



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **LON/00BD/OC9/2018/0372**

Property : **First Floor Flat, 4 Kingswood Court
Marchmont Road, Richmond
TW10 6EU**

Applicants : **N J Heale and CA Heale**

Representative : **Perfect Legal LLP**

First Respondent : **Kingswood Court (Richmond) Limited**

Representative : **Moore Blatch LLP**

Second Respondent : **Paragon Asra Housing Limited**

Representative : **Rodgers & Burton, Solicitors**

Type of Application : **Application under the Leasehold
Reform, Housing & Urban Development
Act 1993 to determine the costs payable
under section 60 of the Act.**

Tribunal Members : **Mrs A J Rawlence MRICS
Mr W R Shaw FRICS**

Date of Decision : **8 February 2019**

DECISION

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Decision

1. With regard to the First Respondent's costs, the Tribunal determines a figure of £2,100 for legal fees and £1,200 for the valuation report plus disbursements and VAT if applicable.
2. With regard to the Second Respondent's costs the Tribunal determines a figure for legal fees of £1,620 and £250 for the valuation plus disbursements and VAT if applicable.

Introduction

3. By Application dated 27 November 2018 and received by the Tribunal on 28 November 2018, the Applicants applied to the First-tier Tribunal, Property Chamber for the determination, under section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act"), of the reasonable legal costs.
4. The Applicants are the leaseholders of First Floor Flat, 4 Kingswood Court, Marchmont Road, Richmond TW10 6EU ("the Property") and have exercised their rights to extend the lease of the Property under the Act.
5. The Applicants served a Notice of Claim dated 8 November 2017. The Counter-Notice was served by the First Respondent on 10 January 2018. The Applicants indicated on 15 January 2018 that they had agreed a premium, to be paid to both the First and Second Respondents.
6. The First Respondent Kingswood Court hold a 999 year lease from 1 January 2005, the freeholder being Wallace Estates Ltd. The estate comprises 12 properties being a mixture of flats and houses.
7. The Second Respondent, Paragon Asra Housing Limited (was Richmond upon Thames Churches Housing Trust Ltd) hold a 125 year lease from 1 January 2005 from the First Respondent for the Property.
8. The Applicants considered the legal and valuation costs excessive and questioned whether the Second Respondent's costs were allowable.

The Law

9. The relevant law is set out below:

Leasehold Reform Housing and Urban Development Act 1993 Costs incurred in connection with new lease Section 60

Costs incurred in connection with new lease to be paid by tenant.

(1) Where a notice is given under section 42, then (subject to the provisions of this section) the tenant by whom it is given shall be liable, to the extent that they have been incurred by any relevant person in pursuance of the notice, for the reasonable costs of and incidental to any of the following matters, namely—

(a) any investigation reasonably undertaken of the tenant's right to a new lease;

(b) any valuation of the tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56;

(c) the grant of a new lease under that section;

but this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.

(2) For the purposes of subsection (1) any costs incurred by a relevant person in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.

5) A tenant shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation tribunal incurs in connection with the proceedings.

The Applicants' Submissions

10. The Applicants stated that the First Respondent's solicitors were requesting payment of £5,188.80 including VAT in fees and disbursements. It considered that these costs were excessive.

11. A time/costs schedule was provided with the Applicants' comments on details of work done.

12. The Applicants also disputed the costs of the valuation £1,440 including VAT.

13. Furthermore, the Applicants contended that, even if the Second Respondent was entitled to claim any costs, the process of checking an entitlement should not have resulted in fees of £3,025.20 including VAT which included the costs of a valuation.

The First Respondent's submissions

14. The Respondent's statement of case drew the Tribunal's attention to the fact that the title and underlying documents to the Property were not straightforward. The parties had identified considerable flaws in the

existing lease which require rectification. This process involved nine drafts of the new lease, which required consultation.

The Second Respondent's submissions

15. The Second Respondent's statement of case referred to her Client as a Charitable Trust who had to a duty to ensure its interests were adequately protected. The First Respondent had clarified that they would not be looking after her client's interests. The complexity of the lease and the requirement for a second valuation gave rise to the costs outlined in the summary.

The Tribunal's Deliberations

16. The Tribunal considered the written evidence submitted by all the parties.
17. The work done to investigate the claim was carried out by an Assistant Solicitor at an hourly rate of £240 and the Tribunal confirms this hourly rate.
18. However, some of the work carried out under Part 1 – Section 60 (1)(a) did not relate to the investigation of the claim. The Tribunal determines time spent to be 2.5 hours @ £240 = £600.
19. The Valuation Report included 3 hours of time assembling evidence, a further hour on the construction of the valuation and 4 hours on preparing the valuations and the report. The Tribunal disallows time consulting on the structure of the valuation and reduces the time spent on assembling evidence. The Tribunal determines a fee of £1,200.
20. The Tribunal noted that this was the first time Moore Blatch LLP had represented the First Respondent in a statutory lease extension claim. The granting of the lease was carried out by a Partner, who joined the Moore Blatch in 2018. The Tribunal determines that an hourly rate of £250.
21. The Tribunal noted that some of the work did not relate to granting the lease e.g. complying with Tribunal Directions. It also finds that considerable work was carried out on drafting several versions of the lease which they find excessive. The Tribunal determines 5 hours @£250 per hour for Part 3 – Section 60(1)(c) work = 1250
22. The Tribunal confirms the figure of £250 for anticipated costs.
23. In total the Tribunal determines a figure of £2,100 for legal fees and £1,200 for the valuation report plus disbursements plus VAT if applicable.

24. With regard to the costs incurred by the Second Respondent, the Tribunal finds that there was a duty to ensure its interests were adequately protected and this included obtaining their own valuation.
25. The work done was carried out by a solicitor who exclusively deals with leasehold enfranchisement. The Tribunal confirms the hourly rate of £270.
26. However, the Tribunal finds the time spent on the claim as excessive. Although it understands the need for both Respondents to carry out certain works e.g. checking title, the time spent on the revisions to the lease, these revisions being carried out by the First Respondent is excessive.
27. The Tribunal determines 2.5 hours for Part 1 – Section 60 (1)(a) costs and 3.5 hours for Part 3 – Section 60(1)(c) work. The tribunal, therefore, determines 6 hours @£270 per hour = £1,620.
28. The Tribunal determines that the cost of the valuation report is payable and confirms the fee of £250.
29. In total the Tribunal determines a figure for legal fees of £1,620 and £250 plus disbursements and VAT if applicable.

Appeal Provisions

30. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application to the First-tier Tribunal at the Regional Office which has been dealing with the case which application must:
 - a. be received by the said office within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
 - b. identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.
31. If the application is not received within the 28-day time limit, it must include a request for an extension of time and the reasons for it not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal.

Anthea J Rawlence
Chair