

1516



Residential  
Property  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**  
**LEASEHOLD VALUATION TRIBUNAL for the**  
**LONDON RENT ASSESSMENT PANEL**  
**LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

**LON/00AW/OC9/2007/0037**

---

**Premises:** 83 Gloucester Road  
18-19 Stanhope Mews  
London SW7 5RB

**Applicant:** Long Life Ltd

**Represented by:** Lattey & Dawe, solicitors

**Respondents:** Katherine Genevieve Reardon  
Rachelle Christina Lunnon  
Fedor Bachmann  
Edith Backhman

**Represented by:** Housing & Property Law Partnership, solicitors

**Intermediate Landlord:** Sinclair Gardens Investments (Kensington) Ltd

**Represented by :** P Chevalier & Co, solicitors

**Tribunal:** Mr NK Nicol (Chair)  
Mr I Thompson BSc FRICS  
Mrs R Turner JP BA

---

**Date of Decision:** 04/09/07

## DETERMINATION

1. This is an application for a determination as to the costs payable by the Respondents as nominee purchaser to the Applicant as freeholder under s.33 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act"). The Intermediate Landlord has joined in, also asking for a determination as to their costs, and they were given permission by the Tribunal on 2<sup>nd</sup> August 2007 to do so without making their own application. The Tribunal directed that the case should be decided on the papers. The Respondents' solicitors complained about the timetable for submissions but did not make any application to vary it. Therefore, the Tribunal has proceeded with its determination on both sets of costs.
2. The Respondents had initiated the process under the Act to acquire the interests of the Applicant and the Intermediate Landlord by serving a notice on 22<sup>nd</sup> December 2006. The Applicant's counter-notice of 23<sup>rd</sup> February 2007 objected to the acquisition, principally on the basis that more than 25% of the internal floor area of the subject premises was for non-residential use. The Respondents did not make any application to the Tribunal within time and so their notice was deemed withdrawn. Under s.33(1) the Respondents are liable for the reasonable costs of the other parties in dealing with their initial notice.
3. Under s.33(2) of the Act, any costs incurred in respect of professional services must only be regarded as reasonable if and to the extent that such costs might reasonably be expected to have been incurred in circumstances where the relevant party was personally liable for all such costs. Essentially, the basis of assessment is that the Applicant and Intermediate Landlord should be indemnified for their costs on the basis of their contractual liability. Where there is such entitlement, the paying party may still object on the ground that any item was unreasonably incurred or unreasonable in amount, save that any doubt must be resolved in favour of the receiving party (*Gomba Holdings UK Ltd v Minorities Finance Ltd* [1992] 4 All ER 588).
4. The Applicant and the Intermediate Landlord each employed solicitors and valuers to advise them and their respective costs are considered in turn.

5. The time of the Applicant's solicitor, Ms Chi Collins, was charged out at £300 per hour plus VAT. Ms Collins helpfully provided a print-out of her billing activity, showing each letter, phone call and e-mail in and out, together with a very brief description in respect of each item. The Tribunal is satisfied that the amount of time (total: 9 hours 6 minutes) and activity were within the range which would be appropriate to this case. This area of law is relatively complex, as are often the leases which must be examined as part of the process. This is partly demonstrated by the fact that the Respondents' solicitors missed, while the Applicant's solicitors had to deal with, the issue concerning the non-residential use of part of the subject premises.
6. However, the Tribunal is concerned, based on its own expert knowledge and experience, that £300 per hour is a very high rate. This is demonstrated by the fact that Ms Collins spent more than 2½ hours "perusing" the statutory provisions. For that kind of rate, the Tribunal would have expected sufficient familiarity with the legislation so that it would not be necessary to spend that amount of time on such activity. In the circumstances, the Tribunal has determined that the Applicant's solicitors' charges are not reasonable in amount and that it should be reduced to the same rate as that charged by the Intermediate Landlord's solicitors, namely £220 per hour plus VAT (see further below). By the Tribunal's calculation, the fee should therefore be £2,002 plus VAT, a reduction of approximately one-third.
7. The Tribunal was equally concerned that the Applicant's valuer, Simon Radford BSc (Hons) MRICS of Boston Radford Chartered Surveyors, was charging at the very high rate of £235 per hour plus VAT. It was noted that this rate was applied to the inspection and detailed measurement of the building, containing five flats as well as the retail and common parts, a task which does not require the most expert top earners. The Tribunal also noted that the time spent included 2 hours' collation and analysis of comparable evidence and one hour preparing a formal valuation report, activities which were unnecessary in this case which did not get as far as an actual valuation of the subject property.
8. Therefore, the Tribunal is not satisfied that the amount and activity was within the range that would be appropriate for this case but that the valuer's fees are unreasonable in amount. The time spent should not include 3 of the claimed

hours. Further, the fees should be £180 per hour, plus VAT, for the majority of the work, which took 7 hours, and £80 per hour for the inspection and measurement elements which took 2½ hours. By the Tribunal's calculation, the fee should therefore be £1,460 plus VAT, a reduction of approximately a half.

9. The Intermediate Landlord's professional fees were more modest. The solicitors charged out at a rate of £220 per hour for a total of £737 plus VAT. The Respondents objected that this was too high a rate but they presented no evidence to support this and the Tribunal is satisfied that this is within the range of charges that might reasonably be expected. In the circumstances, the Tribunal determines that the entire amount is payable.
10. The Intermediate Landlord employed Mr Laurence Nesbitt BSc (Hons) FRICS MCI Arb of Nesbitt & Co Chartered Surveyers at a cost of £400 plus VAT. This is arguably on the high side for what he had to do, but the Tribunal is again satisfied that it is within the range of charges that might reasonably be expected in the circumstances.
11. Therefore, the reasonable costs payable by the Respondents are as follows:-
  - (a) Applicant's solicitors: £2,002 plus VAT and the Land Registry fee of £8;
  - (b) Applicant's valuer: £1,460 plus VAT;
  - (c) Intermediate Landlord's solicitors: £737 plus VAT; and
  - (d) Intermediate Landlord's valuer: £400 plus VAT.

Chairman.....

*N.K. Neal*

Date 4<sup>th</sup> September 2007