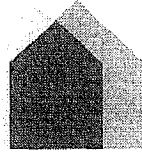


1987



**Residential  
Property**  
TRIBUNAL SERVICE

Reference: LON/00AN/OCE/2009/0162

**LEASEHOLD VALUATION TRIBUNAL**

**LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993: SECTIONS 33 & 91**

APPLICANT: Robert John Pearson, Daniel Eugen Krebs and Monique Mulle

REPRESENTED BY: Sheridan & Stretton Solicitors

RESPONDENT: Daejan Properties Limited

REPRESENTED BY: Wallace LLP

PREMISES: 5 & 7 Aylmer Road, London W12 9LG

DATE OF DETERMINATION: 11<sup>th</sup> August 2010

TRIBUNAL: Dr Helen Carr

Mr Mel Cairns

## BACKGROUND

1. This is an application under the Leasehold Reform, Housing and Urban Development Act 1993 (the Act) for the determination of the landlord's reasonable costs under s.33 of the Act.
2. The Applicants are Robert John Pearson, Daniel Eugen Krebs and Monique Muller and the Respondent is Daejan Properties Limited. The subject property is 5 and 7 Aylmer Road, London W12 9LG.
3. The Application for costs arises out of a notice of claim served by the Applicants upon the Respondent dated 10<sup>th</sup> April 2009. The Respondent served a counter notice on 7<sup>th</sup> April 2009.
4. Following the service of the counter notice, on 2<sup>nd</sup> February 2010 the parties agreed on the premium and other terms of acquisition of the freehold and the transfer of the freehold was completed on 22<sup>nd</sup> March 2010.
5. No agreement in respect to the Respondent's s.33 costs has been reached and accordingly on or about 14<sup>th</sup> June 2010 the matter was referred back to the Tribunal to request a determination.
6. The matter was therefore set for an oral hearing as to costs on 11<sup>th</sup> August 2010. Neither of the parties attended the hearing nor were they represented.
7. The Respondents are seeking a total of £4,633.99p including VAT. This comprises legal fees of £2,721.00 (not including VAT), Valuer's fees of £1,466.25 (inclusive of VAT), Land Registry fees of £16.00, and courier's fees of £23.18 (not including VAT).

## SUBMISSIONS

8. The Applicants submissions are as follows:
  - a. They consider the legal and valuer rates to be too high
  - b. They further dispute costs on particular aspects of the transaction costs, either on the basis of the time spent or on the level of fee earner engaged in the task.
9. The Respondent refers the Tribunal to a number of its decisions on costs, and in particular to its decision on Chivelston, 768 Wimbledon Parkside, London SW19 (ref: LON/ENF/1005/03). Its more particular submissions are set out in the table below.

## DETERMINATION

10. The Tribunal, having reviewed the statement of costs, the response to the statement of costs and the Respondent's reply, and paying attention to the previous decisions of the Tribunal drawn to its attention by the parties, and drawing on its experience in these matters determines as follows:
11. The hourly rates charged by the partner fluctuate between £325.00 and £350 per hour for a partner. The Tribunal determines that £325 per hour is reasonable in this matter. The other legal charging rates are £225 for an assistant solicitor and £120 for a trainee. These, whilst superficially on the high end of the range of charging rates for lawyers falls within a reasonable band of charging. A useful indication of the approach of the Tribunal is provided by Professor Farrand in the Chivelston case.
12. The hourly rate charged by the valuer is £200 per hour. Again this is on the high end of the scale of charges which the Tribunal expects to see, but falls within a reasonable range.
13. The Applicants more particular objections are summarised in the table below which also sets out the Tribunal's response.

Date	Charge	Task	Applicant's submissions and alternative figure	Determination by Tribunal
2 <sup>nd</sup> February 2009	£390	Review of Notice	Time spent is excessive and suggest 45 minutes	One hour's time is reasonable making a total charge of £325
19 <sup>th</sup> March 2009	£97.50	Review of Valuer's report	Unnecessary and therefore no charge should be made	Reasonable for a partner to review the Valuer's report at a charge of £97.50 is reasonable
24 <sup>th</sup> March 2009	£420.00	Preparation of Transfer	Included unjustifiable terms and therefore taking 1.2 hours for its preparation is excessive	One hour to prepare a transfer in these circumstances is reasonable and therefore the charge is reduced to £325
2 <sup>nd</sup> April 2009	£325	Preparation of counter-notice	Not incidental to the investigation	The Tribunal determines that it is and allows one hour of partner's time at £325.00
7 <sup>th</sup> April 2009	£130	Finalising counter notice	Not incidental to the investigation	Amount claimed determined as reasonable at £130
7 <sup>th</sup> April 2009	£32.50 per letter	Three letters in connection with counter-notice	Not incidental to the investigation	Amount claimed for each letter is determined as reasonable therefore £97.50 is allowed

23 <sup>rd</sup> April 2009 – 25 <sup>th</sup> August 2009	The Tribunal found it difficult to follow the charging figures for this work.	Amendments to the transfer	Amendments only necessary because of the approach of the freeholder's solicitors	The Tribunal considers that one hour spent on amendments to the transfer and letters in connection with this is a reasonable charge and therefore £325 is allowed.
1 <sup>st</sup> February 2010	£35	Preparation of an email	Not incidental to the investigation	The charge is allowed at a charging rate of £325 per hour ie £32.50
18 <sup>th</sup> March 2010		Valuer's fees	Excessive time spent	The Tribunal has some sympathy with the Applicant's submissions on this point and reduces the total to £1000 plus VAT
	£23.18 plus VAT	Courier's fee	Neither incidental nor necessary	Tribunal agrees fee is reasonable at amount claimed

14. The Tribunal therefore determines that reasonable costs in this matter are

- a. Legal fees of £2471 plus VAT
- b. Valuer's fees of £1000 plus VAT
- c. Land Registry fee of £16.00
- d. Courier's fees of £23.18 plus VAT

Signed



Dr Helen Carr

11<sup>th</sup> August 2010