



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

Case Reference : **BIR/47UB/OC6/2016/0027**

Property : **45 Pennine Road, Bromsgrove B61 0TA**

Applicants : **Mr and Mrs P Seers**

Representative : **Anthony Brunt & Co.**

Respondent : **Laserglobe (Investments) Ltd.**

Representative : **Guy Charrison FRICS**

Type of Application : **Costs s9 (4) LRA 1967**

Members of Tribunal : **Judge D Jackson
N Thompson FRICS**

Date of decision : **20th September 2016**

Decision Issue Date : **7th October 2016**

DECISION

Background

1. On 13th July 2015 the Applicants gave Notice of intention to acquire the freehold of the Property under the Leasehold Reform Act 1967 (“the Act”).
2. On 12th April 2016 the Applicants applied to the Tribunal for a determination of the price payable under s9 (1) of the Act.
3. The application for determination of price payable was heard by a Tribunal on 15th June 2016 and a decision issued on 8th July 2016.
4. On 15th June 2016 the Applicants applied to the Tribunal under s21 (1) (ba) of the Act for a determination of reasonable costs payable under s9 (4) of the Act.
5. The Tribunal issued Directions on 20th June 2016.
6. A submission in the form of a letter dated 18th July 2016 was received from the representative for the Respondent.
7. Representative for the Applicants has prepared a submission dated 25th July 2016.
8. A further letter in reply was received from the representative for the Respondent dated 27th July 2016.
9. In the absence of any objections from either of the parties the Tribunal has determined this application without a hearing.

Legal Costs

10. The Respondent has instructed Ms Watts a partner in The Head Partnership whose offices are in Reading.
11. The claim for legal costs is £750 plus VAT based on 3 hours at £250 per hour.
12. Mr Brunt in his submission on behalf of the Applicants agrees 3 hours but submits that an hourly rate of £177 only should be allowed.
13. The work undertaken here is routine. Title is registered and the only document to be prepared is a Transfer. This is work that could easily be carried out by an experienced assistant solicitor and certainly would not require the expertise or experience of a partner.
14. We are able to gain only limited assistance from the Guideline Rates for Summary Assessment. These, of course, relate only to litigation and have not been updated since 2008. Offices in Reading would fall within Band One. Routine conveyancing would fall within the experience of a Grade B fee earner. The Guidelines would suggest a figure of £180 per hour. However we find that figure is too low.
15. We allow a reasonable hourly rate of £200 per hour.
16. We determine reasonable legal costs under s9 (4) at £600 plus VAT.

Surveyor’s fees

17. Mr Charrison also claims £750 plus VAT. In his letter of 18th July 2016 he provides a breakdown:
 - a) Valuation on 11th May 2016 £350 plus VAT
 - b) Negotiations with Anthony Brunt £340 plus VAT
 - c) Investigation of right to acquire freehold £60 plus VAT.
18. Mr Brunt agrees the sum of £60 plus VAT.
19. Mr Brunt disputes the sum of £340 plus VAT. We agree with his submissions that negotiations are not a matter which fall within any of the matters listed a)-e) in s9 (4) of the Act.

20. The commentary in Hague "Leasehold Enfranchisement" at paragraph 6-43 expresses the view that "The negotiating costs of the landlord are not payable by the Tenant". We agree with the opinion of the learned commentator. We disallow the claim for negotiations as those costs are not incidental to any of the matters listed in s9 (4).
21. The claim for valuation fee of £350 plus VAT potentially falls within s9 (4) (e). However Mr Brunt's grounds of objection are that the Valuation fee was not "incurred in pursuance of the notice".
22. The Tenants' Notice is dated 13th July 2015. The Valuation was not carried out until 11th May 2016 which was after the date of application to the Tribunal on 12th April 2016. Section 9(4A) provides that no costs are recoverable "in connection with an application to a leasehold valuation tribunal".
23. Mr Charrison indicates that the Valuation was not carried out until May 2016 because "I was not in the country until May 2016 as I am a US resident".
24. We find that the Valuation was not carried out in pursuance of the notice served 10 months earlier. Rather the Valuation was carried out in response to the application to the Tribunal and took place 4 weeks thereafter. The Valuation fee is not payable under s9 (4). The prohibition in s9(4A) applies.

Decision

25. The Applicants shall pay to the Respondent £60 under s9 (4) (a), together with the further sum of £600 representing legal costs under s9 (4) (b)-(d). No valuation costs are payable under s9 (4) (e). The above figures will be subject to the addition of VAT only if the Respondent is **not** registered for VAT purposes.

D Jackson
Judge of the First-tier Tribunal

Either party may appeal this decision to the Upper Tribunal (Lands Chamber). Any party seeking permission to appeal must first make application to the First-tier Tribunal in writing, stating grounds relied upon, which must be received by the Tribunal no later than 28 days after the date on which the Tribunal sends this Decision to the party seeking permission.