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

Case Reference : **LON/00BK/OC6/2013/0002**

Property : **29 Hyde Park Street, London W2**

Applicant : **The Church Commissioners for
England**

Representative : **Knight Frank LLP**

Respondent : **Leila Hart**

Representative : **Peter Gunby MRICS, B Bailey & Co
Limited, chartered surveyors**

Type of application : **For the determination of the
landlord's recoverable costs
(section 9(4) of the Leasehold
Reform Act 1967)**

Tribunal members : **Margaret Wilson
Philip Tobin FRICS**

Date of determination : **1 October 2013**

DECISION

1. This is an application by a landlord for a determination of its recoverable costs of valuation following the withdrawal of a notice of claim to purchase the freehold of 29 Hyde Park Street, London W2 under Part 1 of the Leasehold Reform Act 1967 ("the Act"). The recoverable legal fees have been agreed. The determination is made on the basis of written representations by virtue of rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. Pre-determination directions were made by the Tribunal and the parties have complied with them.

2. The relevant parts of section 9(4) of the Act provide:

Where a person gives notice of his desire to have the freehold ...under this Part of this Act, then ... there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters ...

(e) any valuation of the house and premises.

3. Vanessa Knappe BSc (Hons) MRICS of Knight Frank provided the valuation and has submitted a statement in support of the application for costs and a statement in reply to the statement of Peter Gunby MRICS of B Bailey & Co, chartered surveyors, for the tenant.

4. Ms Knappe said that the valuation fee charged to the landlord was based on 0.25% of the freehold market value of the property, which she assessed at £2,643,578. She considered such a basis of charging to be correct for a high value property such as the present one. She said that the main reasons for a percentage-based fee were that it could be fixed in advance and that a high level of professional indemnity cover was required. The fee at which she thus arrived was £6600 plus VAT.

5. She said that she accepted that the Tribunal might consider it more appropriate to assess the costs on a time basis and produced a schedule of her time spent and work done, which produced a total of £3522.50 plus VAT, based on a charging rate of £250 per hour for her time and of £150 per hour for time spent by Knight Frank's administration department. She said that a valuation fee of £5162.40 had been agreed by the relevant tenant in respect of the very similar 28 Hyde Park Street, heard by the Tribunal on 4 June 2013.

6. For the tenant, Mr Gunby said that a fee based on a percentage of value was inappropriate, and, even if it was appropriate, it should be based on the value of the reversion, which he had assessed at £372,000, rather than the value of the freehold, which he had assessed at £2,000,000. He considered that only 10 minutes, not 30 minutes as claimed, should be allowed for processing the instructions and reviewing the claim, that the one hour 45 minutes claimed for travelling to and from the property and inspecting it was excessive, as was, he suggested, the 11 hours and 34 minutes to analyse the comparables and prepare the valuation. He said that the hourly rate of £250 was the top rate for the profession and that he had charged a total of £900 plus VAT for preparing a valuation for the tenant. He submitted that the landlord's reasonable valuation fee, given that Ms Knape's office was close to the property, would be £712.50 plus VAT, based on 45 minutes to inspect and measure the property, three hours to prepare the valuation, analyse the comparables and prepare the report, and one hour to check the draft and send the completed report to the client. He referred to some tribunal determinations of costs in which a much lower sum than that claimed in the present case had been allowed by the Tribunal.

7. In her statement in reply Ms Knape said that the Tribunal cases on which Mr Gunby had relied were in respect of properties of much lower values, not in prime central London and therefore not directly relevant. She disputed the suggestion that £250 was the top rate for the profession, and she said that the time spent on the valuation was entirely reasonable for a detailed and accurate valuation. She said that Mr Gunby's freehold and reversionary values were significantly too low and that his allowance of only 45 minutes for travelling, inspecting and measuring the property was unrealistic given that his office was in Ilford.

8. We prefer to assess the costs on the basis of time spent, with some regard for the high value of the property. We do not consider it reasonable to base the fee on the basis of a percentage of value.

9. We accept that the hourly rate of £250 charged for Ms Knape's time is reasonable for a prestigious firm in central London, and we are aware that it is not the top rate charged by the profession. We also accept that £150 per hour charged by Knight Frank's administration department is reasonable.

10. We accept that the 30 minutes (£75) spent on processing instructions and reviewing the claim is reasonable, that the one hour and 27 minutes (£362.50) spent on inspection and measurement is reasonable, as is the 45 minutes (£187.50) spent on calculating floor areas and checking. We regard the five and a half hours spent on researching and analysing comparables and excessive and allow a total of two hours (£500) for those items. We regard 45 minutes for reading the lease and preparing a summary as excessive and allow half an hour only (£125). We accept one hour (£250) for preparing the valuation but allow only one hour (£250) for drafting the report, which we assume to be based on a pre-prepared template. We accept the 20 minutes (£85) spent on preparing the appendices but allow only half an hour (£125) for final preparation of the report which involved, we assume, printing the report for the preparation of which another charge has been made.

11. This analysis produces a valuation fee of £1960 plus VAT which we consider to be reasonable and determine to be recoverable.

Judge: Margaret Wilson

Date: 1 October 2013