



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

Case Reference : **LON/00AC/0C9/2019/0027**

Property : **31 and 33 Mayhill Road, Barnet,
Hertfordshire, EN5 2NZ**

Applicant : **(1) Nevena Petkova Pavlova
(2) Callum Peter Noblett**

Representative : **Gisby Harrison Solicitors**

Respondents : **London Borough of Barnet**
Representative : **HB Public Law**
Types of Application : **Costs**

Tribunal Members : **Judge Tagliavini
Miss M Krisko, FRICS**

**Date and venue of
(paper) hearing** : **28 January 2020
10 Alfred Place, London WC1E 7LR**

Date of Decision : **28 January 2020**

DECISION

Decisions of the tribunal

- I The tribunal finds the total legal costs payable are £3,742.01; surveyors fees in the sum of £850 and disbursements in the sum of £9.00 (all sums exclusive of VAT).**
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The application

1. This is an application made under the provisions of ss.33(1) and 91 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”). The Applicants had previously made an application to the tribunal seeking a determination of the terms on which they could acquire the freehold of the subject property. These terms, including the premium payable was subsequently agreed by the parties leaving the tribunal to determine only the reasonable costs payable by the Applicants to the Respondent.

Background

2. On three occasions the Applicants served Initial Notices dated 3 May 2016; 16(?) April 2018* and 28 June 2018* seeking to acquire the freehold of the property, in which their respective flats are situated. However, the first Notice was deemed withdrawn on 21 January 2017 due to the absence of agreement between the parties and the lack of an application to this tribunal pursuant to the provisions of the 1993 Act. The second Notice was deemed invalid. A third Initial Notice was served which resulted in the Applicants acquiring the freehold of the subject property at 31 and 33 Mayhill Road for a premium of £6,500.

**Various dates cited by the parties.*

The premises

3. The tribunal was not provided with copies of the parties’ surveyors reports or the leases and therefore no detail as to the subject property was made known to the tribunal.

The Applicant’s evidence

4. The tribunal was provided with an indexed and paginate bundle of documents. As neither party had requested an oral hearing this matter was determined by the tribunal on the documents provided.
5. The Applicants relied on a Statement of Case (with exhibits\) dated 2 January 2019 from Walter Kramer a partner at the Applicants’ solicitors. In summary, it was submitted that:

The first Notice:

- (i) The Applicants are responsible for the Respondent's legal fees only for the period June 2016 to 21 January 2017 as after the latter date the Notice was deemed withdrawn despite ongoing discussions between the parties and the sum of £1,479 claimed by the Respondent for this period is not recoverable.
- (ii) The time claimed by the Respondent of 33 hours and 48 minutes is excessive and disproportionate to the transaction.
- (iii) Proof that the Respondent had obtained a surveyor's report was not provided.

The second Notice:

- (iv) Legal fees of £836.46 were claimed on the Respondent's completion notice but were increased to £1,219.04 on its Statement of Costs.
- (v) No costs are recoverable between 1 January 2018 and 16 April 2018.
- (vi) No costs are recoverable as the Notice dated 16 April 2018 was recorded as invalid on 17 April 2018.
- (v) The hours claimed by the Respondent are excessive.
- (vi) The surveyor's fees of £350 have not been substantiated by the production of a report or invoice.
- (vii) The Land Registry fees of £10 are rejected.

The third Notice:

- (viii) On the completion notice the Respondent claimed legal fees of £2,618.66 and £4,816.33 on the Statement of costs.
- (ix) The time spent is excessive in light of the Respondent's earlier dealings with this matter.
- (x) Sums for inter-departmental communications and "chasing the premium" are not recoverable under the 1993 Act.

The Respondent's evidence

6. The Respondent relied upon a Statement in Response dated 20 January 2020 from Lynne Horay, lawyer which in summary stated that:

General

- (i) A number of fee earners were required to work on the application to purchase the freehold due to the number of Initial notices being served, the time taken to conclude this transaction and a staff member having left and replaced by another.

The first Initial Notice

- (i) Legal fees are recoverable for the period after 21 January 2017 as negotiations between the parties continued as neither party realised that the time could not be extended until late 2017.
- (ii) Matters were complex and required enquiries to be made to resolve the Estate Management issue.
- (iii) The Respondent's surveyor evaluated the premises for the purpose of assessing the viability of the premium offered.

The second Initial Notice

- (iv) Legal fees were incurred during the period 17 April 2018 to June 2018 and incurred legal costs of £836.48.
- (vi) A second valuation was undertaken by the Respondent's surveyor.
- (vii) The time spent was not excessive.

The third Initial Notice

- (vii) The Respondent concedes in its Statement that the total costs payable are £2,933.47 and not the £4,816.03 as claimed in the Schedule of Costs.
- (viii) Time spent on agreeing the terms of the TP1 with the Applicants was lengthy.
- (ix) A further valuation was required by the Respondent's surveyor due to volatility of the property market.

The tribunal's decisions and reasons

7. In reaching its determination the tribunal relied solely upon the documentation provided which it found to be inaccurate and contradictory in places including dates of Notices and values.
8. The tribunal also finds the Applicant's case to be unclear in the manner in which it was set out and the tribunal would have found it helpful for the Applicants to have submitted what they believed to a reasonable figure for costs either overall or in respect of the three Notice periods.

9. The tribunal takes as its starting point the sums claimed by the Respondent in its Completion Statement dated 13 November 2019 as this provides the best evidence of the Respondent's costs.
10. The tribunal finds the following:

General:

- (i) The fee earners rates of £70 per hour to £84 per hour are reasonable.
- (ii) The tribunal finds it reasonable for the surveyor to have instructed to value and revalue the subject property on two of the three occasions claimed due to the time that passed between service of the first and second Initial Notices and the volatility of the property market there having only about a month lapsed between the second and third Initial Notices. Further, the tribunal takes into account that two flats were concerned in this matter.

The first Initial Notice

- (iii) The tribunal finds that the costs incurred after 21 January 2017 are not costs incurred under the provisions of the 1993 and therefore are not liable to be paid. Therefore, the tribunal finds that legal costs payable by the Applicant are £1,147.08.
- (iv) The tribunal finds that the cost of the surveyor's valuation of £500 is reasonable and payable by the Applicants.
- (v) The disbursement of £3.00 is payable by the Applicants.

The second Initial Notice

- (vi) The tribunal finds that the Respondent notified that the Initial Notice was invalid on 19 June 2018 (*as notified by letter of that date*). The tribunal finds that the Respondent incurred reasonable legal costs in respect of this notice and allows the sum of £500 to reflect these legal costs.
- (vii) The tribunal allows the costs of the surveyor's revaluation of £350.
- (viii) The tribunal finds that the disbursements total £6.00 and not the £10.00 claimed. However, the tribunal does not allow any sum in respect of the disbursement as it was unnecessary to carry out a Land Registry search in respect of this invalid Notice.

The third Initial Notice

- (ix) The tribunal finds that the material contained in the Counter-Notice is almost identical to that provided in respect of the second Counter-Notice (save for one minor matter). The tribunal finds that a number of matters have been duplicated and therefore finds the reasonable legal costs in respect of the third Notice are £2094.93 representing 80% of the legal costs claimed in the Respondent's completion statement.
 - (x) The tribunal disallows the costs of the surveyor's re-valuation of £350 as being not reasonable in light of the short period of time lapsed between the re-valuation that took place in respect of the second Initial Notice.
 - (xi) The tribunal allows disbursements in the sum of £6.00 as claimed in the Completion Statement.
11. The tribunal finds the total legal costs payable are £3,742.01; surveyors fees in the sum of £850 and disbursements in the sum of £9.00 (all sums exclusive of VAT).
12. Although the tribunal recognises it does not have jurisdiction on ground rent, it notices that the apportionment of the ground rent as it appears on the Respondent's Completion Statement it from the incorrect relevant date which as stated in the (third) Counter-Notice 26 June 2018 and not 13 November 2019.

Signed: Judge Tagliavini

Dated: 28 January 2020