



**Case Reference** : **MAN/00CB/OC6/2019/0011 P**

**Property** : **7 Sparks Croft  
Wirral  
CH62 4RZ**

**Applicants** : **Mr G & Mrs L J Monaghan**

**Representative** : **Orme Associates**

**Respondent** : **E&J Ground Rents No 6 LLP**

**Representative** : **SLC Solicitors**

**Type of Application** : **Leasehold Reform Act 1967  
- Section 21(1)(ba)**

**Tribunal Members** : **Judge J Holbrook  
Regional Surveyor N Walsh**

**Date and venue of  
Hearing** : **Determined without a hearing**

**Date of Decision** : **13 May 2020**

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**DECISION**

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## DECISION

**The reasonable costs payable by the Applicants under section 9(4) of the Leasehold Reform Act 1967 comprise legal costs of £500 and valuation costs of £300.**

**In addition, the Applicants must pay a sum equivalent to the VAT thereon upon the Respondent confirming in writing that it is unable to recover such VAT.**

## REASONS

1. On 13 December 2019, the Applicants applied to the Tribunal under section 21(1)(ba) of the Leasehold Reform Act 1967 for a determination of the amount of the costs payable to the Respondent under section 9(4) of that Act. The Tribunal gave directions for the conduct of the proceedings on 4 February 2020. It informed the parties that it considered this matter suitable for a determination without an oral hearing unless either party notified the Tribunal that it wished a hearing to be listed. As no such notification was received, we proceeded to determine the matter on the basis of the evidence provided in the application and in written submissions provided by the parties in response to directions.

2. Section 9(4) of the 1967 Act provides that:

*Where a person gives notice of his desire to have the freehold of a house and premises under this part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:-*

- (a) any investigation by the landlord of that person's right to acquire the freehold;*
- (b) any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;*
- (c) deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;*
- (d) making out and furnishing such abstracts and copies as the person giving the notice may require;*
- (e) any valuation of the house and premises;*

*but so that 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.*

3. A leaseholder who gives notice under the 1967 Act claiming the right to acquire the freehold of his or her house is therefore liable for the reasonable legal and valuation fees which the landlord incurs as a result. However, section 9(4A) of the Act makes it clear that this liability for costs does not extend to costs which the landlord incurs in connection with Tribunal proceedings.

4. In the present case, it is not disputed that the Applicants are liable to pay the Respondent's reasonable costs under section 9(4). Nor is it disputed that those costs should include legal costs of £500 (being £100 for verifying the Applicants' claim plus £400 for the conveyancing aspects). However, the parties disagree about the amount payable in respect of a valuation fee and about whether the Applicants should also pay VAT on these sums.
5. The valuation fee claimed by the Respondent is £575 (exclusive of VAT). That fee relates to a valuation of the Property carried out by a chartered surveyor engaged by the Respondent on a fixed-fee basis. According to the Respondent, the fee covered the cost of researching comparable evidence; preparing a valuation for the purposes of the 1967 Act; and reporting to the Respondent.
6. The Applicants argue that the valuation fee is excessive. They point out that the valuer did not request access to the Property in order to carry out the valuation, which would presumably have been done as a desk exercise given the lengthy unexpired residue of the term (145 years) and thus the relatively low value of the reversion. The Applicants suggest that a competent valuer could perform the task in about one hour (or less in a case such as this – where similar valuations have previously been carried out in respect of nearby properties). The Applicants also criticise the Respondent for not producing a copy of the surveyor's invoice.
7. Notwithstanding the lack of a copy invoice, we accept the assurance of the Respondent's solicitor that the fee in question has been incurred for the work described above. The question is whether the amount of that fee is reasonable. We find that it is not. The evidence suggests that the work involved in valuing the Property would have been very straightforward in this case. Even allowing for the additional work then needed to write a report for the client, the time likely to be required to complete the exercise would, in our opinion, have been between one and two hours. We consider that a fee of no more than £300 is reasonable for that work.
8. As far as VAT is concerned, the Applicants note that no evidence has been produced as to whether or not the Respondent is registered for VAT or can recover the VAT which has been charged in respect of the fees discussed above. We accept that the Respondent's VAT-recovery status is unclear. However, provided it supplies the Applicants with written confirmation that it cannot recover the VAT in question, it is entitled to add an equivalent amount to the reasonable costs payable by the Applicants under section 9(4) of the 1967 Act.