



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

**Case reference** : **LON/00AJ/OC9/2021/0176**

**Property** : **494B Lady Margaret Rd, Southall,  
Middlesex UB1 2NP**

**Applicant landlord** : **Peak Holdings Limited**

**Representative** : **Bolt Burdon Solicitors, London N1**

**Intermediate landlord** : **City & Country Properties Ltd**

**Representative** : **Wallace LLP, Solicitors, London W1**

**Respondent** : **Muhammad Zahir Mapara**

**Representative** : **None**

**Type of application** : **Section 91(2)(d) of the Leasehold  
Reform, Housing and Urban  
Development Act 1993 (Costs)**

**Tribunal members** : **Mr Charles Norman FRICS  
Valuer Chairman**

**Date of decision** : **28 April 2022**

---

**DECISION**

---

### **Covid-19 pandemic: description of determination**

This has been a remote determination. The form of remote determination was P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, no-one requested the same, and all matters could be determined on the papers. The documents that the Tribunal were referred to are in a bundle of approximately 65 pages, the contents of which the Tribunal has noted.

### **Decision**

1. The Tribunal determines that the section 60 statutory costs payable by the lessee of 494B Lady Margaret Rd, Southall, Middlesex UB1 2NP are as follows:

- (i) applicant landlords' legal costs: £1443 plus disbursements of £3
- (ii) applicant landlords' valuation costs: nil
- (iii) intermediate landlords' legal costs: £2485 plus disbursements of £54
- (iv) intermediate landlords' valuation costs: £750

VAT is to be added to the above sums where applicable.

### **Reasons**

### **Background**

2. This is an application under section 91(2)(d) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") in respect of 494B Lady Margaret Rd, Southall, Middlesex UB1 2NP ("the Flat"). The address relates to a flat over a parade of outer suburban shops.
3. The application is for the determination of the reasonable costs payable by the tenant under section 60(1) of the Act following service of a Notice of Claim dated 28 August 2020 under section 42 of the Act given by the respondents' predecessors, to acquire a new lease of the Flat.
4. On about 3 November 2020, the applicant purchased the freehold of 484-522 Lady Margaret Rd, Southall, Middlesex UB1 2NY. The applicants' purchase was subject to the Notice of Claim. The applicant served a counter notice dated 5 November 2020. On 6 November 2020 the Intermediate Landlord served a Notice of Separate Representation under Schedule 11 Para 7 of the Act. On 5 March 2021, the respondent withdrew the claim. On 27 June 2021, the respondents' solicitor indicated that he was not instructed to accept service of documents.
5. No agreement was reached in respect of the costs payable by the respondent tenant to the applicant landlords under s.60 of the Act. Therefore, on 19 September 2021 the applicants made application to the Tribunal seeking a determination of those costs.

6. The applicants sought the following costs

	Freeholders Claim	Intermediate Landlord's Claim
Legal fees s60(1)(a)	£1500	£3168
Disbursements	£3.	£54
Valuers' fees s60(1)(b)	£750	£1500

Total £6,975, exclusive of VAT.

**The statutory provisions**

7. Section 60 of the Act provides:

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.

(3) Where by virtue of any provision of this Chapter the tenant's notice ceases to have effect, or is deemed to have been withdrawn, at any time, then (subject to subsection (4)) the tenant's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.

(4) A tenant shall not be liable for any costs under this section if the tenant's notice ceases to have effect by virtue of section 47(1) or 55(2).

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

(6) In this section “relevant person,” in relation to a claim by a tenant under this Chapter, means the landlord for the purposes of this Chapter, any other landlord (as defined by section 40(4)) or any third party to the tenant’s lease.

### **Directions**

8. The tribunal issued its standard costs directions on 22 September 2021, providing for determination on the papers unless any party requested a hearing, which none did. The landlords were directed to send the tenant by 18 October 2021 schedules of costs and supporting documentation to stand as the landlords’ case. The directions stated that the schedule should identify and explain any unusual or complex features of the case. The tenant was directed by 8 November 2021 to provide a written statement. The landlord was permitted to send a statement in response by 22 November 2021.
9. The applicant landlord and intermediate landlord each responded to the directions. The tenant did not respond to the application.

### **Matter Raised by The Tribunal**

10. The Tribunal considered the case on 9 March 2022. It was concerned with the level of costs generally and the disparity between the respective parties’ costs. It referred the parties to the 2021 Edition of the "Guide to the Summary Assessment of Costs", published by the Master of the Rolls, on 1 November 2021, and in particular the guideline hourly rates for London Bands 2 and 3. It invited submissions. It also requested a copy of the applicant landlords<sup>1</sup> valuation report with information as to the qualifications of its author, as the only information was an invoice on page 46 of the bundle, originating from the applicant itself.

### **Applicants’ case (freeholder)**

#### **Legal Costs**

11. Bolt Burdon of London N1 acted, and the work was carried out exclusively by a Grade A fee earner. A detailed schedule of time expenditure was provided which is reproduced at Appendix 1, with the Tribunal’s assessment added. Bolt Burden adopted an hourly rate of

---

<sup>1</sup> This was intended to be a reference only to the freeholder’s valuation. The intermediate landlord correctly stated that its valuation report was privileged.

£360 per hour and submitted that this was in line with other firms dealing with this type of work. However, there was a large end reduction reducing the cost claimed from £1884 to £1500.

### **Valuation Costs**

12. Page 46 of the bundle included an invoice dated 5 November 2020 from Peak Holdings Limited addressed to Peak Holdings Limited with the following narrative: “agreed fixed fee; to include receiving instructions, preparing valuation and report, including figures for section 45 counter notice” the amount was £750 plus VAT. On 21 March 2022 Mr Philip Sparks, CEO of peak Holdings Limited produce the following additional statement “the applicant is a property investment company. Mr Philip Sparks has been the CEO of the applicant company since January 1985 and has been a property investor since 1968. Given his experience Mr Sparks advises the applicant in relation to lease extension valuations in connection with property owned by the applicant. Mr Sparks is hourly rate for providing such advice is £150.”

### **Intermediate landlord**

### **Legal Costs**

13. Wallace LLP acted, and all the work was carried out by a grade A fee earner. A detailed statement of costs was provided. The intermediate landlord submitted that the charge out rate for the fee earner dealing with the matter reflected their experience in this technical area of law. [The charge out rate was £495 per hour]. The charge out rate had been approved by the tribunal in several previous cases. The charge out rate specified fell within the “reasonable expectation test”. The County Court guideline hourly rates were not relevant to the determination of costs payable pursuant to section 60 of the act. This was because they were guideline rates for summary assessment in civil court matters where recovery of costs was not determined by specific statutory provisions and did not reflect the specialist nature of leasehold enfranchisement work, or the intended indemnity for reasonable costs specifically set out in section 60 of the Act. The hourly rates reflected in the County Court guideline hourly rates in civil proceedings is markedly different to the compulsory acquisition nature of enfranchisement and the provisions of section 60. Section 60 states that the landlord is entitled to their reasonable costs. The costs claimed are reasonable and therefore probably recoverable pursuant to section 60. In the alternative the technical nature of enfranchisement work would certainly render the intermediate landlord solicitors within London band 1 rates.

### **Valuation costs**

14. An invoice £1500 plus VAT was provided from Chestertons. A breakdown was provided showing a time-based approach at a rate of £350 per hour. Travel time was charged at half rate. All work was carried out by a director.

### **The Tribunal's determination and reasons (see Appendices 1 and 2)**

#### **Applicants (freeholder)**

#### **Legal Costs**

15. The Tribunal is satisfied that all the work was carried out and accepts the time expenditure shown. However, the Tribunal noted that the guideline hourly rates for a Grade A fee earner in London Band 3 in which Islington falls, is £282 per hour. The Tribunal recognises that enfranchisement work is somewhat specialised but also notes that a large number of London Firms carry out such work. It considers that a modest uplift on the guideline rate may be appropriate and finds that the maximum reasonable figure is £300 per hour in this case. It finds that the maximum Grade C fee earner rate is £190 per hour against the guideline rate of £185 per hour. Therefore, the Tribunal finds that the reasonable legal costs are £1443, to which disbursements of £3 should be added. VAT should be added where applicable.

#### **Valuation Costs**

16. In relation to s 60(1)(c), the Tribunal considers that the fee claimed falls outside the scope of section 60 for the following reasons: (i) s60(2) envisages costs being incurred in respect of "professional services rendered" which were not provided. In the Tribunal's judgment, a freeholder cannot advise itself and claim this as a service under s 60, as this is management time. (ii) There is no evidence that the company incurred any cost in advising itself. (iii) there is no evidence of why the work took 5 hours. Therefore, this claim is disallowed.

#### **Intermediate Landlord**

#### **Legal Costs.**

17. The Tribunal accepts that the statement of costs accurately reflects work carried out. However, it does not accept the intermediate landlords' submissions in relation to the charge out rate adopted, except that the rate has been accepted in other cases. It is not clear

whether other decisions were subsequent to the 2021 Guide to the Summary Assessment of Costs. In any event, FTT decisions are non-binding. The Tribunal finds that the Guide, very recently published after a gap of ten years, is an important new factor to which the Tribunal should have full regard and give considerable weight. Paragraph 10 states “The court should not be seen to be endorsing disproportionate or unreasonable costs.”

18. The Tribunal does not accept that the wording of section 60 provides a full indemnity for costs. The provision does not make reference to indemnity and, to the contrary, limits cost recovery to those specific matters in section 1(a) (b) and (c), subject to the further qualification under s.60(2).
19. Paragraph 27 states “guideline figures for solicitors’ charges are published in appendix 2 to this guide which also contain some explanatory notes. The guideline rates are not scale figures: they are broad approximations only.” Paragraph 28 states “the guideline figures are intended to provide a starting point for those faced with summary assessment. They may also be helpful starting point on detailed assessment.” Paragraph 29 states “in substantial and complex litigation, an hourly rate in excess of the guideline figures may be appropriate for grade A, B and C fee earners where other factors, for example the value of litigation, the level of complexity, the urgency or importance of the matter, as well as any international element, would justify a significantly higher rate. It is important to note (a) that these are only examples and (b) they are not restricted to high-level commercial work that may apply for example to large and complex personal injury work. Further, London 1 is defined in Appendix 2 as “very heavy commercial and corporate work by centrally based London firms”...
20. The Tribunal does not find, in the present case, that the work can be described as “very heavy commercial and corporate work” bringing it within the scope of the London band 1 category.
21. It finds that the appropriate category is City & Central London Other Work, bringing it within London band 2. The guideline rate for this band is £373 per hour for a grade A fee earner and £244 for a grade C fee earner. For the reasons stated above, namely the somewhat specialised nature of the work, it finds that a modest uplift on those rates may be justified. Accordingly, it finds that the maximum reasonable charge out rates in this case are £400 and £250 for grade A and C fee earners respectively.
22. The Tribunal has reproduced the statement of costs at Appendix 2 on which its assessment of individual elements is set out.

## **Valuation Costs**

23. The Tribunal accepts the evidence that a valuation was carried out by a Director of Chestertons including an internal and external inspection. It accepts the time expended. However, the Tribunal finds that a valuation fee of £1500 for a flat above suburban shops is too high. The work could have been carried out by a surveyor of less seniority. The Tribunal finds that the maximum reasonable fee was £750 plus VAT, and this is allowed.

**Name:** Mr Charles Norman  
FRICS

**Date:** 28 April 2022

## **ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.