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**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : LON/00AE/OC9/2017/0253

Property : 33 Craven Park, Harlesdon ,
London NW10 8ST

Applicant : Geoffrey Keith Miller

Representative : Southgate & Co

Respondent : Naran Mavji Hirani

Representative : LMK Law

Type of Application : Costs under s33 (1) Leasehold
Reform Housing and Urban
Development Act 1993

Tribunal Members : Judge F J Silverman Dip Fr LLM
Mrs H Bowers MRICS

**Date and venue of
paper determination** : 5 December 2017 , 10 Alfred Place
London WC1E 7 LR

Date of Decision : 6 December 2017

DECISION

The Tribunal allows the Respondent the sum of £ 2,497.00 plus VAT in respect of their costs and valuation fee under s33 (1) Leasehold Reform Housing and Urban Development Act 1993 and £39.00 reimbursement of expenses. These sums are payable by the Applicant.

REASONS

- 1 This decision relates to an application in relation to costs assessable under s33 (1) Leasehold Reform Housing and Urban Development Act 1993 (the Act) made by the nominee purchasers of the property situated and known as 33 Craven Park, Harlesden London NW10 8ST (the property) in relation to a failed claim for enfranchisement. The costs in question are those arising out of the landlord's investigation of title and legal costs in connection with the proposed enfranchisement, the Respondent landlord having served a schedule of costs which is disputed by the Applicant. Directions relating to the costs application were issued on 9 October 2017.
- 2 The parties agreed to a paper determination of this matter which was carried out by the Tribunal on 5 December 2017. A bundle of documents submitted for the costs determination was placed before the Tribunal and considered by them in the course of their determination. Page references below relate to pages in that bundle.
- 3 The issues before the Tribunal were firstly, whether the Respondent was entitled to costs at all and secondly, if so, whether the costs demanded by them were reasonable.
- 4 The factual background to the application is that the Applicant served a notice on the Respondent asking for enfranchisement of the property. Following protracted negotiations and correspondence between the parties' solicitors the enfranchisement transaction was aborted and did not complete.
- 5 The Respondent is claiming the sum of £1,883.40 by way of legal costs including disbursements plus their valuer's valuation fee of £1,800. The Applicant considers that these sums are excessive.
- 6 The Respondent's schedule of costs (pages 27-30) provides an explanation of some but not all of their charges.
- 7 The Respondent's solicitor's charging rate as shown on their schedule is £195 per hour plus VAT which in the view of the Tribunal is acceptable and reasonable and is not specifically challenged by the Applicant.
- 8 The Tribunal is prepared to allow all the costs itemised on page 27 as being both permissible under s33 and reasonable in extent (£486.50).
- 9 On page 28 the Tribunal is prepared to allow the sum of £214.50 to cover the two items listed for 4 July 2017 and 6 minutes (£19.50) for the letter to the Applicants' solicitor on 25 July 2017. Further, the

£39 charged for considering the valuer's report is permitted but the sum claimed for drafting the Counter Notice is reduced to £390 because the Tribunal considers that the length of time listed by the Respondent for this task is excessive. All other items on page 28 are disallowed either because their necessity is unexplained or the Tribunal considers that the time taken has already been charged for elsewhere (eg examination of leases and official copies) (total allowed on page 28 : £ 663).

- 10 On page 29 the Tribunal is prepared to allow 30 minutes in total for the tasks itemised on that page (£97.50). The reason for the number of letters sent to the Applicant's solicitor is unexplained by the Respondent.

- 11 In relation to disbursements the Land Registry fee of £39.0 is allowed but the courier's fee of £44.00 is disallowed , the Respondent having provided no explanation as to why it was necessary to use a courier. The Tribunal considers that the valuer's fee is slightly expensive, given the nature and location of the property involved and is prepared to allow the sum of £1,250.00 plus VAT for this expense.

12 Summary of costs allowed :

- i. Solicitor's costs £1,247.00 plus VAT
 - ii. Expenses £39.00
 - iii. Valuer's fee £1,250.00 plus VAT
- Total £2,497.00 plus VAT plus £39.00 expenses.

13 The Law

S33 Leasehold Reform Housing and Urban Development Act 1993 provides:

- (1) Where a notice is given under s13 , then (subject to the provisions of this section and sections 28(6), 29(7) and 31(5)) the nominee purchaser shall be liable, to the extent that they have been incurred in pursuance of the notice by the reversioner or by any other relevant landlord ,for the reasonable costs of and incidental to any of the following matters, namely :
- (a) Any investigation reasonably undertaken -
 - (i) Of the question whether any interest in the specified premises or other property is liable to acquisition in pursuance of the initial notice, or
 - (ii) Of any other question arising out of that notice;
 - (b) Deducing, evidencing and verifying the title to any such interest ;
 - (c) Making out and furnishing such abstract and copies as the nominee purchaser may require;
 - (d) Any valuation of any interest in the specified premises or other property ;

(e) Any conveyance of any such interest ;

But this sub-section shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.

- (2) For the purposes of sub-section (1) any costs incurred by the reversioner or any other relevant landlord in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.
- (3) Where by virtue of any provision of this chapter the initial notice ceases to have effect at any time , the (subject to sub-section (4)) the nominee purchaser's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.
- (4) The nominee purchaser shall not be liable for any costs under this section if the initial notice ceases to have effect by virtue of section 23(4) or 30(4).
- (5) The nominee purchaser shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation Tribunal incurs in connection with the proceedings.

Judge F J Silverman as Chairman
Date 6 December 2017

Note:
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.