



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

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| <b>Case Reference</b>            | : | <b>LON/00AC/OC9/2015/0281</b>  |
| <b>Property</b>                  | : | <b>28 Vincent Court Bell Lane<br/>London NW4 2AN</b>                                   |
| <b>Applicant</b>                 | : | <b>City and Country Properties Ltd</b>   |
| <b>Representative</b>            | : | <b>Wallace LLP (Ms Bone)</b>   |
| <b>Respondent</b>                | : | <b>Gladstar Properties Ltd</b>   |
| <b>Representative</b>            | : | <b>J J Goldstein &amp; Co (Ms Turpin)</b>  |
| <b>Type of Application</b>       | : | <b>Costs under s60 Leasehold Reform<br/>Housing and Urban Development<br/>Act 1993</b> |
| <b>Tribunal Members</b>          | : | <b>Mrs F J Silverman Dip Fr LLM<br/>Mr D Jagger MRICS</b>                              |
| <b>Date and venue of hearing</b> | : | <b>12 August 2015, 10 Alfred Place,<br/>London WC1E 7LR</b>                            |
| <b>Date of Decision</b>          | : | <b>12 August 2015</b>  |

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**DECISION**

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The Tribunal allows the Applicant the sum of £1,890.50 plus VAT in respect of its costs under s60 Leasehold Reform Housing and Urban Development Act 1993. This sum is payable by the Respondent. The Tribunal also orders the Respondent to pay to the Applicant the sum of £850 plus VAT in respect of

the surveyor's costs of valuation and £40 re-imbursement of land registry fees.

## REASONS

- 1 This decision relates to an application for costs assessable under s60(1) Leasehold Reform Housing and Urban Development Act 1993 (the Act) made by the landlord of the property situated and known as 28 Vincent Court Bell Lane London NW4 2AN (the property) in relation to a claim for an extended lease by the Respondent tenant. The costs in question are those arising out of the landlord's investigation of title and legal costs in connection with the grant of the new lease, the landlord having served a schedule of costs which is disputed by the tenant. Directions relating to the costs application were issued on 19 June 2015.
- 2 An oral hearing of this matter took place on 12 August 2015 at which the Applicants were represented by Ms Bone, solicitor and the Respondent by Ms Turpin, costs draftsman.
- 3 The issues before the Tribunal were firstly whether the Applicant was entitled to costs at all and secondly, if so, whether the costs demanded were reasonable.
- 4 The factual background to the application is that the Respondent had served a notice on the Applicant asking for an extended lease of the property. Following discussions and correspondence between the parties' solicitors, completion of the new lease took place in December 2014.
- 5 The Applicant's detailed schedule of costs (page 105) claims the sum of £2,285.50 by way of legal costs and £850 in respect of valuation expenses plus miscellaneous disbursements and, where applicable, VAT on these sums. The Respondent considered that these sums were excessive.
- 6 The Respondent argued that most of the work involved in this case was routine and standard because the Applicant's solicitors habitually acted for their client in many similar matters. Most of the work could have been carried out by junior staff supervised where necessary by a senior solicitor. It was argued that an allowance of 6 units for consideration of the initial notice was excessive and that the engrossment of the lease itself could have been prepared by a secretary. An argument was also put forward that the two interim bills sent by the Applicant's solicitor to their client before completion of the new lease (pages 256-7) represented the value of work done by the solicitor for its client up to the relevant date of each invoice and that therefore the Respondent should not be required to pay more than the sum included on those bills. The Respondent also maintained that the Applicant's solicitor's charge for ten further letters after completion was excessive and should be reduced. In relation to the valuer's fee, the Respondent said that a solicitor's undertaking had been given in respect of this but at the time when the undertaking was given the extent of liability had not

been known. They challenged the amount of the valuer's invoice and questioned the liability for VAT upon it. The Respondent cited Hague para 6.40 to support its argument that costs associated with the preparation and service of a counter notice were not allowable under s60.

- 7 For the Applicant it was emphasised that although the Applicant's solicitor does act frequently for this client and its group of companies, every transaction is different and discrete and needs to be considered on its own merits. It was important to examine properly the initial notice and ensure its validity (or otherwise) in order to progress the matter further. Similarly, it was necessary to obtain official copy entries of the title as soon as possible in order to be able to instruct a valuer within the time restraints imposed by the legislation. It was stated that leasehold enfranchisement work is a detailed and complex area of law which justifies the attention of an experienced solicitor. The valuer's VAT registration certificate had been produced to the Respondent (page 272). The Applicant's solicitor stated that their hourly rates were not unreasonable in the context of this type of work and, while recognising that Tribunal decisions do not create binding precedent, pointed out that similar charging levels had been accepted by the Tribunal in other cases. Additional work post-completion had been necessary partly in order to clarify outstanding service charges. It was argued that work in relation to the service of a counter notice was integral to the claim and should be allowed.
- 8 Having considered both parties' submissions the Tribunal finds that the Applicant's solicitors' charging rates are within the bands currently charged by central London firms for this type of transaction and that it is appropriate for such a matter to be dealt with by a senior fee earner. The Applicant's solicitors' charging rates are therefore allowable.
- 9 In particular the Tribunal does not accept the Respondent's contention that the preparation of the lease engrossment should be entrusted to a secretary. Overall, the Tribunal considers that the amount of time spent by the Applicant's solicitors on this matter is reasonable but disallows 9 units relating to the preparation of a counter-notice because this is outside the remit of s60 and deducts one unit from the post-completion correspondence as being superfluous. This gives a deduction of 10 units (1 hour) at £395 per hour.
- 10 The Tribunal does not accept the Respondent's argument that the surveyor's valuation fee should be reduced because the Respondent's solicitor gave an undertaking in respect of it without knowing the details of the commitment. Such an argument is contrary to the accepted rules of professional conduct relating to undertakings. The surveyor's fees for valuation appear to the Tribunal to be within the bands of reasonable fees normally charged for this type of work.
- 11 The Tribunal accepts that the land registry fee of £40 is an allowable disbursement and properly payable by the Respondent. Although it accepts the Applicant's argument that use of a courier for service of notices is entirely reasonable to ensure that the notice is validly

served, in this case the sum claimed is not recoverable because it relates to service of the Applicant's counter-notice which itself is not allowable under s60.

## **12 The Law**

Leasehold Reform Housing and Urban Development Act 1993 s 60(1)

Costs incurred in connection with new lease to be paid by tenant.

'(1)Where a notice is given under section 42, then (subject to the provisions of this section) the tenant by whom it is given shall be liable, to the extent that they have been incurred by any relevant person in pursuance of the notice, for the reasonable costs of and incidental to any of the following matters, namely—

(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) the grant of a new lease under that section;

but this subsection 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 subsection (1) 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.

(3)Where by virtue of any provision of this Chapter the tenant's notice ceases to have effect, or is deemed to have been withdrawn, at any time, then (subject to subsection (4)) the tenant'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)A tenant shall not be liable for any costs under this section if the tenant's notice ceases to have effect by virtue of section 47(1) or 55(2).

(5)A tenant 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.

(6)In this section "relevant person", in relation to a claim by a tenant under this Chapter, means the landlord for the purposes of this Chapter, any other landlord (as defined by section 40(4)) or any third party to the tenant's lease.'

Judge F J Silverman as Chairman

**Date 12 August 2015**

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.