



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

**Case Reference** : **LON/00AS/OC9/2021/0158**

**Property** : **87, Willenhall Drive Hayes  
Middlesex UB3 2UX**

**Applicant** : **Sinclair Gardens Investments  
(Kensington) Limited**

**Representative** : **PDC Law; Solicitors**

**Respondent** : **Crystal Investment Group Limited**

**Representative** : **-**

**Type of Application** : **Assessment of costs under section  
60(1) of the Leasehold Reform  
Housing and Urban Development  
Act 1993.**

**Tribunal members** : **Judge Professor Robert M. Abbey  
Marina Krisko FRICS**

**Date of Decision** : **24 November 2021**

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**DECISION**

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**The Decision**

1. The Tribunal approves the costs in issue in the sum of £1600 (inclusive of VAT) and valuer's fees of £960 (inclusive of VAT, and total

disbursements being £15.50 and the application fee of £100 together forming the total amount claimed and approved of £2675.50.

### **The background**

2. The respondent is the long leaseholder of **87, Willenhall Drive Hayes Middlesex UB3 2UX**.
3. The applicant is the freeholder of the building and the competent landlord for the purposes of the Leasehold Reform, Housing and Urban Development Act 1992 (the “1993 Act”).
4. The leaseholder/respondent had the benefit of a section 42 notice seeking to exercise their right to a lease extension under S48 of the 1993 Act and a Counter notice was served which admitted the right but did not agree the proposed premium. (Eventually a premium was settled but the leaseholder failed to complete the purchase of the property in accordance with the requirements of the 1993 Act. Completion needed to have occurred by 23 January 2021. Failing to do so resulted in the claim being deemed withdrawn under s53(1) of the 1993 Act).

### **The application**

5. By an application dated 25<sup>th</sup> August 2021 the applicant has now applied for an assessment of the landlord’s costs under section 60(1) of the 1993 Act and surveyor’s fees under sections 60 and 56.
6. Directions were issued dated 26<sup>th</sup> August 2021. Further to those directions a bundle was lodged containing the applicant’s costs schedule and submissions made on behalf of the applicant; the respondent having failed to submit anything to the Tribunal.
7. Neither party having requested an oral hearing, the application was considered by way of a paper determination.

### **The Legal costs**

8. The costs in issue are limited to legal costs in the sum of £1600 (inclusive of VAT) and valuer’s fees of £960 (inclusive of VAT), and total disbursements being £15.50 and the application fee of £100 together forming the total amount claimed of £2675.50.

### **The applicant’s case**

9. The Tribunal was supplied with details of the work done by the surveyor in connection with the valuation process and as such the Tribunal was able to Judge the nature and extent of the work carried out in that regard. The Tribunal was also provided with an itemised schedule of the legal fees. This did identify the date of each activity and it did give a description of the activity, the type of fee earner involved, (by reason of the level of the hourly rate) and the time spent and resultant cost. The costs schedule listed two fee rates of £250 (Senior Solicitor), £150 (para-legal).
10. The costs schedule breaks down into various sections but essentially the claim shows that the heads of claim are all correctly made under each subsection of section 60 of the 1993 Act, being Section 60(1) (a) through to (c).
11. The applicant says that the rates charged are reasonable and properly payable by the respondent. The respondent has failed to submit any comments on the fees and costs.
12. Disbursements in the sum of £15,50 were not challenged and the Tribunal is of the view that they were appropriate and necessary given the nature of the transaction and are therefore approved in that amount.

### **The respondent's case**

13. The respondent failed to comply with Directions and did not file any response to this claim.

### **The tribunal's decision**

14. Dealing firstly with the surveyor's fees, these fees were charged by Mr Holden FRICS. The charge was £800 and vat of £160 for work in connection with the claim and preparation of the property sale valuation. A detailed witness statement was submitted setting out how the charge was made and the Tribunal was satisfied that these fees were reasonable and properly payable.
15. The provisions of section 60 are well known to the parties and the tribunal does not propose to set the legislation out in full. (For reference purposes an extract of the legislation and in particular section 60 is set out in an appendix to this decision along with details of appeal rights in an annex). However, costs under that section are limited to the recovery of reasonable costs of an incidental to any of the following matters, namely: -

- i. Any investigation reasonably undertaken of the tenant's right to a new lease;
- ii. Any valuation of the tenant's flat obtained for the purpose of fixing the premium or amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56
- iii. The grant of a new lease under that section.

16. Subsection 2 of section 60 provides that: -

*“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”.*

17. The applicant has set charges using hourly rates of £250 (Senior Solicitor) and £150 per hour for a para-legal. The tribunal considers that the rates charged by the higher fee earner falls within the range generally seen by the tribunal in cases of this kind. Accordingly, the charge out rates of £250 and £150 in this case are accepted by the Tribunal. Therefore, the tribunal accepts the hourly rates mentioned above as being appropriate in the case. Moreover, the Tribunal is satisfied as to the distribution of the work as between these fee earners as being reasonable given the nature of the claim and or transaction
18. Having considered the breakdown of costs provided by the applicant, the Tribunal is satisfied that the charges are proportionate and reasonable given the nature of the work set out in the applicant's breakdown. The largest amount in the breakdown was £225 for the reviewing and approval of the lease by the senior solicitor. This is wholly appropriate given the nature of the proposed transaction to make sure that the lease is suitable given that this property is within a block of leasehold units.
19. Accordingly, in the light of the above, the Tribunal approves the following amounts of costs as set out in this decision namely, £1600 inclusive of VAT giving a total allowed for the applicant's costs in the sum of £1600 as well as the valuer's fees of £960 and the disbursements listed above .

**Name:** Judge Professor Robert  
M. Abbey

**Date:** 24 November 2021

## **APPENDIX**

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

60 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.

## **Annex - Rights of Appeal**

1. 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.
2. 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.
3. 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.
4. 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.