

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

**S.60 of the Leasehold Reform, Housing and Urban Development Act
1993 as amended**

DECISION AND REASONS

Case Number: CHI/2UL/0C9/2010/0003

In the matter of Flat 3, 124-126 Sandgate Road, Folkestone, Kent, CT20 2BW

Applicants: Helen Baker

Respondent: Birdhurst Investment Company Limited

Date of Application: 15th March 2010

Tribunal Members: Mr. S Lal LL.M (Barrister, Legal Chairman)
Mr. C Harbridge FRICS
Mr. P Gammon MBE

Date of Decision: 25th June 2010

Application

1. The Applicant applied to the Tribunal on 15th March 2010 pursuant to section S.60 of the Leasehold Reform, Housing and Urban Development Act 1993 as amended (the "Act") to determine the landlord's recoverable cost incurred in connection with a notice of claim under section 42 of the Act in relation to the subject premises. In summary the lease on the subject premises was extended by a period of 90 years for an eventual sum of £7200.
2. Directions were issued on the 18th May 2010. It was decided under the terms of Regulation 13 of the Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003 that the intention was to determine the matter on the basis of written representations only and without an oral hearing. Both parties were content for this to happen and the Tribunal are pleased to note that both parties to the proceedings have sent detailed written representation to the Tribunal. These are referred to below.

3. The Tribunal has received from the Respondent's the time sheets for the solicitors that they engaged, DMH Stallard LLP dated 3rd September 2009. From the Applicant the Tribunal has received written submissions from Legal Maze Limited Solicitors as well as a statement prepared by the Applicant herself dated 29th April 2010. Finally the Tribunal has had regard to the Respondent's Reply. The Tribunal has considered the contents of all the material before it with some considerable care in respect of its overall deliberation and reference to this material will be made in so far it is relevant to the Tribunal's decision below.

The Law

4. The relevant Law as contained in the Act states as follows:

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)

(4)

(5).....

(6).....

The Tribunal's Decision

5. From the above it is clear that costs should only be regarded as reasonable if the costs would be something that he or she would bear themselves. Intrinsic to something being reasonable would be the concept of proportionality.

6. The Tribunal finds that the cost of the lease extension was eventually £7200. The matter had nearly been resolved in February 2007 for the sum of £6500 where the Applicant had agreed to reimburse the Respondent's costs in the sum of £650 plus VAT. The matter appears to have stalled at the last moment and further negotiation took place concerning in the main ground rent and amendments to an existing lease followed eventually by a newly drafted lease. The net result of nearly three years of the above is that the eventual premium has gone from £6500 to £7200.

7. The disputed sums demanded by the Respondent now amount to the following:

DMH Stallard dispute Resolution costs	£1942.27
Land Registry Fees	£32.00
Copying and Incidentals	£2.88
Conveyancing Costs	£2119
Valuation Fee	£517.50
<u>Total</u>	<u>£4613.65</u>

8. The Tribunal finds that in the context of the eventual premium and from whence it started, the total amount cited above would not be something that the Respondent would have paid if he were to have the notional liability to pay for it himself. The amount represents well over 50% of the eventual premium.

9. Ultimately it is for the court or tribunal to do decide on the basis of the evidence before it and exercising its own expertise. In that regard the LVT is an expert tribunal and is able to bring its own expertise and experience in assessing the evidence before it.

10. Thus the Tribunal finds the following as a reasonable amount to reflect what in essence is a straightforward lease extension and conveyance for a modest premium.

11. The Tribunal finds the following to be reasonable sums:

Conveyancing Costs £550 plus VAT

(this is on the basis of the Letter of Engagement dated 3rd September 2009)

Counter Notices Charges £600 plus VAT

(this is on the basis of the Letter of Engagement dated 3rd September 2009)

Valuation Fee £450 plus VAT

(the Tribunal does not accept the assertion made by the Applicant that a "desk top" valuation could be made for £250 and notes that the surveyor did visit the subject premises but was unable to gain access)

Land Registry Fees £32.00

Copying and Incidentals £2.88

Disbursements £4.00

Total **£1638.88 plus VAT**

12. The Tribunal finds that the above amount is a reasonable reflection of the work actually needed to be done in respect of a lease extension of this type and accordingly determines the liability to pay being the sum of £1638.88 plus VAT. This is reasonable and proportionate to a matter of this type. The Tribunal makes no further Order.

Chairman.....



Date.....

25/6/10