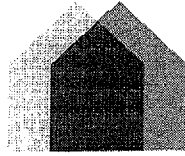


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**Residential
Property
TRIBUNAL SERVICE**

**LEASEHOLD VALUATION TRIBUNAL for the LONDON RENT
ASSESSMENT PANEL**

DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL

**LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT
1993 SECTION 33**

REF: LON/OOAU/OCE/2008/0063

Address: 9 Corinne Road London N19 5EZ

Applicant: 9 Corinne Road (Freehold) Co Ltd

Respondent: Sinclair Investments (Kensington) Ltd.

**Tribunal: Ms H. Carr (Chairman)
Mr D Edge FRICS**

1. The Applicant is the nominee purchaser of the freehold and was represented at the Hearing by Mr Henry Webb of Counsel. Mr Webb was accompanied by Ms Mary Morgan a director of the nominee purchaser.
2. The Respondent Landlord, Sinclair Investments (Kensington) Ltd. , is represented by Mr P Chevalier, solicitor. Mr Chevalier did not attend the hearing but sent written representations and responses.
3. All other matters having been resolved between the parties, the application before the Tribunal was to determine the amount of costs repayable by the nominee purchaser to the Landlord under s.33 of the Leasehold Reform, Housing and Urban Development Act of 1993 (the Act).
4. Mr Chevalier had requested that the Hearing on 24/25th June 2008 be vacated. In his letter of 17th June 2008 he argued that the Directions of 4th March 2008 did not extend to costs and there was insufficient time for submissions to be prepared and filed in connection with the application.
5. However the Tribunal refused to vacate the hearing dates. It explained in a letter faxed to Mr Chevalier on 18th June 2008 that as the Applicant had asked that costs be determined by the Tribunal and that this was mentioned in its application of 11th February 2008 that the hearing date could not be vacated.
6. Subsequent to the faxed letter from the Tribunal Mr Chevalier sent a response to the Applicant's objections to the fees payable under s.33 of the Act which was received by the Tribunal on 23rd June 2008 and faxed a response to further objections submitted by the Applicant on 23 rd June 2008.

The Hearing

7. Mr Webb drew the attention of the Tribunal to paragraph 11 headed QUANTUM in the Respondent's submissions dated 19th June 2008. The Tribunal treated the figures set out in the paragraphs under that heading as the Respondent's claim for s. 33 costs. The Respondent claims £1481.86 including VAT under Notice of Claim, £878.31 under Conveyancing and £1,116.23 including VAT for the Valuer - a total claim of £3476.42.
8. The Applicant's reply to that claim was at paragraph 3.1 headed QUANTUM in the Applicant's response to the Respondents submissions as to s.33 costs dated 20th June.
9. Mr Webb elaborated upon his written response.

Determination

10. The Tribunal made its determination based on each head of costs claimed by the Respondent's representative taking into account his explanation and the Applicant's submissions of 20th June which superseded the Applicant's

previous statement of case dated 13th June which preceded the response to Respondent's submissions.

Item 1 – 45 minutes

11. The first item claimed by the Respondent's representative was for 45 minutes for personal attendances on the client obtaining instructions and advising. The dates of the attendances given were 17 August 2007, the 16th October 2007 and the 24th October 2007. The Applicant's submissions were (i) that these attendances do not form part of s.33 costs and alternatively (ii) that it is not reasonable for the Applicant to pay anything under this heading in addition to the items claimed under B which are dealt with below.
12. The Tribunal accepted the second submission on this point and determined that the Respondent was not entitled to any costs under item 1.

Item 2 – 15 minutes

13. The Respondent claims for the drafting of 2 preliminary Notices, one under s.17 and the other under s. 20 of the Act.
14. The Applicant's submission is that the s.17 notice was reasonably drafted and served by Mr Chevalier and that 7.5 minutes is acceptable. The Applicant contests that the s.20 Notice was reasonably drafted as the work had already been carried out on this notice in connection with a previous failed enfranchisement when both leaseholders were still the same.
15. The Tribunal determined that the Respondent's claim for drafting both notices was reasonable and in fact allowed 18 minutes for the drafting as the Respondent was working in 6 minute units.

Item 3 – 20 minutes

16. The Respondent's claim is for 20 minutes to consider the 2 leases of the Flats.
17. The Applicant argues that this work had already been carried out in relation to the previous failed enfranchisement and therefore contest that there was no need for Mr Chevalier to repeat earlier work which would have been on his file. It therefore argues that the Respondent cannot claim for this item.
18. The Tribunal determined that it is reasonable for the Respondent to claim 3 units at 6 minutes each for refreshing his knowledge of the leases after a period of two years.

Item 4 – 15 minutes

19. The Respondent claims 15 minutes for instructing the Valuer.

20. The Applicant submits that that as the Valuer was experienced and that instructions to him required only copies of the initial notice and the leases. It suggests that a reasonable time for this item is 6 minutes.
21. The Tribunal determines that 2 units – i.e. 12 minutes was a reasonable claim for instructing the Valuer.

Item 5 – 15 minutes

22. The Respondent claims 15 minutes for considering Office Copy Entries.
23. The Applicant argues that normally it would consider 12 minutes a reasonable claim but as the work has been carried out during the previous failed enfranchisement that it is not reasonable for the Respondent to make any claim under this heading.
24. The Tribunal determines that it was reasonable for the Respondent to carry out this task again and that 2 units of charging time totalling 12 minutes was a reasonable charge for this task.

Item 6 – 75 minutes

25. The Respondent claims 75 minutes for considering the Initial Notice and researching question which need to be confirmed in connection with investigating Participating Tenants right to collective enfranchisement.
26. The Applicant argues that this task was a straightforward one which had been carried out before in connection with the previous failed enfranchisement. It suggests that either the Respondent is not entitled to any monies under this head or, if the Tribunal considers that the work needed doing that 12 minutes would be a reasonable claim.
27. The Tribunal considers that the task needed to be done but that 75 minutes is not a reasonable charge. The Tribunal determines that a reasonable claim is for 24 minutes.

Item 7 – 15 minutes

28. The Respondent claims 15 minutes for drafting the counter notice.
29. The Applicant argues that drafting a counter notice is not claimable under subsection 33(1).
30. The Tribunal determines that the drafting of the counter- notice does fall within s.33 (1) (a) (ii) because the drafting of the counter-notice is incidental to this subsection and is also linked to Item 8 below..
31. However the Tribunal considers that a reasonable claim for the drafting of the counter-notice is one unit – ie 6 minutes.

Item 8 – 45 minutes.

32. The Respondent claims 45 minutes for considering the Valuation and discussing it with the client and the Valuer.
33. The Applicant argues that it is only appropriate to allow 6 minutes for considering the Valuation.
34. The Tribunal determines that it is reasonable to allow one unit for considering the Valuation and one unit each for discussions about the valuation with the Valuer and the client. The Tribunal determines that a total of 18 minutes is reasonable under this item.

Item B – 84 minutes

35. The Respondent is claiming one unit per letter and telephone call made on the matter and a total of 14 letters and telephone calls.
36. The Applicant argues that the claim is too generalised and lacking in detail. Further it argues that the telephone attendances do not fall within s.33 costs and are considered a repetition of the 5 letters dispatched. The Applicant considers that 60 minutes is a reasonable charge.
37. The Tribunal determines that there is some duplication in the Respondent's claim and that a total of 60 minutes (10 units) is reasonable in this heading.

Conveyancing claim – 3 hours plus 5 units for correspondence - total 3.5 hours.

38. The Respondent's claim for 3.5 hours includes drafting the contract for sale and agreeing it; deducing title, exchanging contracts, approving transfer, preparing engrossment, preparing completion statement, attending completion and five letters.
39. The applicant argued in oral submissions that there was no need for a contract. In its written submissions it argued that no deduction of title is necessary, and that this does not fall within s.33(1) (c), that the form of transfer was prepared by the Respondent and was approved by Mr Chevalier with only slight amendment. The Applicants submit that 30minutes is the maximum payable under this item.
40. The Applicant argues that arrears of service charge is not relevant to the matter.
41. Further the Applicant argues that the preparation of the completion statement is a straightforward matter as no service charges are outstanding and only a computation of ground rent repayable is necessary. The Applicant submits that 30 minutes maximum is payable under this item.

42. The Applicant further argues that no more than two letters despatched to the applicant's solicitors and one letter despatch to the client enclosing Transfer Form are necessary.
43. The Tribunal accepts the force of the Applicant's submissions and determines that 1.5 hours is sufficient time for the conveyancing matters plus 3 letters which totals 1.8 hours.

Valuer's fees

44. The Valuer instructed by the Respondent charged a total of £1,116.25 including VAT.
45. The Respondent has provided no letter setting out the basis of the charge, and the invoice gives no indication of the charging basis.
46. The Tribunal considers that the charge is high; it therefore determines that a reasonable fee for valuation of these premises is £750 plus VAT which totals £881.25.

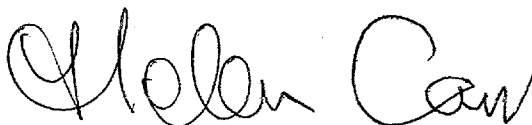
Fees per hour

47. The Respondent is claiming a rate of £230 per hour. However the Tribunal notes that he is also claiming £220 per hour for work carried out under s.88 of the Commonhold and Leasehold Reform Act 2002.
48. No explanation was provided to the Tribunal for this discrepancy.
49. The Applicant argues that the County Court rate for Mr Chevalier's location and grade is £203 per hour, but that the level of work is at a lower grade, (grade B) chargeable at £180 per hour.
50. The Tribunal considers that a rate of £220 per hour is a reasonable charging rate for Mr Chevalier's work.

Total

51. Therefore the Tribunal determines that the total legal costs chargeable under s.33 is £ 1012 plus VAT of 177.10. This totals £1189.10 which with the valuer's total of £881.25 makes a combined total of £2070.35.

Chairman Helen Carr



Date 24th June 2008