



**Property** : 39 Osprey Close,  
Falcon Way,  
Watford,  
Herts. WD25 9AR

**Applicant** : Sinclair Gardens Investments  
(Kensington) Ltd.

**Respondent** : Paul Edward Liggins

**Date of Application** : 28<sup>th</sup> August 2012

**Type of Application** : To determine the legal costs payable  
on a lease extension (Section 60 of the  
Leasehold Reform and Urban  
Development Act 1993 ("the 1993 Act"))

**The Tribunal** : Mr. Bruce Edgington (lawyer chair)  
Mr. David Brown FRICS MCI Arb

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## DECISION

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1. The reasonable legal costs of the Applicant payable by the Respondent pursuant to Section 60 of the 1993 Act are £1,050.00.

### Reasons

#### Introduction

2. This is an application by a landlord for the Tribunal to assess its legal costs pursuant to Section 60 of the 1993 Act following the service of a notice seeking a lease extension. For some reason which the Tribunal cannot understand, neither the notice nor the counter-notice are in the bundle prepared for the Tribunal. However, there is a letter in the bundle from Housing and Property Law Partnership dated 28<sup>th</sup> September 2012 from which the Tribunal infers that (a) they act for the Respondent, (b) they agree that Section 60 is engaged, (c) the valuation fee has been agreed, (d) the lease extension itself was never completed, (e) they consider that £350 plus VAT is a reasonable sum for these costs and (f) they are not instructed to take any further part in the assessment process.

3. The Tribunal decided that this was a case which could be determined on a consideration of the papers without an oral hearing. This information was conveyed to the parties in the Directions Order issued on the 10<sup>th</sup> September 2012. In accordance with Regulation 5 of **The Leasehold Valuation Tribunals (Procedure)(Amendment)(England) Regulations 2004**, notice was given to the parties (a) that a determination would be made on the basis of a consideration of the papers including the written representations of the parties on or after 23<sup>rd</sup> October 2012 and (b) that a hearing would be held if either party requested one before that date. Neither party requested a hearing.

#### **The Law**

4. It is accepted by the parties that Initial Notice was served and therefore Section 60 of the 1993 Act is engaged. The Respondent therefore has to pay the Applicant's reasonable costs of and incidental to:-

- (a) *any investigation reasonably undertaken of the tenant's right to a new Lease;*
- (b) *any valuation of the tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56;*
- (c) (not relevant)

*(Section 60(1) of the 1993 Act)*

5. What is sometimes known as the 'indemnity principle' applies i.e. the Applicant is not able to recover any more than it would have to pay its own solicitors or in circumstances where there was no liability on anyone else to pay (Section 60(2)). Another way of putting this is to say that any doubt is resolved in the receiving party's favour rather than the paying party.

#### **Discussion**

6. The Respondent appears to have prepared a list of objections to the various items of legal costs claimed but this is very perfunctory. It says "*Straightforward case; fee no more than £350 plus Vat*".
7. The bundle prepared for the Tribunal is, with respect to the Applicant's solicitors, far from helpful. The details of the costs are buried in the middle of the Applicant's submissions. Although there is only one objection, the response is detailed and in a format often seen by this Tribunal i.e. just a reference to a separate document of template submissions.
8. The bundle contains many previous LVT decisions which, as both parties will know, are of little, if any, value. It is trite law to say that the Upper Tribunal and its predecessor have said many times that evidence and opinion in one LVT decision do not amount to evidence and opinion in another. This Tribunal has therefore looked at the

issues afresh. Despite the lack of particularity from the Respondent in his objections, the Tribunal has looked at the costs in detail and has used its members' considerable knowledge and experience in these matters.

### **Conclusions**

9. The hourly rate of £250 is claimed. This is claimed by what is known as a Grade A fee earner and for someone of Mr. Chevalier's knowledge and experience, the rate claimed is reasonable. As has been said many times, enfranchisement work is a specialist subject with many pitfalls and 'fatal' time limits to be complied with.
10. The lease extension process, whether it is for a large professional property owner, as in this case, or a person owning one property, is not a straightforward 'run of the mill' legal transaction. Those representing the Respondent do not seek to challenge the charging rate. How they therefore expect all the legal work to be undertaken properly within about one and a half hours, i.e. for £350, is not understood.
11. It is necessary to take instructions, to look at the freehold and leasehold title documents, to consider the right of the tenant to serve the notice, to advise the client about the notice, to instruct the valuer and then, having taken further instructions, to draft and serve the counter-notice.
12. Having looked at all the times spent by the Applicant's solicitors, the Tribunal comes to the view that 30 minutes should have been sufficient to take instructions and that 42 minutes should have been sufficient to investigate title and consider the validity of the Respondent's notice. The Tribunal takes into account the vast experience of the fee earner who knew exactly what he was looking for from the outset. There is no explanation for the entry which says "*Preliminary Notices*" and as time is being allowed for looking at the validity of the notice served, advising the Applicant thereon and the preparation of the counter-notice, this item is disallowed.
13. All other items are allowed, as claimed. This amounts to a reduction of 10 units i.e. £250. The Tribunal therefore decides that reasonable legal fees for the work reasonably undertaken by the Applicant's solicitors are £875 plus VAT of £175.

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**Bruce Edgington**  
**Chair**  
**23<sup>rd</sup> October 2012**