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**LEASEHOLD VALUATION TRIBUNAL  
OF THE  
MIDLAND RENT ASSESSMENT PANEL**

BIR/00CN/OC6/2003/0031

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON*

*AN APPLICATION UNDER SECTION 21(1)(ba) OF THE LEASEHOLD REFORM ACT 1967*

Applicants: (leaseholders) Satpal Hira and Balvinda Kaur  
Respondent: (freeholder) Paul Andrew Fountain  
Subject property 139 Wood Lane, Handsworth, Birmingham B20 2AG  
Date of tenants' notice: 6 December 2001  
Application to the LVT: 22 August 2002  
Hearing: 23 June 2003

Appearances:

*For the applicants:* Mr A A Haynes FRICS

*For the respondent:* No appearance

Members of the LVT:

Mr S Duffy MRICS Barrister

Mr D Satchwell FRICS

Mrs N Jukes

Date of determination: 18 July 2003

**Introduction**

1. This is a decision on an application under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Satpal Kira and Balvinda Kaur of the house and premises 139 Wood Lane, Handsworth, Birmingham B20 2AG ("the subject

property"). The application is under section 21(1)(ba) for the determination of the reasonable costs payable under section 9(4).

2. The applicant leaseholders held the subject property by way of an underlease, dated 19 May 1958, for a term of 99 years (less three days) from 25 March 1938 at a ground rent of £10.50 per year. The underlease was assigned to the applicants in February 1992. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold was 34 and a half years.
3. The applicants served on the respondent landlord a tenant's notice dated 6 December 2001 claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act. The price payable was subsequently agreed between the parties. The present application was made on 22 August 2002.

### **Hearing**

4. The hearing was attended by Mr A A Haynes FRICS of Bigwood, Chartered Surveyors representing the applicant leaseholders. The respondent freeholder did not attend and was not represented.

### **Representations of the parties**

5. Mr Haynes, representing the applicant leaseholders, explained the background to the present application. The respondent had requested £1,250 plus VAT for surveyors and legal fees combined. Mr Haynes informed the Tribunal that the respondent's representatives had advised him that this figure also included a sum for Counsel's fees.
6. Mr Haynes advised the Tribunal that although that he had no evidence of the respondent's valuation he understood that one had been undertaken but that he was not certain when. However, Mr Haynes informed the Tribunal that the respondent's surveyors had advised him that they had been instructed on 10 October 2002.
7. Mr Haynes concluded that the reasonable figure for legal costs in the present case would be £250 plus VAT for surveyors fees and £250 plus VAT for legal fees.

### **Determination of the Tribunal**

8. The Tribunal considered the evidence and the representations of the parties. There was no evidence that the respondent's valuer's fees were attributable to a valuation undertaken prior to the date of the application to the Leasehold Valuation Tribunal for a determination of the price payable for the purchase of the freehold. The Tribunal also concluded from the evidence submitted by Mr Haynes that the respondent's surveyors had been instructed on or around 10 October 2002, which suggested that any valuation which may have been undertaken by the respondent's valuer was done so after the date of the application. Accordingly, in the absence of any direct evidence that a valuation was

undertaken prior to the application to the Tribunal, no valuation costs are payable by the Applicant pursuant to section 9(4)(e) of the Act.

9. In the absence of any breakdown of the figures submitted on behalf of the respondent and in the absence of evidence of actual work undertaken and actual costs incurred in the present case, the Tribunal determines, in accordance with section 9(4) of the 1967 Act and the recent practice of Leasehold Valuation Tribunals in the Midland Rent Assessment Panel region, that the respondent freeholder is limited to the recovery of conveyancing costs of £250.00 plus costs of office copies if appropriate (plus VAT if applicable) under paragraph (b) of section 9(4).



**SIMON DUFFY**

CHAIRMAN

18 July 2003