



Residential
Property
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: LON/OOAW/OC9/2009/0048

**THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTION 60 of the Leasehold Reform, Housing and Urban
Development Act 1993**

Applicant: The Vicarage (Tenants) Company Limited

Respondent: Mr Mirza Beg

Premises: Flat 2, 3 Vicarage Gate, London W8 4HH

Date of Application: 1 June 2009

Date of Directions 4 June 2009 (Found suitable for determination without oral hearing)

Leasehold Valuation Tribunal: Mrs B. M. Hindley LL.B
Mr W.J. Reed FRICS

Date of Tribunal's Decision : 21 July 2009

1. This is an application under Section 60 of the Leasehold Reform, Housing and Development Act 1993.
2. The applicant is the Chairman of The Vicarage (Tenants) Company Limited which is the intermediate landlord as the head lessee. The Church Commissioners are the freeholders of the block. The respondent is the leaseholder of two flats (2 and 5) in the subject block.
3. The respondent, in December 2006, had purchased flat 5 and in March 2008 had purchased an extension of this lease. This extension was in similar terms to that which had been purchased in respect of flat 3 in July 2005. Representing the intermediate landlord the applicant had received £750 in costs in connection with the March 2008 extension.
4. The previous leaseholder of flat 2 had, in July 2007, made an application under Section 42 for a lease extension. In May 2008, when the respondent acquired flat 2, he had continued the process and a draft lease had been sent to the applicant for approval in May 2008.
5. The applicant claims costs as attached at Annex 1 but has indicated his willingness to accept a sum of £1,500.
6. In a supplementary statement, enclosing copies of sample correspondence to illustrate the extent of his involvement, he explained that he was charging at a rate of £40 per hour and £60 per hour for weekend work. He said that he had incurred the costs reluctantly but that the negotiations had been lengthy and complex and had involved a price renegotiation. He had had dealings with three firms of solicitors. RadcliffesLeBrasseur, solicitors for the freeholders, Macfarlanes, solicitors for the leaseholder of flat 4 who had written to state their clients objection to the lease variation proposed and Pemberton Greenish, whom he had consulted when it appeared that the issues would not be settled without a hearing at the Leasehold Valuation Tribunal. Additionally he had liaised with Barley Chambers, managing agents of the block.
7. The respondent in his written submission challenged the £500 claimed for items 1 and 2 of Annex 1 remarking that adopting the hourly rate of £40 resulted in some 12.5 hours being spent. He sought a detailed breakdown of this purported work. In connection with item 3 he contended that it was not necessary to spend 13 hours checking and approving the lease extension when the applicant had not been responsible for drafting or amending it.
8. In relation to items 4 and 5 the respondent queried 9 hours spent on a single clause and 20 hours on the issue of proposed floor coverings.
9. The applicant, responding to the respondent's comments, admitted that he had not kept a solicitor's time sheet but was of the opinion that the time spent had been 'considerable'.

The Tribunal's Determination

10. Section 60 of the Act enables the recovery of reasonable costs of and incidental to
 - (a) any investigation reasonably undertaken of the tenant's right to a new lease
 - (b) (the valuation costs)

(c) The grant of the new lease

For the above purposes any costs incurred by a relevant person in respect of professional services 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 that he was personally liable for all such costs.

11. The Tribunal considers that the costs of £200 claimed in respect of item 2 do not fall within Section 60 (a) or (c) and are not, therefore, payable by the respondent.
12. The Tribunal is of the opinion that the hours spent may have been excessive for the work involved. The respondent is of that opinion and the applicant admits that he was not keeping a time -checked record. The Tribunal, therefore, reduces these by half.
13. The respondent made no representations in connection with the costs of Pemberton Greenish at £411.25p and the Tribunal considers these to be reasonable.
14. Accordingly, the Tribunal determines costs of £1,511. 25p as reasonable and payable by the respondent.

Chairman

P. D. Handley

Date

21/7/09.

Statement of intermediate landlord costs claimed under Section 60 of the 1993 Act

General paperwork relating to the lease extension – acknowledging, providing, approving – (eg Section 42 notices and counter notices, approving floor plan, liaising with Barley Chambers (managing agents), liaising viz Consent Order costs etc etc etc)

Letters, emails, telephone conversations - £300

Comment: The previous owner of Flat 2 restarted lease extension negotiations in July 2007 so paperwork relating to this matter covers almost two years.

Negotiating and agreeing lump sum payment in lieu of ground rent

Letters, emails, conversations - £200

Comment: Cluttons always suggests a small refund for The Vicarage (Tenants) Company while seeking to maximise the return for the Church Commissioners. I seek to ensure the Vicarage (Tenants) Company receives proper compensation.

Checking, approving, signing and sealing the lease extension document

This involved going through the 20+ page document at least four times (June 2008, initial line by line check and cover letter, worked over weekend, £250; September 2008, checked prior to giving approval, £125; November 2008, checked, signed, engrossed, returned etc, £125; March 2009, checked, signed, engrossed, returned etc revised lease, £125)

Letters, emails - £625

Comment: As I am required to approve/sign on behalf of The Vicarage (Tenants) Company Limited I feel it is necessary to carefully check what I am being asked to approve /sign.

Issues relating to lease extension initial clause (10) – ‘Similar terms’

Having signed/engrossed three previous lease extension agreements that indicated all the building’s lease extensions would have ‘similar terms’ I was extremely reluctant to sign a lease extension document with different terms. Following advice from Andy Marsh of RadcliffesLeBrasseur I sought legal advice on this point.

Letters, emails, meeting at Pemberton Greenish, telephone conversations - £375

Issues relating to The Fifth Schedule, Clause 11 ‘Floor Coverings’

The respondent sought to change the Clause 11 wording as it had appeared in three previous lease extensions (one of which had been signed by the respondent). The proposed change was contentious and was objected to (please see accompanying Mcfarlanes letter).

Numerous emails (including at least six long emails usually to Andy Marsh), several meetings (Pemberton Greenish, Mr Chambers, Mr North, Mr Yorke), letters (including 5 page letter hand delivered to solicitor), telephone conversations - £800

Pemberton Greenish’s bill

Comment: Half the bill (copy attached) has been paid by the respondent - £411.25

Total intermediate landlord costs - £2,711.25