



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

Case Reference : **BG/LON/OOAR/OC9/15/0114**

Property : **Flats 1 and 17 Vignoles Road,
Romford Essex RM7 ODT**

Applicants : **Sarah Winfield (Flat 1)
Tony Clive Savage and Margaret
Rose Savage (Flat 17)**

Representative : **Corren Troen Law LLP for both
Applicants**

Respondent : **Rosmar Limited**

Representative : **Alison Sandler of Ultratown
Limited**

Type of Application : **Assessment of costs under section
60(1) of the Leasehold Reform
Housing and Urban Development
Act 1993**

Tribunal Members : **Mrs S O'Sullivan
Mr D Jagger MRICS**

Date of Decision : **6 May 2015**

DECISION

The background

1. The Applicants are the long leaseholders of Flats 1 and 17 Vignoles Road, Romford, Essex RM7 ODT respectively.
2. The Respondent is the freeholder of the building and the competent landlord for the purposes of the Leasehold Reform, Housing and Urban Development Act 1992 (the "1993 Act").
3. Both Applicants served a section 42 notice seeking to exercise their right to a lease extension under S48 of the 1993 Act. Counter notices were served which admitted the right but did not agree the proposed premium. The premiums were subsequently agreed and the leases granted.

The application

4. The Applicants applied for an assessment of the landlord's costs under section 60(1) of the 1993 Act by applications dated 19 February 2015.
5. Directions were made dated 27 February 2015 further to which statements of case were served by both parties. A sole bundle was lodged on behalf of both Applicants.
6. Neither party having requested an oral hearing, the application was considered by way of a paper determination on 6 May 2015.
7. The costs before the tribunal were confirmed to be legal costs in the sum of £850 plus Vat in respect of each flat and valuation costs in the sum of £715 plus Vat per flat.

The Legal costs

8. The total legal costs are £850 plus Vat in respect of each flat.
9. The Respondent set out its case in a statement of costs dated 13 March 2015. It is confirmed that the legal aspects have been conducted by Alison Sandler, an in-house solicitor employed by Ultratown Limited ("Ultratown"). Ultratown is explained to be a service company to a group of companies operating from their offices and known internally as the Alan Matthey Group. The landlord is confirmed to be a member of the group and Mrs Sandler acts for the landlord on this basis. Mrs Sandler is the sole solicitor employed to deal with matters arising under the Leasehold Reform Housing and Urban Development Act 1993. It is confirmed that she does not have a charge out rate but as she has over 20 years experience a comparison to a Grade A fee earner at an hourly rate of £260 plus Vat is said to be useful. Reliance is placed on a recent

authority in the Upper Tribunal in relation to the recoverability of the costs of an in-house solicitor in circumstances such as these (case reference UKUT 362 I.C and a recent case in this tribunal LON/OOAC/OC9/2014/0019). It is also said that a reference to external solicitors would have proved more expensive.

10. Due to her in-house role no time sheets are provided and the legal costs were reached by an estimation of the time spent. Although the time spent was £1,150 plus Vat per flat the landlord has taken an element of duplication into account and reduced its fees in each case to £850 plus Vat. This reflects some 3 hours and 20 minutes of Mrs Sandler's time in each case.
11. No precise narrative of the time spent has been provided. However Mrs Sandler has produced a summary of the work required to include such matters as reading the lease, checking the notices, investigating the title, instructing the valuer, reviewing the report and reporting to and taking instructions from Rosmar Limited.
12. The Applicants set out their disputes to the costs in a statement dated 26 March 2015. The principles of charging as set out in the landlord's statement are agreed. The Applicants point out that no invoices are produced nor is any breakdown. It is also suggested that as Ultratown is said not to profit from the costs there should be a deduction of one third. The Applicants suggest a breakdown of units of time spent which totals some 34 units, apply that to their reduced rate of £172 and discount some 10% to reflect the fact there are two units. By adopting this method a total of £525 plus vat per flat is reached which is said to be a reasonable sum.
13. As far as Vat is concerned it is said by the Applicants that as the valuation invoices are addressed to Ultratown it can recover Vat if it is Vat registered. In response to this point the landlord says that the invoices were wrongly addressed and confirmation is provided that both invoices were paid by Rosmar which is not registered for Vat.

Legal costs - the Tribunal's decision

14. The provisions of section 60 are well known to the parties and the tribunal does not propose to set the legislation out in full. However costs under that section are limited to the recovery of reasonable costs of an incidental to any of the following matters, namely:-
 - i. Any investigation reasonably undertaken of the tenant's right to a new lease;
 - ii. Any valuation of the tenant's flat obtained for the purpose of fixing the premium or amount payable by

virtue of Schedule 13 in connection with the grant of a new lease under section 56

iii. The grant of a new lease under that section.

15. Subsection 2 of section 60 provides *that “any costs incurred by a relevant person 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”*.
16. The tribunal notes the position in relation to the in house fees of Mrs Sandler and how they have been calculated. It accepts the important point underlined in *re Alka Arora [2013] UKUT 362 IC* that where a party is obliged to pay another’s legal costs they should not be reduced simply because the legal services are provided by an in-house solicitor. We see no justification for making the further general reduction of one third suggested by the Applicants.
17. Likewise the tribunal accepts the reason given by the landlord for its inability to provide a print out of time spent. We have had regard to the general summary of matters upon which time was spent. The view of the tribunal having taken all the matters set out in the parties’ statements into account and having regard to the time spent of approximately 3 hours 20 minutes per flat is that the time spent and charge made appears to be reasonable and indeed relatively modest for this matter.
18. It therefore allows the sum of £850 plus Vat in respect of legal costs in respect of each Flat.

Valuation costs

19. Valuation costs are sought in the sum of £715 plus Vat per flat. The invoice from Nesbitt & Co Chartered Surveyors in respect of each flat was produced. These invoices contained a summary of the work carried out which included making arrangements to inspect, carrying out research on comparable transactions and studying the lease and preparing the valuation.
20. Solicitors for the leaseholders say that the fees should be no more than those paid by the leaseholders to their valuer in the sum of £450 plus Vat per flat. Copies of their invoices from Hull & Company were provided. In addition the solicitors query why one of the inspections was internal only, say that the time spent and by whom is not clear and question to whom the invoices are addressed. Solicitors for the landlord in response confirm that they were unable to gain internal

access to Flat 17. The valuer is said to be used by a group of organisations to which the landlord is part. They also refer to the test to be adopted by the tribunal which is whether the time spent comes within a reasonable band and whether the landlord acting reasonably would agree to pay if he himself were liable. It is said the landlord can confidently say he would instruct Mr Nesbitt if personally responsible.

Valuation costs – the tribunal’s decision

21. The tribunal considered the invoices provided. It does not appear that any reduction was made for economy of scale which would be expected where a valuation was carried out to two flats in the same building within a narrow timescale. The tribunal does not have the benefit of seeing the valuations themselves. However for a straightforward valuation in this area in Greater London we consider a fee of no more than £450 plus Vat to be reasonable. We note the landlord’s explanation in relation to the Vat and accept that the invoices were wrongly addressed and have been paid in full by Rosmar. The sum of £450 plus Vat is therefore allowed in respect of each flat.

Name: Sonya O’Sullivan

Date: 6 May 2015