



Residential
Property
TRIBUNAL SERVICE

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

Determination of Application under section 91(2) of the Leasehold Reform, Housing and Urban Development Act 1993 for a determination of costs to be paid under section 60(1)

Ref :LON/OOBK/OC9/2009/0026

Property: Third and Fourth Floor, 26 York Street,
London, W1U 6PZ

Applicants: Alexander Schmidt (1)
Ann Elizabeth Schmidt (2)

Represented by: Taylor Walton Solicitors

Respondent Charles Benveniste

Represented by: Butcher Burns Solicitors

Leasehold Valuation Tribunal: Sonya O'Sullivan

Date of Tribunal's Decision: : 18 May 2009

Introduction

1. By an application dated 25 March 2009 the Applicants applied to the Tribunal for a determination of the costs payable in respect of their application for a lease extension of the property known as Third and Fourth Floor Flat, 26 York Street, London W1H 1PZ pursuant to section 56 of the Leasehold Reform Housing and Urban Development Act 1993 (the "Act").
2. The Applicants gave notice of claim on 24 April 2008 and counter notice was given by the Respondent on 3 July 2008 admitting the tenants' right to acquire a new lease and making counter proposals as to the terms.
3. On 24 February 2009 the Tribunal was notified by the parties that terms of the new lease had been agreed. The parties were unable to agree the Respondent's costs and thus an application was made to the Tribunal for a determination.
4. Directions were made by the Tribunal further to which Butcher Burns acting for the landlord lodged a statement of costs. The Tribunal determined that this matter was suitable for a paper determination and the parties agreed.
5. Butcher Burns, acting for the landlord, claim legal fees in the sum of £560 plus VAT in respect of investigations undertaken in relation to the tenants' right to acquire a new lease and £750 plus VAT in respect of the costs of and incidental to the drafting of the new lease. Land registry fees in the sum of £12 are claimed. Valuation fees in the sum of £1,100 plus VAT are also claimed.

Legal Fees

6. The fees claimed are based on 5.8 hours for the work involved which is charged out at £225 per hour and was undertaken by an associate. A breakdown of the time spent was provided. The work undertaken by Butcher Burns appears straightforward and routine. There did not appear to be anything particularly complex either in the consideration of the Applicants' right or in the consideration of the terms of the lease which appeared to be in standard form.
7. Taylor Walton provided the Tribunal with details of their fees in relation to the same transaction which were billed at a total of £700 plus VAT and disbursements of £38. These details do not however provide the charging rate, the number of hours spent or the grade of fee earner responsible and so are only of limited assistance.

8. Section 60 (1) of the Act provides that the tenant is *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, and
 - (b) any valuation of the tenant's flat obtained for the purposes of fixing the premium...in connection with the grant of a new lease under section 56 and
 - (c) the grant of a new lease under that section"
9. The Tribunal considers from its own general knowledge and experience that the rate of £225 is within the reasonable range of fees for this type of work in Central London. The Tribunal also acknowledges that Butcher Burns would need to spend more time than Taylor Walton in connection with agreeing the new lease as the lease and any amendments would have to be prepared by them. However the Tribunal has not received any explanation as to why 5.8 hours were spent on this very simple work and considers that the time for which payment should be allowed should be limited to in the region of 4 hours. Accordingly the Tribunal allows legal fees in the sum of £1,000 plus VAT plus disbursements in the sum of £12.

Valuation Fees

10. As to the valuation fees the Respondent claims a total of £1,100 plus VAT. This can be contrasted with the Applicants' valuation fees of £750 plus VAT. The time is said to include inspecting the property, considering the terms of the lease, making due enquiries and reporting with valuation advice for the purpose of serving a counter notice.
11. The Tribunal is not satisfied that the Respondent would have agreed to pay £1,100 irrespective of the time and work involved if that sum had not been thought recoverable from the Applicant. Accordingly in the light of its general knowledge and experience the Tribunal determines that the valuation fee payable by the Applicants be restricted to £1,000 plus VAT.
12. In the result the total of "section 60" costs recoverable by the Respondent from the Applicants is £2,000 plus VAT together with disbursements in the sum of £12.

Chairman



Date

18 May 2009