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

Case Reference : **LON/00AW/OC9/2018/0098**

Property : **163 Hammersmith Grove, London
W6 0NJ**

Applicant : **Samson and Lola Limited**

Representative : **Lawrence Stephens**

Respondent : **Mayor and Burgesses of the
London Borough of Hammersmith
and Fulham**

Representative : **Tri-Borough Legal Services**

Type of Application : **Determination of the landlord's
recoverable costs on an application
under section 33 of the Leasehold
Reform, Housing and Urban
Development Act 1993 (the "Act")**

Tribunal Members : **Judge Pittaway**

Date of Decision : **8 May 2018**

DECISION

Decisions of the tribunal

The tribunal determines that pursuant to section 33(1) of the Act the total sum of £1,210 plus VAT is payable in respect of legal fees.

As for disbursements the land registry fees of £21 and the courier's fee of £20.07 are recoverable, as are the surveyor's fee of £600.

The tribunal note from the papers before it that the valuation costs of £600 were agreed by the parties.

Introduction and background

1. This is an application under section 91(2)(d) of the Leasehold, Reform, Housing and Urban Development Act 1993 (the "Act") to determine the amount of the landlord's recoverable costs in connection with a claim under section 24 of the Act to exercise the right collective enfranchisement of 163 Hammersmith Grove London W6 0NJ (the "Property").
2. On or around 28 November 2016 the leaseholders of two flats at the property served an initial notice claiming collective enfranchisement pursuant to section 13 of the Act and naming the applicant as Nominee purchaser.
3. A counter notice was served on 10 February 2017 on a without prejudice basis. The reversioner admitted the Collective Enfranchisement Claim but proposed a higher premium for the specified premises and for the additional freehold (the garden).
4. The applicant submits that the respondent never clarified why they considered the section 13 notice invalid and that the respondent confirmed the validity of the section 13 notice on 21 March 2017.
5. It is clear from the papers before the tribunal that an issue that took some time to resolve was the status of certain unauthorised works which had been carried out to flat 163A.
6. It is also clear from the papers that the applicant did not consider the transfer to have been drafted in the correct form, that there were issues about the inclusion in the completion statement of a demand of service charge for works that the applicant submitted had not been carried out, that corrections had to be made to the initial completion statement prepared by the respondent.
7. Terms for the acquisition were settled by 10 November 2017.

The costs in issue

8. Both parties have submitted statements of case as to the costs recoverable under section 33.
9. The landlord has provided a schedule of the costs it says it has properly incurred under section 33(1).
10. The tribunal has had regard to these in reaching its decision and refers to them as appropriate below.

Costs recoverable under section 33 of the Act

The relevant statutory provisions include the following:

By Section 33(1)

(1) Where a notice is given under section 13 then (subject to the provisions of this section and sections 28(6) 29(7) and 31(5)) the nominee purchaser [RTE company] 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 abstracts and copies as the nominee purchaser [RTE company] may require;*
- (d) any valuation of any interest in the specified premises or other property;*
- (e) any conveyance of any such interest;*

By section 33(5):

The nominee purchaser [RTE company] shall not be liable under this section for any costs which a party to any proceedings under this Chapter before [the appropriate tribunal] incurs in connection with the proceedings.

Reasons for the tribunal's decision

11. The respondent has set out the charging rates for the various lawyers which it involved in the transaction; with senior solicitors Grade A being charged at £267 per hour and legal assistants Grade D being charged at £121 per hour. Its statement of case refers to two senior solicitors and two legal assistants having been involved in the case, however it does appear that the involvement of the senior solicitors was limited to writing three internal e mails (p17 of the bundle refers). The tribunal considers that the charging rates quoted are within the reasonable range for work of this type. In light of the absence of any reference to the senior solicitors in the respondent's "Schedule one Documents" (the "**Schedule**") it assumes that all the work was undertaken by legal assistants at a charge out rate of £121 per hour (with the exception of the three e mails referred to above).
12. The tribunal has reviewed the respondent's "Schedule one Documents" (the "**Schedule**") and used this as the starting point for its analysis of the respondent's costs. The Schedule purports to be limited to "documents" but the tribunal notes that the time recorded in it covers the e mails sent by the legal assistants. Accordingly the tribunal has assumed that this schedule covers all work undertaken, not just that in relation to documents. The Schedule only refers to two individuals; "CA", presumably Carol Abraham whose charge out rate was £121 per hour and "AA" presumably Anastasia Antoni, whose charge out rate was also £121. This is therefore the charge out rate that the tribunal has adopted.
13. The tribunal notes that the Schedule does not refer to the three e mails sent by the senior solicitors referred to above but has discounted these in the absence of evidence that they were relevant to that part of the respondent's costs that are recoverable under section 33.
14. The tribunal considers that the time spent by the reversioner on certain aspects of the transaction to have been unnecessary and excessive (for example spending three hours on 5 January 2017 perusing title deeds/ leases and historic documents and taking instructions).
15. There appears to have been a large amount of time ascribed to "work on documents" without it being clear what documents are referred to and what work was done. It does not appear to have related to the notices or drafting the transfer (the reasonable cost of which is recoverable). The notices are specifically referred to as a separate item and drafting the

transfer is specifically referred to in the entries relating to 4 October 2017 and 24 October 2017.

16. There appears to have been unnecessary duplication of work. The entries for 4 and 24 October 2017 both refer to “perusing title” but three hours are claimed for that on 5 January 2017. This seems excessive, particularly as the applicant has submitted that the freehold title only consisted of two pages, and there are only three leaseholders involved.
17. The tribunal does not consider that time spent considering the question of the unlicensed works at Flat 163A falls within the ambit of costs recoverable under section 33(1).
18. Time spent on research (for example the three hours claimed on research on 30 October 2017) and time spent on internal procedures are not recoverable under section 33.
19. The applicant’s solicitors have referred the tribunal to the fact that the respondent appears to have spent over 68 hours spent on documents, with at least eight hours on the issue of the unlicensed work. They point to the fact that the reversioner’s title consists of only two pages. They submit that in total it would be reasonable for the applicant to be charged for seven hours work for which costs are recoverable under Section 33, at the charge out rate of £121 per hour, but without offering a breakdown as to how this number of hours is made up.
20. The tribunal considers that it would be reasonable for the respondent to charge ten hours worth of time, at its junior level rate of £121 per hour, for its reasonable costs in investigating whether the leaseholders were entitled to exercise a right to collective enfranchisement and any questions arising out of the initial notice, for verifying the leaseholders’ titles, for deducing title to the applicant and for settling the form of conveyance. The tribunal has increased the number of hours proposed by the applicant to take into account that the majority of the work was undertaken at a junior level, which may have necessitated longer being spent on various items of the work, but at a lower charging rate.
21. The tribunal accept that it is reasonable for the respondent to recover its land registry and courier fees (totalling £41.07) but that it should not recover a further “administration fee”.

Determination

22. The tribunal therefore determines that the amount payable is as follows;

Legal fees in the sum of £1,210 plus Vat

Valuation fees in the sum of	£600
Disbursements of	£41.07

Name: Judge Pittaway **Date:** 8 May 2017