



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

**Case Reference** : **LON/OOBH/OC9/2013/0035**

**Property** : **145B and 145C Orford Road,  
London E17 9QU**

**Applicant** : **Landwood Developments Ltd.**

**Representative** : **Cavendish Legal Group**

**Respondents** : **David Andrew Beaumont and  
Ann-Sofi Inger Johansson (Flat  
145B)  
Laura Carmen Alison McKenzie  
(Flat 145C)**

**Representative** : **Boyes Sutton & Perry, Solicitors**

**Type of Application** : **Costs under S60 of the Leasehold  
Reform and Housing Development  
Act 1993**

**Tribunal Members** : **Judge Goulden  
Mr N Martindale FRICS**

**Date and venue of  
Hearing** : **Wednesday 7 August 2013  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **7 August 2013**

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**DECISION**

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## **Background**

1 The Respondents, who are the lessees of Flats 145B and 145C Orford Road, London E17 9QU ("the properties") as shown on the front sheet had exercised their right to a lease extension under S48 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act").

2. The Respondents had served initial Notices of Claim pursuant to S42 of the Act on the Applicant as landlord. These were dated 18 March 2013 in respect of Flat 145B and 25 March 2013 in respect of Flat 145C. It was later accepted by solicitors on behalf of the Respondents that both Notices of Claim had been invalid and fresh Notices of Claim were served on 5 April 2013 and 12 April 2013

3. On 17 April 2013 the Applicant served Counter Notices on the Respondents pursuant to S45 of the Act.

4. It appears that terms for the grant of a new lease were agreed between the parties since no application was made by either side to the Tribunal to determine the matters in dispute.

5. However, costs remain in issue between the parties and by two separate applications to the Tribunal in respect of each flat, both of which were dated 30 May 2013, the amounts sought from the Respondents in respect of each of the flats were legal fees of £500 plus VAT and land registry fees of £24.

6. Neither side requested an oral hearing and therefore a paper determination was held on Wednesday, 7 August 2013.

## **The Applicant's case**

7. Written submissions were provided on behalf of the Applicant by Cavendish Legal Group, in which it was stated that the fee earner, Mr J Frankel, an in house Solicitor, was charged out at an hourly rate of £200 per hour. A schedule was provided which indicated that Mr Frankel had conducted this matter throughout and showed *"the s60 legal costs that were incurred for each property"*. In the total sum for each flat of £1,056 (being legal costs for each flat of £860 plus VAT of £172 and office copy entries x2 of £24).

8. It was stated, inter alia, *"the Tribunal will see that the total section 60 costs relating to the legal costs only up until a new s24 Notice was served (thereby accepting that the previous Notice was invalid) were reduced to a sum of £500 plus VAT (plus disbursements) on each property to take into account economies of scale considering both claims commenced at the same time. We understand that our Landlord clients s60 costs relating to the valuers costs have been paid in full by the tenants of both properties..."*

## The Respondents' case

9. Written submissions were provided by Boyes Sutton & Perry, Solicitors, in which they contended that the Respondents had no liability for any costs incurred in respect of the tenants first Notices of Claim which, it was accepted, had been invalid and the Tribunal had no jurisdiction to determine any costs incidental to the invalid notices, since such notices did not comply with S42 of the Act, and therefore could not be construed as being a notice given in accordance with and therefore under the statute. Pursuant to S91(2)(d) of the Act, the Tribunal only had jurisdiction to pay the costs where a Notice had been given under S42 of the Act and had effect.

10. In respect of the legal costs, Mr Frankel's hourly rate of £200 per hour was agreed and the Respondents accepted the sum of £20 for Mr Frankel's ordering of the office copy entries. However, the Respondents disputed their liability for any of the other costs as set out in the Applicant's schedule on the basis that they should be disallowed "*as these costs are on the whole not incidental to the Applicant's investigation into the Respondent's right to a new Lease or the Applicant's valuation of the Respondents' flat (sic). Instead these letters are incidental to the Applicant's claim that the Notice is invalid*"

## The Tribunal's determination

11. S 60(1)(b) of the Act provides that where a tenant's notice to exercise the right to a new lease is served under S42 of the Act, the tenant is liable "**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;....**"

12. The Tribunal does not consider that it has to deal specifically with the jurisdiction issue in that (a) the Respondents' solicitors have accepted that the tenants' initial Notices had been invalid and (b) the Applicant's solicitor has confirmed that the legal costs had been reduced to take this into account.

13. The Tribunal has considered the Applicant's schedule of costs. No challenge was made to the Applicant's solicitors' charging rates, and these appear to be within an acceptable band. The cost of ordering of office copy entries in the sum of £20 has also been accepted. The Respondents' solicitors maintain that the remainder of the costs "*are incidental to the Applicant's claim that the Notice is invalid*" but have provided no evidence in support.

14. However, the number of hours for the remaining items spent without a full explanatory narrative thereof appears to be excessive, particularly since the two cases appear identical in some respects. There is also a concern that possibly costs for other items may have been duplicated unnecessarily and/or certain costs may be unnecessary to meet the requirements of the Act.

15. Taking into account the evidence which has been presented to the Tribunal, the Tribunal determines legal costs payable to the Applicant in respect of **each flat** at £400 plus VAT plus £24 disbursements.

**Name:** J Goulden

**Date:** 7 August 2013