



**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Case number CAM/38/UE/OLR/2011/0103

Property Flats 1 and 8 Meadowside Court,
Abingdon, Oxfordshire OX14 5SL

Applicant Ms M J Smith (Flat 1)
Ms D and Messrs R and J Organ (Flat 8)

Represented by Mr M Cannon FRICS, Lawrence and
Wightman Chartered Surveyors

Respondent T H Kingerlee and Sons Ltd

Represented by Ms C Jones, Darby's Solicitors

Type of Application to determine the costs payable on lease
extension (Section 60 of the Leasehold
Reform and Urban Development Act
1993) (the 1993 Act)

Date of Application 21st November 2011

**DETERMINATION WITHOUT AN ORAL HEARING IN ACCORDANCE
WITH REGULATION 13 OF THE LEASEHOLD VALUATION TRIBUNAL
(PROCEDURE) REGULATIONS 2003**

Tribunal Mr R Brown FRICS Chairman
Mrs S Redmond MRICS, B Sc (Econ)
Mr J Sims Solicitor

Decision

1. The reasonable valuation fees of the Respondent in dealing with the matters set out in Section 60(b) of the 1993 Act are in respect of Flat 1 **£475.00** and the disbursements of **£7.20** and in respect of Flat 8 **£427.50** and the disbursements of **£12.00 plus VAT** if applicable.

Reasons

2. The Applicants are the lessees of the properties described above under a long lease and have applied to the Respondent for the surrender of the Applicant's existing lease and the granting of a further long lease pursuant to Section 48 of the 1993 Act.

Introduction

3. Agreement has been reached on all matters including the legal costs and the only matter outstanding is the valuation fee to be paid by the Applicant pursuant to Section 60(1)(b) of the 1993 Act.
4. Directions were issued on 24th November 2011.

The Law

5. When lessees use the enfranchisement provisions, they become liable under section 60(1) of the 1993 Act to pay the landlord's "*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"*
6. Under section 60(2) of the 1993 Act the method of assessment of the fees to be allowed by the Tribunal are those which would be payable by the client "*if the circumstances had been such that he was personally liable for all such costs"*.
7. If the Respondent is registered for VAT purposes, it will be able to recover the VAT on those fees because those services will have been supplied to the Respondent, not the Applicants. Therefore, if this is the case, no VAT will be payable by the Applicants on the valuation fees.

Hearing

8. With the agreement of the parties the matter was considered on the papers supplied by the parties.
9. Papers received from the Applicant included: Letters dated 21st November, 12th and 21st December 2011, 9th and 12th January, 6th February 2012 together with enclosures.
10. Papers received for the Respondent included letters dated 12th December 2011, 18th and 26th January, 9th and 20th February 2012 together with enclosures and various emails.
11. The parties had, helpfully, exchanged a schedule identifying the costs involved and why they were or were not agreed.

Issues

12. There appears to be no dispute between the parties about the Respondent's entitlement to valuation fees.

Charging rates

13. The parties were agreed that the hourly charge of the Respondent's surveyor (£190.00 per hour) was appropriate.

Time

14. The Mr Cannon says that a total of 10 hours work in preparing the necessary valuations on 2 essentially identical flats cannot be justified.
15. Mr Cannon suggests and Mr Lindley the Respondent's surveyor agrees that 1 hour spent on travelling and inspection is reasonable.

16. Mr Cannon suggests that 1 hour is sufficient time to research and prepare the valuation. Mr Lindley disagrees and produces a summary of the time spent on each property which for convenience is reproduced below:

Subject	Flat 1	Flat 8
Confirmation of instructions and file set up	0.25	0.25
Inspection/appointment letter/call	0.25	0.25
Read Lease	0.25	0.25
Travel, parking and inspection	1.00	1.00
Comparable research etc	3.00	0.25
Valuation	0.50	0.50
Report	1.00	0.50
Peer Review	0.75	0.50
Total	7.00	3.50

17. In Mr Cannon's experience valuation fees in such matters are commonly agreed at £350 -£500 plus VAT. This is the amount commonly awarded by the Midlands LVT. There appears to be no reason why this should be different in the Oxford area. Mr Lindley says his firm's minimum fee is £950.00 plus VAT. Mr Cannon says this is not relevant if as it appears it represents much more time than would normally be justifiable for such work.
18. Mr Cannon has appeared before the Eastern LVT and in the case of 11 flats was awarded £250.00 plus VAT per flat. Mr Lindley says the valuation of 11 flats does not compare well with the valuation of 2 flats.
19. Mr Cannon considers that a reasonable fee would be to allow 2.5 hours for the first valuation and 1.5 hours for the second. A total of 4 hours at £190.00 per hour making a total of £760.00 split equally between the 2 properties giving a justifiable fee of £380.00 plus VAT per property plus travelling.
20. Mr Cannon contends that the RICS Red Book is not relevant to statutory valuation under section 60 of the 1993 Act. Mr Lindley contends the opposite.
21. As to travelling costs Mr Cannon has no objection to the amount proposed. £7.20 in respect of Flat 1 and £12.00 in respect of Flat 8.
22. As to the charges for Promap, photographs and postage Mr Cannon says these are not necessary for this type of work and in any event 2 Promaps is unnecessary.

The Tribunal's Deliberations

23. The Tribunal considered all the written evidence submitted by the parties in reaching its conclusions.
24. The Tribunal finds that the hourly charge, although in their experience at the higher end of the range, agreed between the parties is realistic and reasonable for this type of work.
25. In determining a reasonable fee the Tribunal do not consider it is appropriate or within their jurisdiction to involve themselves in an interpretation of the rules of the Royal Institution of Chartered Surveyors.

26. In considering what is a reasonable amount to charge the Tribunal is of the view that a surveyor of Mr Lindley's experience should be able to complete a valuation under the 1993 Act including the inspection, travelling, research and issuing of the report in approximately 2.5 hours.
27. The Tribunal further consider that it is probable that Mr Lindley's client would seek to negotiate a reduction for the second valuation. They consider however that the amount of £250.00 used by Mr Cannon as an example is unrealistic and in the absence of better evidence determine that a 10% deduction is appropriate for the second valuation.
28. The Tribunal do not consider that the use of Promap is necessary for this type of valuation. Mr Lindley was provided with a copy of the lease which presumably contained a plan suitable for this purpose. In any event, if needed, office copy entries would be available from the solicitor.
29. The use of digital photography is not only commonplace but inexpensive and accordingly the Tribunal consider that such cost and the limited postage required for this type of work should be included in the hourly charge especially where that rate is, as in this case, at the higher end of the band of reasonableness.
30. Applying those conclusions the Tribunal determine the fees to be paid as follows:

Flat 1: £190 x 2.5 hours = £475.00 plus travelling as agreed £7.20.

Flat 8: £475.00 less 10% = £427.50 plus travelling at £12.00.
31. If the parties wish to split the fee equally between the properties the Tribunal has no objection however the total must not exceed £902.50.
32. As to VAT the Tribunal determines that VAT is only payable by the Applicant if the Respondent is not registered for VAT.

Robert Brown FRICS Chairman

Dated.....13/03/12.....