FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AH/OC9/2025/0638**
Property	:	**Flat 12, Lincoln close, Woodside Green South Norwood SE25 5ET**
Applicant	:	**Brickfield Properties Ltd**
Representative	:	**Wallace & Co Solicitors**
Respondent	:	**(1) Julie Anne Trusson** **(2) Tina Ruth Bashford**
Representative	:	**Not represented**
Type of application	:	**Costs under Section 60 of the Leasehold Reform, Housing and Urban Development Act 1993**
Tribunal members	:	**Mr A Harris LLM FRICS FCIArb** **Valuer Chair**
Date of determination and venue	:	**13 August 2025 at** **10 Alfred Place, London WC1E 7LR**
Date of decision	:	**13 August 2025**

DECISION

Summary of the tribunal's decision

(1) The amount of costs payable is **£4887.32 including VAT**

Background

1. This is an application made by the Applicant Landlord pursuant to section 60(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for assessment of the costs payable by

the leaseholder following a notice of claim for a new lease under section 42 of the Act which was deemed withdrawn as the Respondent did not apply to the tribunal in time to determine disputed matters.

2. By a notice of a claim dated on or around 30 November 2023 served pursuant to section 42 of the Act, the Respondents exercised the right for the grant of a new lease in respect of the subject property. The Respondents were acting as executrix of the late Robert William Trusson.

3. At the time, the Respondents held the existing underlease granted on 16 July 1975 for a term of 90 years less 3 days from 29 September 1947. The Respondents proposed to pay a premium of £39,750 for the new lease and £Nil for the other amounts under Schedule 13 of the Act.

4. On 6 February 2024, the Applicant freeholder served a without prejudice counter-notice stating that the claim was invalid as the grant of probate on the Estate is dated 11 July 2018 and the period for the stated persons to serve a Notice of Claim as Executrix of the Estate has expired. The Notice of Claim was stated to have been served in the Respondent's names of the Executrix of the Estate and not in their own names as required by the Act. The premium offered was said to be so low as not to be a genuine opening offer. The Respondents were invited to accept that the Notice of Claim is invalid and of no effect.

5. In addition, in order to protect their position, the Applicants also served a counter notice admitting the Tenant on the Relevant Date had the right to a new lease of the flat. The Schedule 13 amounts were agreed at £nil. The premium to be paid for the new lease was stated to be £186,420. A draft lease for 90 years from expiry of the existing lease was attached.

6. Terms were not agreed, the leaseholder failed to apply to the tribunal by 7 August 2024 and the claim was deemed withdrawn

7. On 18 March 2025 the Applicant applied to the tribunal for an assessment of the costs payable.

The issues

The hearing

8. The case has been decided on the papers making use of the electronic documents received which consist of a bundle prepared by the Applicant including submissions from the Respondent.

The claim

9. The applicant has submitted a costs bill totalling £4887.32 including VAT made up of

- £4200 including VAT solicitors fees,
- landlords valuation fee £600 including VAT
- Land registry £36 inclusive of VAT
- Courier £51.32 including VAT

The Law

10. Section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 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 [F1the 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.

11. Hague on Leasehold Enfranchisement 7th edition states

7-48 No premium is payable upon the grant of the extended lease. But, whether or not he is in fact eventually granted an extended lease (unless the landlord successfully resists the Notice of Tenant's Claim on the ground of redevelopment[184] or own occupation), the tenant must pay the following:

(1)The landlord's costs of investigating his right to the extended lease.

(2)The costs of the new lease. These will include the landlord's solicitor's costs and disbursements, and any stamp duty payable.

(3)Any valuation of the house and premises obtained by the landlord before the grant of the extended lease for the purpose of fixing the rent payable thereunder as from the original term date; however, there can only be such valuation if that date has already passed or if there is only a year or less of the original term unexpired at the date of the grant of the extended lease. But the tenant is not liable to pay the landlord's costs of negotiation of the rent or other terms of the extended lease.

The obligation to pay costs under s.14(2)of the Leasehold Reform Act 1967 does not extend to costs in connection with an application to the First-tier Tribunal (in Wales, the leasehold valuation tribunal).

The Respondents case

12. The Respondent submits that the costs claimed are excessive, disproportionate and unjustified. A significant proportion of the work

was carried out by senior fee earners at premium rates for routine or administrative tasks. The costs are inflated and fail to meet standards of reasonableness and proportionality.

13. The hourly rates are said to be excessive in relation to guideline hourly rates for solicitors for work in litigation cases in he County Court. This is not litigation and lower rates should apply. However, applying the rates from the table produces a total of £3048.48 including VAT.

14. The section 42 notice was defective as the notice was served by the executors of the world more than 2 years after the grant of probate. This should have been obvious to an experienced solicitor and therefore no work was necessary beyond consideration of the notice, a letter being sent to the tenant's solicitors and an email to the client. Cost should be limited to £382.08 plus VAT.

15. The schedule submitted demonstrates a clear excessive use of senior fee earners. Work is also duplicated. There was unnecessary correspondence with the valuer and the use of a courier is not justified.

16. Applying these adjustments the costs will be reduced to £2038.20 plus VAT and disbursements of £1.54 probate fees plus VAT and £27 for land registry search fees which are VAT exempt and £500 plus VAT for valuation.

The Applicant's response

17. The Applicant holds the head lease of 9-14 Lincoln Close Woodside Green, Croydon, SE25 5ET of which the subject property forms part.

18. The Application referred to in paragraph 2 above was accompanied by a covering letter stating that Elmwoods Law and Mediation were instructed by the Respondents but the notice itself said that Gunnercooke LLP were appointed to act in connection with the claim.

19. In response, the Applicants solicitors wrote to Gunnercooke requesting a copy of the Grant of Probate along with the Notice requiring a Deposit and Proof of Title. No response was received to this request and a further notice was served on 9 January 2024.

20. Gunnercooke then confirmed they act on behalf of a proposed purchaser of the subject property but no assignment of the lease had yet taken place. The Applicant's solicitors requested contact details for the sellers received no response.

21. In order to check the validity of the Notice and serve a valid Counter-Notice the Applicant's solicitors obtained a copy of the Grant of Probate from the Probate Registry.

22. On or around 6 February 2024 the Applicant served a Counter-Notice without prejudice to the contention the Notice was invalid and of no effect as the premium offered was so low as not to be a genuine opening offer and also that the Notice was served in the name of the Respondents as executrix and not in their own right.

23. The Counter Notice was served on both Elmwoods and Gunnercooke.

24. Following the service of the Counter-Notice, Gunnercooke informed the Applicant's solicitors on 7 February 2024 that the solicitors acting for the Respondents were Gordon Brown Law. On 9 February 2024 they advised that the Respondents had withdrawn from the sale.

25. A copy of the Counter-Notice was then sent to Gordon Brown Law but no further communication was received from the Respondents or any solicitors and therefore the Notice of Claim was deemed withdrawn on 5 August 2024.

26. An application was made to the tribunal for determination of the statutory costs payable and following the issuing of directions a detailed schedule of costs was sent to the Respondents.

27. The fees claimed are by reference to the time spent by the relevant fee earners. The solicitor is a partner in the leasehold enfranchisement department of the central London firm and at the relevant time charge out rate of £575 per hour. Another partner in the property department undertook work amending the draft lease and at the relevant time charge out rate of £635 per hour . Both are grade A fee earners.

28. The tribunal was referred to a number of cases where the charge out rates of the Applicant's solicitors have been approved by the tribunal. They have been acting for the Applicant for many years dealing with enfranchisement matters and they have the knowledge and capacity to deal with this work. The charge out rates are consistent with those for solicitors in central London.

29. Less experienced fee earners are likely to take longer to deal with the complexities of the work. The specialist nature of this branch of law is clearly illustrated by the failure of the Respondents to serve a valid notice.

30. The contention that the Applicant's solicitors work should have been limited to consideration of the Notice and a letter to the Respondent's

solicitors is not accepted in view of the consequences of failing to serve a valid Counter-Notice.

The tribunal's determination

31. The tribunal determines that the recoverable costs are the landlords solicitors fees and disbursements for investigating the tenant's right to a new lease and costs in preparing a new lease, and the landlords valuation fee.

32. Once a notice is served the recipient needs to investigate the validity of the notice and the terms proposed. The consequences of failing to do so can be severe. In this case a notice was served which was invalid and which was not accompanied by relevant documents such as the grant of probate nor was it accompanied by the deposit. Both of these increased the amount of work the landlord needed to undertake. If it was so obvious that the Notice was invalid it begs the question as to why it was served in the first place.

33. The facts surrounding the abortive sale of the subject property are noted but these were not in the knowledge of ,or responsibility, of the landlord. They were not fully explained at any stage. The additional work undertaken to establish the facts was therefore necessary.

34. An itemised solicitors bill has been provided and the tribunal is satisfied that the hours spent and rates are appropriate for the matter. Similarly, the disbursements are considered reasonable and the valuation fee is in line with previous decisions of this tribunal.

35. The claim is therefore allowed in full in the sum of £4887.32 inclusive of VAT.

Name: A Harris **Date:** 13 August 2025

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).