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

Case Reference : LON/00AE/0C9/2016/0166

Property : 30 Staverton Road, NW2 5HL

Applicants : Shweta Ahluwalia
Kaushalya Ahluwalia

Representative : Steadfast Solicitors Ltd

Respondents : Joseph Thuraiamy
Fernando Perez Crue
Emmett Hudson
Gabriella Hudson

Representative : Anthony Gold Solicitors

Type of Application : Application for determination of
reasonable costs – flats and
premises – Section 91(2)(d)
Leasehold Reform, Housing and
Urban Development Act 1993

Tribunal Judge : Mr M Martyński

DECISION

Background

1. This matter arises out of the Respondents' claim to acquire the freehold of the subject premises from the Respondents. The Notice of Claim is dated 2 July 2015. The Notice proposed the sum of £708,100 for the premises and £150 for the front and rear gardens. The Respondents claimed that between them they held the long leasehold interest in two out of three flats in the premises.
2. The Counter-notice is dated 2 September 2015. That notice denied the right to collective enfranchisement and denied the validity of the Notice of Claim. The grounds on which the right to collective enfranchisement was disputed were:
 - (a) an assertion that there were four flats at the subject premises and accordingly the number of flats held by qualifying tenants was less than two-thirds
 - (b) that the Respondents were not entitled to acquire the front and rear gardens or the pathway at the side save for rights of access or alternatively that the notice was not clear on what parts of the front and rear garden were being claimed.

A letter with the Counter-Notice from the Applicants' solicitors questioned where the purchase monies for the freehold were coming from.

3. By email dated 11 December 2015 the Respondents' solicitors confirmed that the claim for the freehold interest was not being pursued and admitted the Applicant's entitlement to costs.
4. By letter dated 22 February 2016 the Applicants' solicitors sent to the Respondents' solicitors details of their costs as follows:-

Solicitor's costs	£2856.00
VAT	£571.20
Counsel's fees	£1850.00
VAT	£370.00

The solicitor's costs were broken down by way a spreadsheet and a fee note from Counsel was attached to the letter.

The Application and the course of proceedings

5. The Applicant's application to this tribunal is dated 18 April 2016. Directions were given on the application on 26 April. The directions set the matter down on the Paper Track to be decided without a hearing.
6. Neither party requested an oral hearing and I have therefore decided this case on the basis of the papers. The parties helpfully provided a schedule setting out each cost item disputed.

Decision

7. I summarise the disputed costs and my decisions in the table below.

Date	Time spent/ Counsel's fees	Description of work and decision
14.08.15	30 minutes	<i>Compiling documents for Counsel</i> I agree with the Respondents' objection that this work is not payable under section 33 Leasehold Reform, Housing and Urban Development Act 1993.
20.08.15	3 hours	<i>Conference with Counsel:</i> Counsel's fee note gives the time for the conference as 2 hours and 45 minutes. I note that the Applicants' solicitors instructed a specialist barrister within a respected specialist chambers. I have to assume, as per the fee note, that the time was warranted (I note from the fee note that Counsel appears to have limited her fee in any event so presumably the full time was not claimed for in her fees). However I do not consider that the Respondents should have to pay for both solicitor (at his full charging rate) and specialist Counsel in a conference. Accordingly I allow 2 hours and 45 minutes for the conference at a rate of £150.00 for a lower grade fee-earner.
25.08.15	24 minutes	<i>Instructing Counsel to prepare Counter Notice:</i> I agree with the objection that the Respondents should not have to bear the costs of instructing Counsel. Counsel has charged a separate (and substantial) fee for this work.
26.08.15	6 minutes	<i>Email to Counsel to confirm grounds of opposition:</i> I agree with the objection for the reasons given above.
01.09.15	6 minutes	<i>Email to Counsel:</i> I agree with the objection that chasing Counsel is not an item that should be claimed.
07.09.15	24 minutes	<i>Preparing draft letter for client's approval:</i> I agree with the objection that the letter has no bearing on the issues raised in the Counter Notice.
30.09.15	18 minutes	<i>Email to Counsel requesting clarification:</i> The Respondents' objection to this item was that there was insufficient information given in respect of it. There is no response from the Applicants. Accordingly in the absence of any further information, this item is disallowed.
04.10.15	6 minutes	<i>Email to Counsel requesting clarification:</i> The Respondents' objection to this item was that

		there was insufficient information given in respect of it. There is no response from the Applicants. Accordingly in the absence of any further information, this item is disallowed.
05.10.15	1 hour 12 minutes	<i>Research case law on valuation:</i> I agree with the Respondents' objection that the valuation was a matter for a Surveyor.
05.10.15	6 minutes	<i>Email to Counsel referring to case law and valuation:</i> I agree with the Respondents' objection that the valuation was a matter for a Surveyor.
06.10.15	24 minutes	<i>Considering response from Counsel, forwarding email from Ian Mitchell an contact client:</i> I agree with the Respondents' objection that the valuation was a matter for a Surveyor.
18.10.15	48 minutes	<i>Instruction from client as to evidence/discussing evidence:</i> I agree that this work went directly to the issue of the number of flats which was a key point in considering the Respondents' entitlement and is therefore allowed.
06.10.15	£300.00	<i>Further advice on "special purchaser":</i> I agree with the Respondents' objection. This is not connected with the Counter Notice and post-dates the notice.
28.08.15	£1,320.00	<i>Advising in conference:</i> For the reasons given above I have allowed this sum.

8. I conclude therefore that the costs payable by the Respondents are as follows:

Solicitor's costs	£1420.50
VAT	£284.10
Counsel's fees	£1,600.00
VAT	£320.00
TOTAL	£3,624.60

Mark Martyński, Tribunal Judge
16 June 2016