



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

**Case Reference** : **LON/00AN/OC9/2019/0228**

**Property** : **Flat 42, West Blythe Road  
London W14 0JG**

**Applicants** : **Stella Shaaya, Reem Victor Azzouz  
Hanna Azzouz**

**Representative** : **Wallace LP**

**Respondents** : **Serhan Umurhan, Emel Umurhan  
Mert Umurhan**

**Representative** : **Penningtons Manches**

**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 Member** : **Mrs A J Rawlence MRICS**

**Date of Decision** : **15 January 2020**

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**DECISION**

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## **Decision**

1. The Tribunal determines a figure of £2,860.50 for legal fees and £1,750 for the valuation report plus disbursements plus VAT if applicable.

## **Introduction**

2. By Application dated 31 October 2019 and received by the Tribunal on 4 November 2019, 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 and valuation costs.
3. The Applicants are the freeholders of Flat 42, West Blythe Road, London W14 0JG (“the Property”).
4. On or around 26 October 2018 Ghassan Basma and Rajaa Basma made an application for the grant of a new lease by way of a Notice of Claim. On 29 October 2018 the Property was transferred to the Respondents. A Counter-Notice was served on or around 19 December 2018 addressed to the Lessee as the assignment of the Property had not yet been registered with the Land Registry. The Respondent’s Notice of Claim was deemed withdrawn on 18 June 2019.
5. The Tribunal issued directions on 5 November 2019. These Directions allocated the matter to be a paper determination unless either side requested a hearing. There was no such request and, accordingly, this matter has been considered on the basis of the submissions provided.

## **The Law**

6. 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. In this case there were no such proceedings.

### **The Applicant's Submissions**

7. The Applicants' statement of case dated 10 December 2019 said that no agreement had been reached in respect of their legal fees and accordingly they had made a costs application to the Tribunal.
8. A detailed statement of costs was supplied and was to be found at pages 64 to 72 of Exhibit "KW1". (To be found at pages 77 to 86 of the bundle.)
9. The costs of the works carried out in respect of the Notice of Claim were £2,950 plus VAT in connection with legal costs (plus £36 Land Registry fees and Courier fees £3.50 plus Vat) and £1,750 plus VAT for valuer's fees.
10. The Applicants' solicitors charged legal fees according to the relevant fee earners which were a Partner at a charge out rate of £495.00 per hour, an Assistant Solicitor (Grade A) at £385.00 per hour and a Paralegal at £210.00 per hour.
11. The Applicants drew the Tribunal's attention to the fact that Wallace LLP are the Respondent's choice of solicitor and their rates charged are consistent with rates charged out by solicitors in Central London. It supplied the Tribunal with details of cases regarding the reasonableness of costs, charge out rates and the use of a Partner.
12. Reference was also made to two cases by the Tribunal where the charge out rates of the solicitors had been approved.
13. The applicants further submitted that the valuation fees are consistent with the usual fees claimed by value in Central London. Reference was made to Mr. Andrew Carrick and his detailed breakdown at page 105 of Exhibit "KW1". This was found to be in the bundle at page 86 and 199 as a time sheet with a reference to Jennifer. Page 98 of the bundle refers to Ms Jennifer Ellis of Langley Taylor being the client's valuer.

## **The Respondents' submissions**

14. There were no submissions from the Respondents. The application form refers to the Respondents who were assigned the Property on 29 October 2018. The Tribunal notes that the Representative is correctly identified for both the current owners and the previous owners of the Property. The Tribunal has written therefore to the Representative quoting the address of the Property and attaching the Directions.

## **The Tribunal's Deliberations**

15. The Tribunal considered the written evidence submitted by the Applicants. In particular it notes at paragraph 10 of the statement of costs the reference to legal fees of £2,950 whereas the schedule refers to legal fees of £3,247.50 – in both cases plus VAT.
16. The Tribunal accepts that enfranchisement work is complex, and the Respondent is entitled to choose a specialist solicitor. However, the costs have to be reasonable and in the opinion of the Tribunal the rates seem to be in excess of what is reasonable and the partner Samantha Bone's are reduced to £450 per hour; the assistant solicitor Shamin Kashem's rate to £345 and the paralegal Jennifer Nyame to £175.
17. The Tribunal accepts the time taken by Wallace LLP as set out in the schedule.
18. For clarity the Tribunal states the following:

Partner S. Bone's time	4.4 hours	@ £450	1980
Assistant Solicitor S. Kashem	2.4 hours	@ £345	828
Paralegal J. Nyame	0.3 hours	@ £175	<u>52.50</u>
		TOTAL	£2,860.5

19. The Tribunal consider the submissions made with regard to the valuer's fees and do not find these excessive.
20. The Tribunal accepts the courier fees of £3.50 plus VAT. The Tribunal determines a figure of £36.00 for the disbursement for Land Registry fees with no VAT due on this amount.
21. The Tribunal determines a figure of £2,860.50 for legal fees and £1,750 for the valuation report plus VAT.

## **Appeal Provisions**

22. 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.
23. 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