



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

Case Reference : **LON/00AG/OC9/2017/0176**

Property : **Flats 11, 12, 14 & 15 Warren Court,
Euston Road, London, NW1 3AA**

Applicant : **London Underground Ltd**

Representative : **Eversheds Sutherland LLP,
Solicitors**

Respondent : **Warren Court Investments LLP**

Representative : **D A Greenberg, Solicitors**

Type of Application : **Section 91 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal Member : **Judge I Mohabir**

**Date and venue of
Decision** : **30 August 2017
10 Alfred Place, London WC1E 7LR**

DECISION

Introduction

1. This is an application made by the Applicant under section 91 of the Leasehold Reform, Housing and Urban and Development Act 1993 (as amended) (“the Act”) for a determination of the statutory costs payable to the Respondent under section 60 of the Act for the grant of four new leases in relation to the properties known as Flats 11, 12, 14 and 15 Warren Court, Euston Road, London, NE1 3AA (“the properties”).
2. The Respondent’s entitlement to its costs under section 60(3) of the Act arises in the following way.
3. All of the four properties are adjoining flats in the same block. The claims for a new lease in respect of each flat were made simultaneously by the Respondent as the tenant against the Applicant as the landlord. The same solicitor and valuer acted for the Applicant throughout. The Tribunal was told that they had also acted for the Applicant on previous lease extensions claims in the same building and were, therefore, familiar with the property.
4. All of the claims made by the Respondent were made under one lease, which is a single headlease of the building of which the Respondent is the tenant, rather than under four separate leases.
5. All of the flats were inspected on a single visit by the Applicant’s valuer.
6. The new leases were granted in identical form, save for the flat number, premiums and lease plans, which were prepared by the Respondent. Completion took place simultaneously.
7. The only dispute between the parties was the premium and lease terms for each lease, which was determined by the Tribunal after a hearing.
8. The new leases granted were based on a new lease of flat 16 on the same floor in the building that had been granted pursuant to a similar statutory new lease claim also made by the tenant under the headlease.
9. The total legal costs claimed by the Applicant for each transaction are £2,450 plus VAT and a disbursement of £30 for Land Registry fees. The total valuation fees claimed are £4,417.25 plus VAT.
10. A breakdown of the Applicant’s legal and valuation costs has been provided by its solicitors pursuant to the Tribunal’s Directions. This sets out the level of fee earners and hourly rates claimed in respect of each of them.

11. Both parties have filed written submissions in relation the costs claimed, which have been considered by the Tribunal.

Relevant Statutory Provision

12. Section 60 of the Act provides:

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.

Decision

13. The Tribunal's determination took place on 30 August 2017 and was based solely on the written representations filed by the parties. The Tribunal's approach was to conduct what effectively amounts to a summary assessment of the costs.
14. This matter relates to the Applicant's costs incurred in what can be described as a "standard" statutory lease extensions with no particular complication revealed on the papers. It is common ground that both transactions were identical, save for the property details and the premium. Therefore, undoubtedly, there would have been a high level of duplication in each of the transactions. For this reason, the Tribunal's assessment of the Applicant's costs was to treat the grant of the for new leases as one transaction.

Legal Costs

Fee Earner & Hourly Rate

15. The Respondent does not challenge the hourly rate of £350 claimed by the Applicant's solicitor.
16. The Tribunal accepted the Respondent's submission that only 2.5 hours work was reasonably incurred in relation to the consideration and preparation of the Respondent's claim notices and the Applicant's counter notices. The claim notices were in exactly the same form and were made under the same lease and leasehold title. Therefore £875 plus VAT is allowed in respect of this item.
17. The Tribunal accepted the Respondent's submission that the work carried out by the Applicant's solicitor to review and consider the valuation report is not recoverable under section 60 of the Act and nothing is allowed for this item of work.
18. As to the preparation of the draft leases, the Tribunal accepted the Respondent's submission that time spent reviewing the headlease would already have been incurred during the consideration of the claim notices and the preparation of the counter notices and no costs are, therefore, allowed for this item.
19. It appears that the Applicant's solicitors used the lease already granted in respect of Flat 16 as the "template" lease and the draft leases prepared for the properties were in fact identical save for the flat numbers. Therefore, only 1.5 hours of work or £525 plus VAT was allowed as being reasonable for this item.
20. As to the amendments to the draft leases following the Tribunal's determination, these were minor in nature and 1 hour would have been

sufficient to carry out this work. Therefore, £350 plus VAT was allowed for this item.

21. As to preparing and checking the engrossments of the leases, attending to execution and dealing with completion, the Tribunal considered 1.5 hours of work in total would have been reasonable and, therefore, £525 plus VAT was allowed for this item.
22. Accordingly, the Tribunal determined that the Applicant's legal costs in relation to the properties payable by the Respondent are £2,275 plus VAT and the disbursement of £30 (£2,760).

Valuation Costs

23. The Tribunal did not accept the Respondent's general submission that some of the valuation work could have been carried out by an assistant surveyor. Valuation is an important and integral part of granting a new lease. It is routinely undertaken by the same surveyor in transactions such as this. Therefore, the valuation costs were determined on the basis of £350 plus VAT per hour.
24. Given that two of each of the flats were identical and that the Applicant's valuer was familiar with the building, the Tribunal determined that the total amount of time that was reasonable to inspect the properties was 2 hours and £700 plus VAT was allowed for this item.
25. 30 minutes was accepted by the Respondent as being reasonable to investigate the position with the London Borough of Camden regarding the recent conversion of the building from offices to flats. £175 plus VAT was allowed for this item.
26. As to researching comparable evidence, being three sales from the adjacent building, and carrying out the necessary adjustments, the Tribunal considered 3 hours of time to be reasonable. This was regardless of whether or not it was necessary to value the properties on a "shell basis". £1,050 plus VAT was allowed for this item.
27. As to the premium calculations, the Tribunal accepted the Respondent's submission that this should have formed part of the preparation of the valuation report. However, it did not accept the submission that the valuations should have been included in a single report. There were, strictly speaking, separate transactions and the preparation of four reports were required. However, given that two of each of the flats were virtually identical, there would have been a degree of duplication in the premium calculations and the reports. Therefore, 3 hours work or £1,050 plus VAT was allowed as being reasonable for this item.

28. Accordingly, the total valuation costs payable by the Respondent are £2,975 plus VAT (£3,570).

29. In conclusion, the Tribunal determined that the total section 60 statutory costs payable by the Respondent in this matter are £6,330 including VAT and disbursements.

Judge I Mohabir

30 August 2017