

2013

RESIDENTIAL PROPERTY TRIBUNAL SERVICE LEASEHOLD VALUATION TRIBUNAL

Property : 56, Cedarwood Drive, St Albans AL4 0DW

Applicant : Angela M. Patton

Respondents : John D. Phillip, Frank A. Phillip and
Nicholas D. Phillip

Case number : CAM/26UG/OLR/2010/0047

Date of Application : 8 July 2010

Type of Application : For determination of terms of extended lease
under Leasehold Reform, Housing and Urban
Development Act, 1993 as amended (the Act).

Tribunal Members

Judith H Lancaster	Lawyer Chairman
John Dinwiddy FRICS	Valuer Member
Helen C Bowers MRICS	Valuer Member

DECISION

The Tribunal assesses the Respondents reasonable costs under section 60 of the Act at £1849.50 plus any VAT properly chargeable.

INTRODUCTION

1. Subsequent to the Application all terms relating to the extended lease on the Property were agreed between the parties. Both parties agreed that the Tribunal should therefore only be asked to determine the amount of costs to be paid by the Applicant to the Respondents under section 60 of the Act, such determination to be made without an inspection or hearing, on the basis of written representations.

2. Both parties subsequently submitted written representations.

RESPONDENTS CASE

3. The Respondents submitted a breakdown of costs claimed pursuant to section 60, made up of legal costs and valuation costs. The valuation costs were in the sum of £1,082.73, plus VAT, as set out in an invoice from Shaw and Co, Chartered Surveyors, relating to a valuation report prepared by them for the purposes of the lease extension. The legal costs were a schedule of costs claimed for work carried out by the Respondents solicitors, setting out the type of work done, the date, time spent, number of chargeable units (6 minutes each), amount claimed and justification for the claim under subsections 60(1)(a) and 60(1)(c) of the Act. The total amount claimed for legal costs was 112 chargeable units, at an hourly rate of £215.00, plus an additional 10 units to complete this matter. In total

the claim was for £2408.00, plus VAT of £421.40 and Land Registry disbursements of £44.00.

APPLICANT'S CASE

4. The main points of the Applicant's case may be summarised as follows;

a) a reasonable valuation fee would be £600.00;

b) the hourly rate claimed for legal costs, £215.00, is too high. The matter was not complicated and a reasonable hourly rate would be at the 2010 rate for a Grade B solicitor in Court Group National 2, £177.00;

c) a number of the legal costs claimed are not recoverable under section 60 (1), but relate to procedural steps, especially items no 21 and 87;

d) under section 60(1)(a) the Respondents have claimed £537.50. The Applicant has been registered as proprietor of the Property since 2001 and her title was deduced by the provision of official copy entries of her registered title. There are no intermediate leases and no query was raised in respect of such title. The reasonable time involved in reviewing the Notices and checking the title would be 1 hour;

e) under section 60(1)(c) the Respondents have claimed £1655.50. The very short draft lease initially provided by the Respondents solicitors was unacceptable as it omitted various statutory requirements and failed to join the Management Company as a party. After it was agreed between the parties that the Management Company would execute the lease a second version of the lease (also short and by reference) was drafted by the Applicant's solicitors and accepted without comment. Whilst it is accepted that it took a number of letters and telephone calls to obtain the Management Company's execution of the lease, given that the lease was drafted by the Applicant's solicitors, reasonable costs should not exceed 2 ½ hours. In particular, the estimated future time for completion of the matter, point 88, is excessive as there is not mortgage over the freehold;

f) in relation to disbursements claimed, £44.00, no official copy entries have been provided.

DECISION

5. Valuation Fee

Using their knowledge and experience, and having considered the representations made by the parties, the Tribunal determined that a reasonable valuation fee, taking into account the facts of this case and the terms of the lease, would be £700.00 net of VAT.

6. Legal Costs

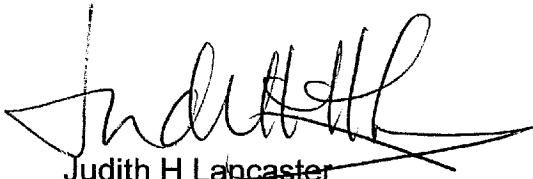
Given the relatively specialised nature of the work involved the Tribunal determined that a reasonable hourly rate would be £201.00, being the rate for a Grade A solicitor in Court group National 2.

7. However, given that an experienced solicitor carried out the work in this case, the Tribunal determined the number of units charged should be reduced.

8. The Tribunal accepted the Applicant's submission that, rather than review each of the 88 items in the breakdown of costs, a better approach would be to consider the reasonableness of costs claimed under each subsection in light of the facts of the case. Under section 60(1)(a) the Tribunal determined that a reasonable amount of time would be 2 hours, at £201.00 per hour, giving a figure of £402.00. Under section 60(1)(c) the Tribunal determined that a reasonable amount of time would be 3 1/2 hours, giving a figure of £703.50. The Tribunal determined that disbursements of £44.00 was reasonable.

CALCULATION

Valuation costs	£ 700.00
Legal costs under section 60	£ 1105.50
Disbursements	£ 44.00
Total net of VAT	£1849.50



Judith H Lancaster
Chairman
26 October 2010