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

Case Reference : **OT/LON/OOAU/OC9/2016/0199**

Property : **30 Southside, Carleton Road,
London N7 OQH**

Applicant : **Ms Shinner**

Representative : **Lewis Nedas Law Solicitors Ltd**

Respondent : **Mountview Estates**

Representative : **Wallace LLP**

Type of Application : **Assessment of costs under section
60(1) of the Leasehold Reform
Housing and Urban Development
Act 1993**

Tribunal members : **Mrs S O'Sullivan
Mrs S Redmond MRICS BSc**

Date of Decision : **19 July 2016**

:

DECISION

The background

1. The Applicant is the long leaseholder of Flat 30, Southside, Dalmaney Avenue, London N7 OJZ.
2. The Respondent is freeholder of the building and the competent landlord for the purposes of the Leasehold Reform, Housing and Urban Development Act 1992 (the “1993 Act”).
3. The leaseholder served a section 42 notice seeking to exercise her right to a lease extension under S48 of the 1993 Act and a Counter notice was served which admitted the right but did not agree the proposed premium.

The application

4. By an application dated 17 May 2016 the leaseholder has now applied for an assessment of the landlord’s costs under section 60(1) of the 1993 Act.
5. Directions were issued dated 19 May 2016. Further to those directions a bundle was lodged containing the Respondent’s costs schedule and submissions made on behalf of both parties.
6. Neither party having requested an oral hearing, the application was considered by way of a paper determination on 19 July 2016.

The Legal costs

7. The costs in issue are limited to legal costs in the sum of £2,327 plus Vat.

The Respondent’s case

8. The tribunal was provided with an itemised print out of the legal fees. This identified the date of each activity, a description of the activity, the type of fee earner involved and the time spent and resultant cost. The partner rate of £450 per hour, the assistant rate also a Grade A fee earner £330 per hour and the paralegal £200 per hour.
9. The Respondent says that the rates charged by Mountview are entirely consistent with the usual charge out rate for solicitors in Central London and that it is reasonable for a solicitor with the relevant experience to have conduct of this matter. It denies that the charge out rates are excessive. It is also said that there is no fixed rate expectation given that this is a niche and complex area of law.

10. It is also said that this in this case there was some additional work beyond a straightforward lease extension claim as further work was expended in reviewing and approving the validity of the Assignment of the section 42 Claim.
11. The Respondent submits that it is appropriate for a partner to consider the validity of the counter notice, prepare a counter notice and draft lease and that an assistant solicitor completed all work thereafter. It is also said that the time taken by a Partner would be less than that of a fee earner.
12. It is submitted that the overall time of approximately six hours to deal with the application for the grant of a new lease including completion time is reasonable and appropriately reflects the work undertaken by a conscientious practitioner in this technical area of leasehold enfranchisement.
13. The Respondent also makes provision for a further 30 minutes of time to deal with completion which it says is recoverable under section 60.
14. The tribunal was referred to various decisions relating to costs in support of its case, many of them decisions made by the first tier tribunal and particular reliance was placed on *Daejan Investments Limited v Parkside 78 Limited*. It is noted that in several of the decisions relied upon the costs were unchallenged and apparently therefore accepted by the tenant in question.
15. It is said that the provisions of the Act are in general terms complex and accordingly the involvement of a Partner was required to ensure that the provisions of the Act are complied with and to supervise the work of the Assistant Solicitor and Paralegal.
16. The work was confirmed to have been carried out by members of the enfranchisement department which it is said is recognised to be niche and complex work. It is also submitted for the Respondent that the hourly rates are reasonable for the seniority of the fee earners and nature of the work.
17. Disbursements in the sum of £11.75 plus Vat for courier fees and £21 in respect of land registry fees were not challenged.

The Applicant's case

Rate

18. The Applicant says that the rates are excessive.

Time spent

19. The Applicant disputes the costs on the basis that this was a routine lease extension with no unexpected complications or protracted negotiations. The premium agreed was £9,900. The Applicant also says that this is a flat in a purpose built block of around sixty flats and that as a consequence there would be limited title investigation and the Respondent's representative would have been able to use precedent documentation. In addition it is said that the draft lease was agreed by the Applicant's representative with only minor amendments and the matter concluded shortly thereafter.
20. The Applicant says that a cost of £1,000 plus Vat would be reasonable for a routine lease extension of this type.

The tribunal's decision

21. The provisions of section 60 are well known to the parties and the tribunal does not propose to set the legislation out in full. However costs under that section are limited to the recovery of reasonable costs of an incidental to any of the following matters, namely:-
 - i. Any investigation reasonably undertaken of the tenant's right to a new lease;
 - ii. Any valuation of the tenant's flat obtained for the purpose of fixing the premium or amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56
 - iii. The grant of a new lease under that section.
22. Subsection 2 of section 60 provides *that "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"*.
23. The tribunal considers in any event that the rate charged by the fee earners falls within the range generally adopted by the tribunal in cases of this kind.
24. The Applicant argues generally that the time spent is excessive. The view of the tribunal having taken all the matters set out in the parties' statements into account and having regard to the breakdown provided is that the time spent appears to be excessive for what was a straightforward case.
25. We were also concerned at the time spent by a partner on matter which could in our view have been dealt with by an assistant with some

supervision notably it appears that all matters up to the service of the counter notice were dealt with by a Partner. Given the Assistant involved in this matter was a Grade A fee earner it appears to us that he should have been fully able to carry out some of these matters under the supervision of a Partner.

26. We are satisfied that all of the work falls within section 60 (1) but consider that some of the time spent appears excessive and could have been carried out by a lower grade fee earner such as 0.9 hours of Partner time spent considering the notice of claim in advance of the copy lease being obtained and title being considered and 0.2 hours of Assistant time preparing lease engrossments. We are satisfied that this was a relatively routine matter. We therefore allow the sum of £1750 plus Vat to include costs of completion.

Name: Sonya O'Sullivan

Date: 19 July 2016