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

**Case Reference** : LON/00AA/OC9/2017/0007

**Property** : 15 Shield House, 16 New Street  
London EC2M 4TR

**Applicant** : Mr M Kucharski  
Julienne Baron

**Representative** : Mr M Kucharski

**Respondent** : Freehold Properties 23 Ltd

**Representative** : Stevensons

**Type of Application** : Costs under s60 Leasehold Reform  
Housing and Urban Development  
Act 1993

**Tribunal Members** : Mrs F J Silverman Dip Fr LLM  
Mrs E Flint FRICS

**Date and venue of hearing** : 01 March 2017, 10 Alfred Place,  
London WC1E 7LR

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**Date of Decision** : 08 March 2017

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**DECISION**

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The Tribunal allows the Respondent the sum of £1,522.80 including VAT in respect of its costs under s60 Leasehold Reform Housing and Urban Development Act 1993. This sum includes land registry fees (£27.00) and valuer's fees (£337.50). This sum is payable in full by the Applicants.

## REASONS

- 1 This decision relates to an application for costs assessable under s60(1) Leasehold Reform Housing and Urban Development Act 1993 (the Act) made by the tenants of the property situated and known as 15 Shield House New Street London EC2M 4TR (the property) in relation to a claim for an extended lease by the Applicant tenants. The costs in question are those arising out of the intermediate landlord's investigation of title and legal costs in connection with the grant of the new lease, the intermediate landlord having served a schedule of costs which is disputed by the tenants. Directions relating to the costs application were issued on 9 January 2017.
- 2 This matter came before a Tribunal sitting in London on 01 March 2017 at which Mr Kucharski represented the Applicants and Mr Stephenson, solicitor, represented the Respondents. A bundle of documents had been prepared by the Applicant and was considered by the Tribunal in reaching its decision.
- 3 The issues before the Tribunal were firstly whether the Respondent was entitled to costs at all and secondly, if so, whether the costs demanded were reasonable.
- 4 The factual background to the application is that the Applicants had served a notice on the Respondent and the freeholder asking for an extended lease of the property under the provisions of the Leasehold Reform Housing and Urban Development Act 1993. The Applicants' claim was accepted and negotiations ensued for the grant of the lease extension which the Tribunal was told was completed a few days before the Tribunal hearing. The matter was complicated by the fact that an intermediate landlord was involved (as well as the freeholder) and that the extension involved two leases, one of the apartment itself the second of a store room (page D138 et seq). The Applicants' claim against the reasonableness of the freeholder's costs and under Rule 13 of the Tribunal Rules of Procedure have both been withdrawn.
- 5 The Respondent's detailed schedule of costs (pages B70-73) claims the sum of £1,158.30 by way of legal costs and £364.50 in respect of valuation expenses including, where applicable, miscellaneous disbursements and VAT on these sums. The Applicants considered that these sums were excessive.
- 6 At the hearing the Applicants agreed the valuer's fees and disbursements and conceded that VAT was payable on the Respondent's bill of costs.
- 7 The Applicants argued that the Respondent's charging rate of £195 per hour was excessive. They referred to the Gov.UK guidelines on solicitors' charging rates (page D2) and said firstly, that the Respondent was only allowed to charge at National grade 2 because the firm's location in Norfolk fell within this band and secondly, that the Respondent's fee earner, a licensed conveyancer who had qualified in 2004, was neither a solicitor nor a legal executive and

therefore was only entitled to charge £111 per hour under the heading of either a trainee or paralegal.

- 8 The Tribunal accepts the Respondent's submission that in relation to conveyancing a qualified licenced conveyancer is of equal status to a solicitor. It also accepts the Respondent's statement that lease extension transactions are a specialised and complex area of practice, further complicated in the present case by the need for two leases and the tripartite nature of the negotiations. The Applicants conceded that this matter was a specialist area of practice but denied that it merited extra payment.
- 9 The Tribunal reminded the Applicants that the government's charging guidelines are designed primarily for use in litigation whereas the matter under discussion is classified as non-contentious business. The guidelines should therefore be treated as guidelines and not as absolute maximum charging rates. In the Tribunal's experience the charging rate of £195 per hour for work done by a provincial solicitor or licenced conveyancer with more than 10 years post-qualification experience is well within the bands of reasonable charges and is allowed in full by the Tribunal. This rate had recently been approved by a differently constituted Tribunal in relation to the same fee earner in *Wallace Estates Ltd v Weybrook Drive Ltd* (CHI/43UD/OC9/2016/0005). The Applicants did not argue that any part of the work shown on the Respondent's detailed schedule should have taken less time nor that any part of it could have been undertaken by more junior staff. The Applicants did not present any alternative quotations or hourly rates by way of comparison with the fees charged by the Respondents.
- 10 The Applicants said that the Respondent should not have incurred any legal costs at all as it was not economic for them to do so and they should instead have relied on the work done by the solicitors acting for the freeholder. The Tribunal rejects this proposition. The Respondent as intermediate landlord is entitled to protect its own interests. It is a matter of judgment for the Respondent and the Respondent alone as to whether they consider it necessary to instruct solicitors to advise them and if so, who they instruct. Parliament's intention to permit an intermediate landlord to be represented in the course of a negotiation for a lease extension is expressly included in the statute.
- 11 A further argument put forward by the Applicants was that all work carried out by the Respondent after 21 June 2016 related to 'proceedings' and was therefore not claimable by the Respondent under the provisions of s 60. This is rejected by the Tribunal. The application to the Tribunal was not made until 29 September 2016 and it is clear from entries subsequent to that date that the charged fees relate only to the continued negotiations between the parties and not to any element of litigation proceedings. The Applicants asserted that the word 'proceedings' encompassed aspects of negotiation of the lease terms and thus costs relating to the

negotiation of the leases were not claimable. The Tribunal considers that this interpretation of the word 'proceedings' is misconceived and has been taken out of context from the decided cases cited by the Applicants in their submissions.

**12 The Law**  
**Leasehold Reform Housing and Urban Development Act 1993 s**  
**60(1)**

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)Where by virtue of any provision of this Chapter the tenant's notice ceases to have effect, or is deemed to have been withdrawn, at any time, then (subject to subsection (4)) the tenant's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.

(4)A tenant shall not be liable for any costs under this section if the tenant's notice ceases to have effect by virtue of section 47(1) or 55(2).

(5)A tenant shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation tribunal incurs in connection with the proceedings.

(6)In this section "relevant person", in relation to a claim by a tenant under this Chapter, means the landlord for the purposes of this Chapter, any other landlord (as defined by section 40(4)) or any third party to the tenant's lease.'

Judge F J Silverman as Chairman  
Date 08 March 2017

Note:

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.