

2540



HM Courts  
& Tribunals  
Service



Ministry of  
Housing,  
Communities  
& Local Government

**LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN  
APPLICATION UNDER LEASEHOLD REFORM, HOUSING AND URBAN  
DEVELOPMENT ACT 1993 (Sections 60 and 91)**

**Case Reference:** LON/00AG/OC9/2012/0043

**Premises:** 3, Foundling Court, 58, Foundling Court and 162,  
O'Donnell Court, Brunswick centre, London,  
WC1N 1NZ

---

**Applicants:** A Chiesa (Flat 3, Foundling Court)  
A S Best and P C Best (58, Foundling Court)  
J M M Harper (162, O'Donnell Court)

**Representative:** Bishop & Sewell LLP (Solicitors)

**Respondents:** Brunswick GP Limited  
Brunswick Nominee Limited  
BIS (Postal Services Act 2011) Company Limited

**Representative:** Nabarro LLP (Solicitors)

**Leasehold Valuation Tribunal:** Mrs H C Bowers (Chairman),  
Ms L Tagliavini Barrister & Attorney at Law (NY)

**Date of decision:** 2<sup>nd</sup> July 2012

---

## DECISION

That the costs payable by the Applicants pursuant to section 60 of the Leasehold Reform Housing and Urban Development Act 1993 are the following sums:

3, Foundling Court - £2,187.75 plus VAT (Valuation costs - £962.50, legal costs - £1,225.25);

58, Foundling Court - £2,325.25 plus VAT (Valuation costs - £1,100, legal costs - £1,225.25);

162, O'Donnell Court - £2,187.75 plus VAT (Valuation costs - £962.50, legal costs - £1,225.25);

---

### Introduction

1. In an application dated 9<sup>th</sup> May 2012, the Applicants sought a determination from the Tribunal as to the landlord's costs under section 60 of the Leasehold Reform Housing and Urban Development Act 1993 (the Act).

2. In a Notice of Claim dated 10<sup>th</sup> March 2011 (3, Foundling Court); 5<sup>th</sup> July 2011 (58, Foundling Court) and 10<sup>th</sup> March 2011 (162, O'Donnell Court) the Applicants served notice on the Respondents, claiming a new lease under the provisions of the Act. The Respondents served counter notices that were dated 17<sup>th</sup> May 2012 (3, Foundling Court); 13<sup>th</sup> September 2011 (56, Foundling Court) and 17<sup>th</sup> May 2011 (162, O'Donnell Court).

3. Directions were issued on 11<sup>th</sup> May 2012. It was concluded that this matter would be determined without a hearing and was considered on the basis of the papers submitted to the Tribunal on Monday 2<sup>nd</sup> July 2012.

### Law

4. Section 60 of the Act states

(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;...

(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."

## **Representations**

### **Respondents' Case**

5. It was explained that the valuation costs sought were £1,750 (exclusive of VAT) per unit for 3 Foundling Court and 162, O'Donnell Court. This sum was reduced from a fixed fee of £2,000 per unit to reflect the fact that the two units were inspected at the same time. In addition disbursements of £17.50 (exclusive of VAT) per unit, for 3, Foundling Court and 162 O'Donnell Court and £46.50 for 58, Foundling Court; were claimed for document production costs and travel costs.

6. In a witness statement, Alec Harragan, a surveyor with Savills Commercial Limited, explained that he has five years experience and that the fixed fee for carrying out valuations under the Act is £2,000 plus VAT and disbursements. As flats 3, Foundling Court and 162, O'Donnell Court were inspected at the same time, there was a reduction in the fixed fee to ~~£2,000~~ £1,750 per unit, plus VAT and disbursements. It was explained that the work undertaken included organising an inspect; carrying out an inspection; travelling to the premises; considering the lease terms and their impact on valuation; obtaining and analysing comparables and undertaking the valuation. It is Mr Harragan's experience that the level of fees charged is in line with market rates for such valuations. Savills carries out valuation work for a number of clients and the fees range from £2,000 to £5,000 per unit, plus VAT and disbursements.

7. The legal fees claimed for each of the lease extensions was ~~£2,117.25~~ £2,117.25 per unit plus VAT and disbursements for Land Registry fees of £16, for 3, Foundling Court; £24 for 58, Foundling Court and £20 for 162, O'Donnell Court. In the breakdown of legal costs it was shown that a number of individuals had worked on each case and that hourly rates ranged from £427 plus VAT for a senior property litigation partner to £139.50 plus VAT for a trainee. The costs were categorised into four sections; attendance on client 1.9 hours and a claim of £395.10; attendance on tenant/their solicitor 1.2 hours - £255.60; attendance on intermediate landlord/solicitor 1 hour - £208.80 and work on documents £1,257.75.

## **Applicants' Case**

8. In respect of the valuation fees it was explained that it was considered that there was a duplication of the work undertaken and an hourly rate of £275 suggests that it is claimed a total of 6 hours per flat for each valuation. From previous LVT decisions it is suggested that a reasonable amount of time to be spent would be 1.5 to 3 hours and as such the valuation fee should be £687.50 per flat plus VAT.


9. Regarding the legal costs it is suggested that six individuals working on each case has resulted in some duplication of costs. A total of 30.9 hours has been claimed in respect of the three lease extensions and 6.2 hours per unit working on documents. It is considered that there is some duplication in the work undertaken and that the leases were drafted by the intermediate landlord and included in their agreed legal costs of £799.20 (inclusive of VAT and disbursements). Based on previous decisions it was considered that a total of 5 hours per unit for legal matters would be appropriate and that legal costs of £1,039.50 per unit plus VAT would be reasonable.

## **The Tribunal's Determination**

10. Regarding the valuation costs the Tribunal is of the opinion that the charging rate at £275 per hour is not unreasonable for a valuer working in this expert area in central London. However, in the opinion of the Tribunal it would appear that at that hourly charging rate, six hours to undertake an inspection, valuation and report to the Applicant may be excessive. The Tribunal is of the opinion that a total of 4 hours at a charging rate of £275 would be appropriate. This equates to £1,100 plus VAT. This rate takes account that there would be some duplication in the work undertaken. In addition it is noted that some time was saved by the inspection of 3, Foundling Court and 162, O'Donnell Court at the same time. We therefore consider that it would be appropriate to make a deduction reflect that time saving and therefore feel that a valuation fee based on 3.5 hours at £275 per hour for those two units (£962.50 plus VAT per unit) would be appropriate.

11. In respect of the legal fees, we were not provided a detailed summary of what work was undertaken. Section 60 is fairly limited as to what costs can be recovered from the leaseholders, namely any investigation reasonably undertaken of the tenant's right to a new lease and costs in relation to the grant of a new lease. As we have no detailed explanation as to what work was undertaken, we are unable to determine whether it falls within the limits of section 60. Accordingly, we are obliged to consider what work should be considered as reasonable. In the opinion of this Tribunal we consider that four and half hours at an average charging rate of £225, equating to £1,012.50 plus a supervisory role of half an hour at £427.50 per hour, equating to £212.75 – giving a total sum of £1,225.25 plus VAT for each flat would be reasonable. This level of fee takes into

consideration that the draft lease was prepared by the intermediate landlord and that there would be some duplication of work in respect of the three units..

CHAIRMAN:  .....

DATE: 2<sup>nd</sup> July 2012