IN THE SOUTHERN LEASEHOLD VALUATION TRIBUNAL

CHI/29UN/LCP/2007/0002
CHI/29UN/LCP/2007/0003
CHI/29UN/LCP/2007/0004

IN THE MATTER OF 3 NORFOLK ROAD RTM Co. LTD
IN THE MATTER OF 42 ATHELSTAN ROAD RTM Co. LTD
IN THE MATTER OF 2 CLIFTON LAWN RTM Co. LTD

AND IN THE MATTER OF SECTION 88 OF THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002

BETWEEN:

3 NORFOLK ROAD RTM Co. LTD
42 ATHELSTAN ROAD RTM Co. LTD
2 CLIFTON LAWN RTM Co. LTD

Applicants

-and-

WATERGLEN LIMITED

Respondent

THE TRIBUNAL'S DECISION

Background

1. These are joint application by the Applicant companies for a determination of costs pursuant to s.88 of the Commonhold and Leasehold Reform Act 2002 (as amended) ("the Act").

2. The subject matter of these applications are the costs incurred by the Respondent in relation to the Applicants' application for the right to manage each of the subject properties. The costs claimed are:

3 Norfolk Road	£480.60 inc. VAT and disbursements
42 Athelstan Road	£475.91 inc. VAT and disbursements
2 Clifton Lawn	£617.49 inc. VAT and disbursements

3. The objections made in relation to the costs claimed are set out variously in the Points of Dispute served on 9 August 2007. Many of the points of dispute are repeated for each claim and, as will become apparent, it was not necessary for the Tribunal to set out any particular ground of dispute.

Decision

4. The Tribunal's determination took place on 2 October 2007 and was based entirely on the documentary evidence before it. There was no oral hearing and the Tribunal did not hear any evidence from the parties.

5. The Applicants did not challenge the hourly rates claimed. They broadly contended that, firstly some items of work should have been carried out by a trainee solicitor instead of an assistant. Secondly, that other items of works had not been reasonably incurred. Thirdly, that the time taken to carry out certain items of work was excessive.

6. The Respondent contended that the costs incurred was not a mechanical process based on time study as alleged by the Applicants. The time taken in each case varied depending on the particular circumstances. As to the level of fee earner, delegation was not automatic and was only done where appropriate. The time incurred was not as simplistic as the Applicants suggest because it involved checking of the relevant documents, reporting to their client and other third parties such as the managing agent.

7. The relevant test to be applied when determining this application is set out in s.88 of the Act and is a two stage process. Firstly, the costs claimed must be incurred *"as a consequence of the claim notice given..."*. Secondly, any such costs incurred must be reasonable as if the payee had personal liability for those costs.

8. The Tribunal did not accept the Applicants general contention that certain items of work should have been delegated to a trainee solicitor. The work involved was technical in nature and could not, in the main, be properly delegated to a trainee. The Tribunal was satisfied that, where this was appropriate, the Respondent had delegated work to a trainee. Moreover, the Tribunal was also satisfied that had a trainee been given conduct of this matter, it would have necessarily resulted in greater time being taken and thereby increased the level of costs claimed.

9. In respect of the amount of time spent, the Tribunal accepted the Respondent's contention that it could not be calculated in the mechanical way suggested by the Applicants. Having carefully considered the Respondent's Schedules of Costs, the Tribunal concluded that the time taken and the work carried out were properly incurred having regard to the nature of the matters dealt with. The overall costs claimed did not strike the Tribunal as being unreasonable at all. The Applicants raised an issue about some disbursements claimed by the Respondent. The Tribunal concurred with the Respondent's submission that the Civil Procedure Rules do not apply in this instance and allowed these amounts as claimed. In conclusion, the Tribunal was satisfied, on balance, that the test set out in s.88 of the Act had been met regarding the Respondent's costs incurred in relation to each property and the total costs inclusive of VAT and disbursements claimed in respect of each was, therefore, allowed in full.

Dated the 10 October 2007

CHAIRMAN..... I. Mohabir .....

Mr I Mohabir LLB (Hons)