



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

**Case Reference** : RC/LON/OOBJ/OC9/2018/0124

**Property** : 373 Upper Richmond Road London SW15  
5QJ

**Applicant** : Mr Kim Hawkins of Jewelcraft Limited

**Respondent(s)  
Represented by** : Paul Pressland and Justin Pressland  
: Bishop and Sewell LLP

**Tribunal Members** : Judge Professor Robert M. Abbey  
: Mr Richard Shaw FRICS

**Date of decision** : 5 June 2018

**Type of Application** : For determination of the costs payable

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**COSTS DECISION**

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**The Costs Application**

1. The Applicant served an enfranchisement notice pursuant to the terms of the Leasehold Reform and Urban Development Act 1993 (“the Act”) being a notice by qualifying tenants of a claim to exercise rights under the Act.
2. Under the terms of s.33 of the Act where a notice is given under section 13, then ... 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 any investigation reasonably undertaken of the question whether any interest in the specified premises or other property is liable to acquisition in pursuance of the initial notice, or of any other question arising out of that notice. The costs claim can also include deducing, evidencing and verifying the title to any such interest; making out and furnishing such abstracts and copies as the nominee purchaser may require; any valuation of any interest in the specified premises or other property and any conveyance of any such interest.

3. Following these provisions a costs claim was submitted by the Respondent to the Applicant but the size of the claim was and is in dispute. As a consequence the Applicant sought a determination of the Respondent's reasonable costs in its application received by the Tribunal on 5 April 2018 in respect of the freehold acquisition of the property.
4. The Respondent seeks a determination that the Applicant pay the Respondent's costs inclusive of VAT of £7903.66 made up of legal costs of £3566.50 plus VAT, disbursements of 86.24 inclusive of VAT, Surveyor/Valuer's costs of £3000 plus VAT.

### **Bundle of Documents**

5. Directions were issued by the Tribunal in regard to the submission of a bundle of documents and this was duly received by the Tribunal on 15 May 2018.

### **Determination**

6. The Tribunal was able to approve the disbursements separately claimed being the total of £86.24 inclusive of VAT. The Tribunal then turned to the Surveyor/Valuer's charges. The Tribunal was of the view that the amount claimed of £3000 plus Vat was unreasonable given the nature of the property and the details of the form of valuation required. The Tribunal consider that an hourly rate of £250 is reasonable and appropriate in this matter, even though it is towards the top end of charges that might be expected. The Tribunal take this view because this was a complicated claim and there were issues regarding the nature and extent of the subject property that would have necessitated the employment of a more senior professional. The Tribunal also took the view that eight hours of work by that person would be the appropriate, (and reasonable), length of time required to complete the work necessary to deal with the valuation aspect of this claim. A Valuer of that seniority should be bringing a high level of experience and expertise to the job, enabling swift completion of the relevant elements in a more compact timeframe. Accordingly the Tribunal are of the view that the reasonable Surveyor/Valuer's fees should be £2000 being 8 hours at £250 per hour plus VAT.
7. The Tribunal then considered the amount claimed for legal costs. With reference to the Schedule of work required in this dispute and prepared by the Respondent, there are several issues that the Tribunal have identified that necessitate revisions to the claim. On an overarching basis the Tribunal noted that the schedule sets out activity details and then highlighted the number of units of time allocated to that activity. However the Schedule did not indicate which fee earner was responsible for specific units. Therefore, the Tribunal has looked at the total cost for each activity section of the claim to consider the reasonableness of the three sub-total amounts. They are, first,

“Investigation of tenant’s right to acquire the freehold and ascertaining validity of notice of claim”. Secondly “preparation and service of the counter notice” and thirdly and finally “Drafting transfer”.

8. Dealing with the first activity item, it seems to the Tribunal that the units claimed for investigating the tenant’s title including research is excessive at 22 units. Similarly, the units claimed for researching case law seems excessive at 20 units. There are other elements of this activity that also seem disproportionate such as 6 units for telephone attendances. In the light of these observations the Tribunal is of the view that the total costs claimed is unreasonable at £1515 plus VAT and consider that a reasonable fee would be £1100 plus VAT.
9. Secondly, with regard to the counter notice work, the Tribunal is of the view that it is unreasonable to charge 8 units for the drafting of a counter-notice. Similarly, 15 units for the activities set out in the first part of the aspect of the claim also seemed to the tribunal to be disproportionate and unreasonable. In the light of these observations the Tribunal is of the view that the total costs claimed is unreasonable at £980.50 plus VAT and consider that a reasonable fee would be £750 plus VAT.
10. Thirdly with regard to the claim for drafting the transfer bearing in mind this is a somewhat straight forward and mechanical process the Tribunal took the view that the amount claimed of £1071 was again unreasonable and disproportionate given the nature of the activity. In the light of these observations the Tribunal is of the view that the total costs claimed is unreasonable at £1071 plus VAT and consider that a reasonable fee would be £750 plus VAT.
11. On taking into account the above amendments to the claim the final total for the schedule of work done amounts to £2600. Accordingly the Tribunal determines that in regard to the solicitor’s charges the sum of £2600 plus VAT is reasonable.
12. Therefore, the final figures approved and determined by the Tribunal in regard to the claim for the Respondent’s costs amount to £86.24 inclusive of VAT for disbursements, Surveyor/Valuers fees of £2000 plus VAT and solicitors costs of £2600 plus VAT.
13. The annex to this decision sets out rights of appeal available to the parties and there is also an appendix setting out extracts from statute and rules relevant to this decision.

**Date: 5<sup>th</sup> June 2018**

**Signed:**

**Judge Professor Robert M. Abbey and Mr Richard Shaw FRICS**

## Annex

### Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber)

## **Leasehold Reform, Housing and Urban Development Act 1993**

### **33 Costs of enfranchisement.**

(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 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 may require;

(d) any valuation of any interest in the specified premises or other property;

(e) any conveyance of any such interest;

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 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, then (subject to subsection (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.

(6) In this section references to the nominee purchaser include references to any person whose appointment has terminated in accordance with section 15(3) or 16(1); but this section shall have effect in relation to such a person subject to section 15(7).

(7) Where by virtue of this section, or of this section and section 29(6) taken together, two or more persons are liable for any costs, they shall be jointly and severally liable for them