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

Case Reference : **TW/LON/00AH/OCE/2016/0445**

Property : **230 Sydenham Road, Croydon,
Surrey CRO 2EB**

Applicant : **230 Sydenham Road Freehold
Limited**

Representative : **Comptons Solicitors LLP**

Respondent : **Stanley Brown**

Representative : **N/A**

Type of Application : **Freehold enfranchisement costs**

Tribunal Members : **Judge LM Tagliavini
Mr. Ridgeway MRICS**

**Date and venue of
hearing (paper)** : **10 Alfred Place, London WC1E 7LR
27 February 2018**

Date of Decision : **27 February 2018**

DECISION

The tribunal determines the following:

- (1) No costs are to be paid by the Applicant tenants to the Respondent landlord as the Respondent has failed to prove that any sums pursuant to section 33 of the Leasehold Reform, Housing and Urban Development Act 1993 have been incurred. No order is made for the payment of costs pursuant to rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

The application and background

1. The Applicants seeks a determination pursuant to 33 of The Leasehold Reform Housing and Urban Development Act 1933 (“the Act”) as to the costs payable in respect of the acquisition of the freehold of the subject property situate at 230 Sydenham Road, Croydon CRO 2EB (“the property”). The Applicants also seek an order for costs pursuant to rule 13v of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the Rules”). The tribunal had previously determined the premium payable and the county court sitting at Croydon had made an order dated 20 December 2017 vesting the freehold interest of the subject property in the Applicants.

The Applicants’ case

2. The application for costs was previously adjourned at the Applicants’ request but now falls to be determined by the tribunal. The Applicants rely upon a Witness Statement dated 29 February 2018 made by Timothy Wild of Comptons solicitors. The Applicants assert that no costs are due to the Respondent as their amount has not been established by the Respondent pursuant to section 33 of the Act. Further, the Applicants assert that costs should be awarded against the Respondent pursuant to rule 13 of the Rules, due to the unreasonable conduct of the Respondent throughout, including requiring the Applicants to seek a transfer of the freehold interest from the county court.

The Respondent’s case

3. Previously, at the substantive hearing to determine the premium payable, the Respondent did not appear and was not represented. No evidence or valuation report was submitted by the Respondent on which, he sought to challenge the Applicants’ evidence. However, by a letter dated 17 December 2017 the Respondent now seeks (1) £900 solicitor’s costs and (2) valuation costs in the sum of £1560 (both including VAT) pursuant to section 33 of the Act and produces two invoices substantiating these amounts. No other evidence in support of this application was relied upon by the Respondent.

The tribunal's decision

7. The tribunal determines that no costs are payable to the Respondent by the Applicants pursuant to section 33 of the Act. The tribunal determines that no order for rule 13 costs is appropriate in the circumstances of this application.

Reasons for the tribunal's decision

8. In light of the Respondent's failure to actively participate in these proceedings or provide a valuation report, the tribunal finds that Mr. Brown has failed to establish on the balance of probabilities as to how these costs have been incurred, if at all. The tribunal is not satisfied from the invoice provided in respect of the solicitor's costs, without any breakdown how these costs have been incurred or for what activity or by what level of fee earner. Further, in the absence of any valuation report from the Respondent, the tribunal is not satisfied that one was prepared for the purposes of these proceedings. Therefore, the tribunal finds that it does not have sufficient information on which, to determine any costs and is not satisfied that any costs have been reasonably incurred.
9. The tribunal finds that the three-stage approach adopted by the Upper Tribunal in *Willow Court Management Company (1985) Limited v Alexander* [2016] UKUT 0290 (LC) is not made out by the Applicants. The tribunal is not satisfied that there is no reasonable explanation for the Respondent's conduct complained of having regard to the undated handwritten letters provided to the tribunal by Mr. Brown throughout the course of these proceedings. These letters show that there is a lack of understanding by the Respondent about the Applicants' right to purchase the freehold of the subject property and long held grievances (whether justified or not) about the Applicants own behaviour. Further, the tribunal notes that the county court costs in the sum of £3,652.40 have been ordered to be paid by the Respondent or deducted from the premium payable.
10. In the circumstances, the tribunals does not consider it a proper exercise of its discretion to make a rule 13 order for costs against Mr. Brown and declines to do so.

Signed: Judge LM Tagliavini

Dated: 27 February 2018