



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

Case Reference : **BIR/00CA/OC6/2020/0005**

HMCTS : **P: PAPERREMOTE**

Property : **The Croft, 9 Wicks Lane, Formby,
Liverpool, L37 3JE**

Applicant : **Mr Edward Patrick Parkes**

Representative : **J Rostron Solicitors**

Respondent : **Morax Limited**

Representative : **Formby Law Limited**

Type of Application : **Application under Section 21(1)(ba) of the
Leasehold Reform Act 1967 for a
determination of the landlord's reasonable
costs payable pursuant to section 9(4) of
the Act**

Tribunal Members : **Judge M K Gandham
Mr V Ward BSC Hons FRICS (Regional
Surveyor)**

Date of Decision : **5 January 2021**

DECISION

Decision

1. The Tribunal determines that the Respondent's reasonable legal costs in dealing with the matters referred to in section 9(4) of the Leasehold Reform Act 1967 ('the Act') are **£400** (plus VAT if applicable) and the reasonable valuation fees are **£100** (plus VAT if applicable).

Reasons for Decision

Introduction

2. On 14th April 2020, the Tribunal received an application from Mr Edward Patrick Parkes ('the Applicant') in respect of the property known as The Croft, 9 Wicks Lane, Formby, Liverpool, L37 3JE ('the Property'). The application was for a determination of the landlord's costs payable by the tenant under section 21(1)(ba) of the Act.
3. The application under section 21(1)(ba) of the Act was originally stayed pending the determination by the Tribunal of the price payable for the acquisition of the freehold interest in the Property and the terms of the conveyance, the determinations of which were issued on 29th September 2020. As the landlord's costs had not been agreed, the Tribunal issued directions in respect of costs on 5th October 2020.
4. The Respondent failed to provide a detailed statement of costs, or any other submissions in respect of costs, as required by the directions order. As a result, the Applicant relied on previous submissions he had made relating to costs by way of a letter to the Tribunal dated 1st October 2020 from J Rostron Solicitors ('the Applicant's Representatives'). Neither party requested an oral hearing.

The Law

5. The relevant law is set out below:

Leasehold Reform Act 1967, section 9(4)

(4) Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters: –

- (a) any investigation by the landlord of that person's right to acquire the freehold;*
- (b) any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;*

- (c) *deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;*
- (d) *making out and furnishing such abstracts and copies as the person giving the notice may require;*
- (e) *any valuation of the house and premises;*

but so that 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.

Submissions

6. The Applicant's Representatives stated in their letter of 1st October 2020 that, as they had received virtually no correspondence from the Respondent, the only legal costs to be incurred related to conveyancing fees. They submitted that the purchase of the freehold interest was a simple conveyancing exercise and that a sum of £400, plus VAT if applicable, for legal costs was a reasonable figure. They provided a copy of two court orders, relating to missing landlord/ company dissolved matters, where professional fees of £400 had been awarded by the Court.
7. In relation to valuation costs, the Applicant's Representatives stated that they had not been aware that any valuation had been carried out by the Respondent until they noted the same referred to in the Tribunal's decision relating to the substantive applications.
8. As previously stated, the Respondent failed to provide any submissions.

The Tribunal's Deliberations

9. The Tribunal considered all of the evidence submitted which is briefly summarised above.
10. In relation to legal costs, the Tribunal notes that the transfer for the purchase of the freehold interest had been drafted by the Applicant's Representative and that the terms of the conveyance had been determined by the Tribunal. As such, the Tribunal agrees with the Applicant, that any legal costs would simply relate to conveyancing charges.
11. The Tribunal considers that, as both titles are registered and the terms of the transfer have already been determined by the Tribunal, the matter should be relatively straight-forward. In the absence of any evidence that a higher fee is justified, the Tribunal considers the sum of £400 (plus VAT if applicable) for legal costs, as submitted by the Applicant's Representative, to be reasonable.
12. In relation to Respondent's valuation costs, although the Tribunal notes the Applicant's submissions, the Tribunal was provided with a valuation in the substantive proceedings and, under section 9(4)(e) of the Act, the reasonable costs of the same must be borne by the Applicant.

13. The Tribunal notes that the valuation provided by the Respondent was rudimentary, that the incorrect ground rent was used and that, save some information relating to the chosen yield, there was no background to the valuation. In addition, the Respondent provided no submissions as to the costs of the same. In the absence of any evidence that a higher fee is justified, the Tribunal considers the valuer's reasonable costs to be £100 (plus VAT if applicable).

Appeal

14. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

M. K. GANDHAM

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Judge M. K. Gandham