

LVT ref MAN/OOBM/OC6/2003/0001

Leasehold Valuation Tribunal – Decision on an application under Section 9(4) Leasehold Reform Act 1967 as amended.

Applicants – Mr and Mrs Simon Radivan

Landlord – Chancery St James plc

Property – 42, Marle Croft, Whitefield Manchester M45 7NB

Application date – 15th January 2003

Hearing date – 12th May 2003

Tribunal – J R Rimmer BA, LLM, S Chesters-Thompson MA, FRICS

This document records the decision of the Leasehold Valuation Tribunal following an application to determine the reasonable costs payable by the applicant to the freeholder for purchase of the freehold estate in the house and premises at 42, Marle Croft, Whitefield, Manchester in accordance with the provisions of Section 9(4) of the Leasehold Reform Act 1967, as amended.

The applicants indicated in their letter of application to the Tribunal a figure of £100.00 (without specific reference to the matter of Value Added Tax) as a reasonable amount to be payable in respect of the landlord's costs. They provided examples from within their personal knowledge of amounts of £100.00 and £176.25 (both figures inclusive of VAT) accepted by parties in previous applications. The issue of the reasonableness of either figure appears never to have been tested in the light of apparent agreement as to the appropriate amount in those cases.

The landlord's solicitors countered with a suggestion by letter dated 3rd March 2003, which they broke down into 3 elements:

- 1 Surveyor's valuation costs of £150.00 plus VAT
- 2 Freeholder's/managing agents costs of £150.00, without mention of VAT
- 3 Conveyance costs of £100.00 plus VAT.

The Tribunal noted with regret the paucity of information provided as to how these figures had been arrived at and has endeavoured to reach its conclusion with such information as it received and its overall knowledge and experience in such matters gleaned as an expert tribunal.

The Tribunal considered each of those elements in turn in the light of Section 9(4) of the 1967 Act as amended by paragraph 5 of Schedule 22 to the Housing Act 1980. The applicant must bear the reasonable costs of the landlord in respect of the matters set out in Section 9(4) (a – e) from which are expressly excluded costs incurred by a landlord in connection with a reference to a Leasehold Valuation Tribunal.

So far as the surveyor's fees are concerned the view of the Tribunal is that these should be limited to a reasonable fee for the valuation in this instant case of a ground rent of £35.00 per annum following the applicants initial application for the freehold. The Tribunal decided that a fee of £50.00 plus VAT is reasonable.

When considering the question of the costs of the landlords and their agent it is right that they should be able to recover reasonable "in-house" costs as professional landlords and agents for giving proper consideration to the applicant's request to purchase the freehold and the relevant issues arising therefrom. In this case the Committee considered the sum of £100.00 to be reasonable. As noted above no VAT was sought by the landlord's solicitors in respect of this element.

Thirdly the conveyancing costs themselves in an amount of £100.00 plus VAT were considered by the tribunal to be reasonable and appropriate for a transaction of this nature.

The decision of the Tribunal therefore is that the reasonable costs payable by the applicant on behalf of the freeholder amount to £250.00, upon £150.00 of which a further sum for VAT of £26.25 would appear to be chargeable, making a total amount of £276.25.

Dated: 12th May 2003

SIGNED.....

J R RIMMER, Chairman.