



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

Case Reference : **LON/00BD/OC9/2024/0067**

Property : **Rochester House, 43c Tower Road,
Twickenham TW1 4PS**

Applicants : **Citysharks Residential Ltd**

Representative : **Amphlett Lissimore Solicitors**

Respondent : **Victoria Claire Margaret Liddell &
Tammy Wilkins c/o Allsop LLP**

Representative : **Edwin Coe LLP**

Type of Application : **Section 60 (1) of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal Members : **Mr D Jagger MRICS**

Date of Decision : **26 March 2025**
Date of amended :
Decision **14 April 2025**

DECISION

Introduction

We exercise our powers under Rule 50 to correct the clerical mistake, accidental slip or omission on the front page of our Decision dated 26 March 2025. Our amendments are made in red. We have corrected our original Decision in order to amend to typing error in paragraph 12.

1. This is an application made by the Applicant under section 91 of the Leasehold Reform, Housing and Urban and Development Act 1993 (as amended) (“the Act”) for a determination of the statutory costs payable by the Applicant under section 60(1) of the Act to extend the lease the leasehold interest in relation to the property known as Rochester House, 43c Tower Road, Twickenham TW1 4PS (“the property”). The property is a second floor flat.
2. The Applicant’s entitlement to its costs under section 60(1) of the Act arises in the following way. Pursuant to section 91(2)(d) of the Act, the Applicant, (tenant) served a Notice on the Respondent dated 19 October 2023 to extend the leasehold interest of the property.
3. On 6 December 2023 the Respondent served a counter notice, which admitted the Applicant’s entitlement to exercise its right to extend the leasehold interest in the property. Subsequently, the parties were unable to agree the Respondent’s costs in respect of dealing with the lease extension. The current application to the Tribunal is accordingly in respect of the costs payable to the Respondent by the Applicant under s60 of the Act.
4. Following protracted negotiations, on the 8 May 2024, the Applicant made an application to this Tribunal for determination of the matter.
5. Terms were agreed on the 1 November 2024, at a premium of £32,500 and the new lease was completed on the 29 January 2025.
6. The total legal costs claimed by the Respondent are £17,948 plus VAT giving a total figure of £21,537.60. This varies from the three separate invoices presented to the Applicant which total £26,114.40 inclusive of VAT.
7. In addition, the Respondent claims a valuation fee of £1,500 plus Vat which has been agreed by the parties.
8. Helpfully, a detailed schedule of the Respondents legal costs has been provided by the Respondent’s solicitor, which we will refer to later. This sets out the level of fee earners and hourly rates claimed in respect of each of them, the attendances claimed for work carried out. The Applicant has submitted a Statement of Case which contends these figures. This is broken down into three sections, namely 60(1)(a), 60(1)(b) and 60(1)(c)

9. The Tribunal issued its standard cost directions 15 January 2025 that required the landlords to prepare “a schedule of costs sufficient for summary assessment”.

The Landlord’s proposed costs

10. The Respondent provided a schedule of the work undertaken [pages 15-22 of the bundle] The cost of all the items was said to be recoverable. For each item of the legal costs, the solicitors provided: the date, activity, description, fee earner, hourly rate and amount. Legal work was provided variously by a partner, an associate and cost associate. VAT was then added to these figures. The Respondent’s total claim was accordingly £21,537.60 including VAT.
11. The Respondent states this is a somewhat unusual case which involved a claim made by the Applicant against the Respondent who are together acting as Receivers for the landlord. The added a greater deal of complexity to the case which featured an input from solicitors specialising in insolvency.

The Tenant’s proposed costs

12. The tenant had offered to pay legal costs of £5,388 plus VAT at a deemed hourly rate of £540 plus VAT **or** £4,518 plus VAT at a rate of £440 plus VAT. The Applicant’s summary of case provides a detailed reasoning in the calculation of these figures.
13. The Applicant challenged both the hourly rates charged by the landlords’ solicitors and the time claimed to have been spent.

Relevant Statutory Provision

14. Judicial guidance on the application of section 33 was given in the case of ***Drax v Lawn Court Freehold Ltd*** [2010] UKUT 81 (LC), LRA/58/2009. That case concerned the proper basis of assessment of costs in enfranchisement cases under the 1993 Act, whether concerned with the purchase of a freehold or the extension of a lease. The decision (which related to the purchase of a freehold and, therefore, costs under section 33 of the Act, but which is equally applicable to a lease extension and costs under section 60) established that costs must be reasonable and have been incurred in pursuance of the initial notice and in connection with the purposes listed in sub-sections [60(1)(a) to (c)]. The Respondent tenant is also protected by section 60(2) which limits recoverable costs to those that the Applicant landlord would be prepared to pay if it were using its own money rather than being paid by the tenant.
15. In effect, this introduces what was described in ***Drax*** as a “(limited) test of proportionality of a kind associated with the assessment of costs on the

standard basis.” It is also the case, as confirmed by **Drax**, that the landlord should only receive its costs where it has explained and substantiated them.

16. It does not follow that this is an assessment of costs on the standard basis (let alone on the indemnity basis). This is not what section 33 says, nor is **Drax** an authority for that proposition. Section 33 is self-contained.
17. Further judicial guidance was given by the Upper Tribunal about the relevant principles to be applied in **The Trustees of John Lyons Charity v Terrace Freehold LLP** [2018] UKUT 0247¹ when assessing costs under section 33 of the Act and, essentially, confirmed the principles laid down in **Drax**.

Statutory framework

1. The Tenant’s liability for payment of the Landlords’ costs is governed by sections 60 of the Act. The relevant provisions are as follows:

60. – Cost of enfranchisement

(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 purpose of subsection (1) any costs incurred by the reversioner or any other relevant landlord 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

¹ at paragraphs 29-30

(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 a leasehold valuation 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 a 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.

Reasons for the Decision

18. Before turning to the specific costs we make three preliminary points. The first relates to the time spent by the landlords' professional team that was at the heart of this dispute. In assessing a reasonable time to undertake the tasks identified in sections 60(1) we have regard to our considerable experience both as specialist practitioners and as members of this expert tribunal: we can do no other.
19. The second relates to the basis of our assessment. We remind ourselves that we are not assessing costs on either the standard basis or the indemnity basis. The landlords' costs must nevertheless be reasonable, and this has been described as a limited test of proportionality.
20. Thirdly this tribunal has neither the expertise nor the resources to conduct a forensic and detailed assessment. We can only assess the costs in the round.
21. We deal firstly with the claimed hourly rates. The grades of the fee earners used by the Respondent's solicitors were Grade A for a Partner, Grade C for Associate and Grade D for Costs Associate. The hourly rates claimed in respect of these fee earners were £540 which increased to £620 on the 5 April 2024, together with a single entry for £720 on the 1 August 2024. £350 and £200 respectively. The Tribunal's view was that this is a highly technical area of law mainly conducted by firms of solicitors with the requisite knowledge and experience, of which the Respondent's solicitors are one.
22. Having regard to the technical nature of the work and the location of the firm, the Tribunal considered the grade of fee earners, and their hourly rates were reasonable in the sums of £540, £350 and £200. The upper rates of £620 and £720 are considered excessive and consequently these are the rates at which the Tribunal determined the Applicants' legal costs.

23. As to the work carried out by those fee earners that the Tribunal found to be reasonably incurred.
24. However, we have considerably more difficulty with the time said to have been spent in completing the task identified in section 60(1). The draft lease itself was in a standard form. The premium was relatively modest. The 36.3 hours claimed is excessive and cannot be justified, even bearing in mind the complexity of the case.
25. By way of example we give the following three examples:
- a. Working with valuation matters as stated on the 1.12.2023 is not justified.
 - b. Equally we find impossible to justify the 4 hours spent in drafting the costs statement.
 - c. Some of the claimed time appears to be duplication. 0.2 hours is claimed for further drafting of the counter-notice.
26. Looking at the time claimed in the round, the Tribunal consider that a landlord only be prepared to pay for 14 hours for a Grade A Partner at £540 per hour, 6 hours for Grade C Associate at £350 per hour and 2 hours for Grade D Cost Associate at £200 per hour.
27. Accordingly, the Tribunal determined that the reasonable solicitors' legal costs payable by the Applicant is **£10,060 plus VAT**.

Duncan Jagger Valuer Chairman 14 April 2025

