



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

**Case reference** : **AB/LON/00AS/OC9/2018/0225**

**Properties** : **13, 13A, 15B Neyland Court,  
Pembroke Road, Ruislip HA4 8NQ**

**Applicants** : **P. Sung, T. Sung (Leaseholders)  
D. Bradley (Leaseholder)  
M. Paszkowska (Leaseholder)**

**Representative** : **Ms C. Oladele (Solicitor)**

**Respondent** : **W. E. Black Limited (Intermediate  
Landlord)**

**Representative** : **Mr S. Glick (Solicitor)**

**Type of application** : **Determination under S.91 (2)(d) of  
Landlords costs under S.60 of the  
Leasehold Reform, Housing and  
Urban Development Act 1993**

**Tribunal members** : **N. Martindale**

**Date of determination  
and venue** : **11 September 2018  
10 Alfred Place, London WC1E 7LR**

**Date of decision** : **11 September 2018**

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**DECISION**

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## Summary of the Tribunal's decisions

1. The Tribunal determines that the Section 60 statutory costs payable by the leaseholder applicants of flats No. 13, 13b and 15 are £675 plus VAT and £4 disbursements, per flat.

## Background

2. This is one application under section 91(2)(d) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") in respect of flats 13, 13a and 15 Neyland Court.
3. The joint application is made by the leaseholders of each flat for the determination of the reasonable costs payable to the intermediate landlord under section 60(1) of the Act. It follows service of three Notices of Claim to acquire a new lease for each of these three flats. The freehold title is subject to a head lease and it is that head leaseholder (the competent landlord) who is the Respondent to all three claims. The Notice of claim for an extended lease made by each leaseholder was against both the freeholder and intermediate landlord. There are a number of other occupational long leases in the block.
4. On 15 August 2017 and on 31 October 2017 the Applicants for flats 15b and then later 13 and 13a respectively made claims to acquire a new lease by way of three separate Notices. On 6 November and then later on 21 December 2017 the intermediate leaseholder served notice that they would be independently represented from the freeholder in response to each Notice.

## Directions

5. In response to the single application to determine the costs in respect of three separate claims for lease extensions, a single set of standard Directions were issued to the parties on 17 July 2018. They required the landlord by 31 July 2018, to provide "*A schedule of costs sufficient for summary assessment*", "*Copies of the invoices substantiating the claimed costs*", and "*Copies of any other documents/reports upon which reliance is placed*". They then required the tenant by 14 August 2018 (in each case) to provide "*A statement of case and any legal arguments*", "*Copies or details of any comparative cost estimates or accounts upon which reliance is placed*", and "*Copies of any other documents/ reports upon which reliance is placed.*" The landlord by 28 August 2018 was invited to send to the tenant "*A statement in response to the tenant's statement of cases and any legal submissions.*" Finally the Applicant was by 31 August 2018, to send to the Tribunal two copies of the bundle of documents.
6. Both parties generally complied with the Directions. No oral hearing having been requested by either party the matter was determined on the papers in the week commencing 10 September 2018.

## **Applicants' and Respondent's Cases**

7. The parties presented their items and amounts of cost in tables of differing format. The Respondents costs amounted to 5 items in their 'Statement of Costs' with few details, followed by a further 9 items in the 'Schedule of work done on documents' with some additional details. The Respondents work on flat 15b had been largely completed in August 2017 to November 2017 and for flats 13 and 13a from November 2017 to March 2018. The Applicant re-arranged these 14 items on one schedule, in each case. Some of the Respondent's schedules were copied in a way that omitted the totals. The work in each case was very substantially the same carried out in the same order, taking the same time.
8. The Respondent confirmed that no items or periods of administrative work were included in their claims schedule. The total S.60 costs claimed for each were flat 13 - £1440, flat 13a - £1500 and flat 15b - £1512 all including VAT. There were no disbursements for flats 13 and 13a, but apparently a £12 land registry fee for flat 15b.
9. In each of the Applicant's re-configured schedules there was one hourly rate for the single solicitor recharging at £250/hour. Neither the allocation nor the rate was disputed. By comparison the Applicant's total offering in each case was £ 500 plus VAT.
10. The Applicants made the same responses to each schedule. Items 1, 10 and 14 were agreed. For the remaining 11 items there was a general reference to S.60(1)(a) and (c) but without any more specific objections other than a general shortening of the time allowed for many of the tasks or the complete omission where the task was said to fall outside the S.60.

## **Decision with reasons**

11. The Tribunal notes and has considered the Respondents reference to the LVT Decision of 2008 in relation to 7 St Marys' Court, Stamford Brook Road, London W6 0XP and the FtT Decision of 2016 in relation to Flat 10 Eagle House 1 St.John's Wood London NW8 6JJ. Neither are binding.
12. The proper basis of assessment of costs in enfranchisement cases under the 1993 Act, whether concerned with the purchase of a freehold or the extension of a lease, was set out in the Upper Tribunal decision of *Drax v Lawn Court Freehold Ltd* [2010] UKUT 81 (LC), LRA/58/2009. That decision (which related to the purchase of a freehold and, therefore, costs under section 33 of the Act, but which is equally applicable to a lease extension and costs under section 60) established that costs must be reasonable and have been incurred in pursuance of the initial notice and in connection with the purposes listed in sub-sections [60(1)(a) to (c)]. The applicant tenant is also protected by section 60(2) which limits recoverable costs to those that the respondent landlord would be prepared to pay if it were using its own money rather than being paid by the tenant.

13. In effect, this introduces what was described in *Drax* as a “(limited) test of proportionality of a kind associated with the assessment of costs on the standard basis.” It is also the case, as confirmed by *Drax*, that the landlord should only receive its costs where it has explained and substantiated them.
14. It does not follow that this is an assessment of costs on the standard basis (let alone on the indemnity basis). This is not what section 60 says, nor is *Drax* an authority for that proposition. Section 60 is self-contained.
15. Dealing then with the brief items of cost and challenges in turn to whether the item was allowable at all under S.60 or the period claimed was fully required for a solicitor of Grade A at £250, the following items are determined as reasonable and recoverable under S.60 for each of the sets of landlords costs arising, **for each of the three flats as follows:**

Item 1 £75. Agreed.  
Item 2 £125  
Item 3 £50  
Item 4 £75  
Item 5 £50  
Item 6 £NIL. Not within S.60.  
Item 7 £50. Partly not within S.60.  
Item 8 £NIL. Not within S.60.  
Item 9 £75.  
Item 10 £50. Agreed.  
Item 11 NIL. Not within S.60.  
Item 12 NIL. Not within S.60.  
Item 13 NIL. Not within S.60.  
Item 14 £125. Agreed.

**Total £675 (plus VAT), plus £4 disbursements to HMLR, per flat.**

**Name: N Martindale**

**Date: 11 September 2018**

## **Statutory provisions**

Section 60 of the Act provides:

### **60 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 the appropriate 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.