varied to permit the garden committee to become an incorporated company thus allowing the committee to take action against any debtors.

Following the decision, Kenneth and Aaron along with Janice Northover have been in discussions with the Commissioners solicitors over the varying of the scheme. It is hoped that a varied scheme will be agreed upon in early 2019 concluding this long litigation proceeding after which the garden committee would act under Hyde Park Gardens Limited a company which the committee has set up in anticipation.

Garden Rate Percentages:

Because the FFT had agreed with the Church that they were not required to pay the 13.833% they had been paying, it meant that the garden rate paid by each property around the garden needed to be adjusted to absorb the 13.833%. Aaron explained that flats within 2-8 Hyde Park Gardens and 10-12 Hyde Park Gardens were currently invoiced direct to the owner and that Nos1, 9, 13, 14-16, 17, 18-21, 22 and 23/24 Hyde Park Gardens were invoiced direct to their managing agents or owner in the case where they owned a whole house. It has been the intention of the garden committee to move away from invoicing individual flats and simply invoice each building. The garden rate would then be split amongst the individual flat by the agent or managing company for the building by way of their service charge.

Aaron presented a proposed set of new percentages which was based on the foot print of the building whereby each building paid 4.11%. He explained that although there were a number of potential options for basing a new percentage on, this was the fairest system. The High Commission building was slightly larger than a single house and so he had adjusted the amount they pay to reflect that.

	House	Garden Rate
	Size	%
1 Hyde Park Gardens	1	4.11
2-8 Hyde Park Gardens	7	28.770
9 Hyde Park Gardens	1	4.110
10-12 Hyde Park Gardens	3	12.330
13 Hyde Park Gardens	1	9.590
14-16 Hyde Park Gardens	3	12.330
17 Hyde Park Gardens	1	4.110
18-21 Hyde Park Gardens	4	16.440
22 Hyde Park Gardens	1	4.110
23 Hyde Park Gardens	1	4.110
	23	100.01

Kenneth Ibbett supported the new garden rate percentage and although his building of 14-16 Hyde Park Garden was seeing an increase when comparing the existing percentages, he felt it was the fairest calculation of everyone. The committee agreed to the change in percentages and they would take effect in 2019.

Budget 2019:

WB19 circulated YTD accounts for 2018 and a proposed budget for 2019. This budget would allow the committee to pay Northover to conclude the legal case against the Church Commissioners and the costs awarded to the church as well as undertake some overdue projects around the garden which the committee had shelved due to the financial shortfall from the legal case.

Aaron proposed a garden rate levy of £82,000 for 2019, which was approved and invoiced will be issued in the coming weeks.

Dogs, Foxes & Contractors

Robert Player has raised concerns in both his gardener's report as well as verbally to Aaron about dog mess in the garden. Robert's team are regularly finding dog mess on the lawns and in the flowerbeds. The Compost Dump near the gardener's shed is regularly having non-green waste dumped in it which means that when the dump is emptied the cost is much higher for the removal as the waste is classed as contaminated. Robert Player has in the past found an old kettle, domestic rubbish and plastic plant pots. It was agreed that WB19 would write to residents about this and that residents would in future be fined if they or their contractors dumped waste.

Mrs Morris of No.19 had informed Aaron that they were employing a firm to deal with the foxes, and had considerably written to dog owners but WB19 was unaware that traps had been installed in the garden until informed by residents around the garden. The installation of the traps had been done without the formal consent of the Committee which Haydn was unhappy with. The biggest concern of the Committee is that a resident may decide to take independent action against dogs or squirrels and the committee were concerned that residents would simply take matters into their own hands rather than go through the appropriate channels. Two dogs (DC's and Giovanna's) and a cat have already been trapped as they were out alone, even though their owners were advised about the fox traps. It was agreed by the committee that Aaron would write to Mr. Morris and ask that he remove the traps from the garden but that it would be within his rights to have a trap on his terrace if he wished.

It was felt that no-one can take action in the garden without the approval of the Garden Committee.

Any Other Business

Haydn spoke of his appreciation of all the time and effort put into this matter by Kenneth Ibbett and Aaron Landeryou who have tackled this in a very determined and patient way and have gone way above the normal duties one would expect from a Managing Agent. He asked that it be minuted that the Committee would like to thank them for their professionalism.

It was agreed to give Aaron Landeryou a box of wine to show the appreciation of the Committee.

There being no further business the meeting closed.