FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY) &

IN THE COUNTY COURT at Willesden, sitting at 10 Alfred Place, London WC1E 7LR

Tribunal reference	**:**	**LON/00AW/LSC/2021/0227**
Court claim number	**:**	**193MC631**
Property	**:**	**Flat 71 Kensington Heights, 91-95 Campden Hill Road, London W8 7BD**
Applicant/Claimant	**:**	**Francisco Sebastian**
Representative	**:**	**In person**
Respondent/Defendant	**:**	**Kensington Heights Property Company Ltd**
Representative	**:**	**Charles Irvine of Counsel**
Tribunal members	**:**	**Judge P Korn & Miss M Krisko FRICS**
In the county court	**:**	**Judge P Korn, with Miss M Krisko FRICS as assessor**
Date of decision	**:**	**17th December 2021**

DECISION

This decision takes effect and is 'handed down' from the date it is sent to the parties by the tribunal office:

Summary of the decisions made by the Tribunal

1. The sum of £4,056.00 is payable by **28th January 2022** by the Respondent to the Applicant as a partial refund of the amounts originally paid by the Applicant to the Respondent in settlement of the Respondent's professional advisers' fees.

2. No order is made for the Respondent to provide the Applicant with fresh invoices addressed to him personally.

Summary of the decision made by the Court

3. No order is made for the Defendant (Respondent) to provide the Claimant (Applicant) with fresh invoices addressed to him personally.

The proceedings

4. Proceedings were originally issued against the Respondent on 10th February 2021 in the County Court under claim number 193MC631. The Respondent filed a Defence dated 12th March 2021. The proceedings were then transferred to this tribunal by the order of District Judge Griffiths dated 11th May 2021.

5. Directions were issued and the matter eventually came to hearing on 29th November 2021.

The hearing

6. The Applicant leaseholder, Francisco Sebastian, appeared in person. The Respondent freeholder was represented by Charles Irvine of counsel, instructed by Lamb Brooks LLP solicitors.

The background

7. The Property is an individual flat within a block of flats, and the Applicant holds the Property under a 999 year lease ("**the Lease**") dated 28th October 2010 and originally made between the Respondent (1) and Nellie Bonsall (2).

8. Neither party requested an inspection of the Property and nor did the tribunal consider that one was necessary or that one would have been proportionate to the issues in dispute.

The issues

9. The Applicant states that he bought the Property on 27th July 2018 and applied to the Respondent for licence to alter in respect of proposed alterations. The licence was granted retrospectively whilst the works were being carried out. The Respondent sought advice from solicitors, surveyors and other professionals and passed the costs on to the Applicant, the total costs adding up to £10,035.00. The Applicant considers that he was overcharged and seeks a refund of some of these

costs. He also seeks a partial refund of the fees that he paid to his own solicitor in connection with the negotiation of the licence.

Administration by tribunal of whole claim

10. After the proceedings were sent to the tribunal offices, the tribunal decided to administer the whole claim so that the Tribunal Judge at the final hearing performed the role of both Tribunal Judge and Judge of the County Court (District Judge). No party objected to this.

Applicant's case

11. The Applicant states that the size of the Property is about 700 square feet, with two bedrooms, one bathroom and a separate toilet. At the time of purchase the Property had been unoccupied for at least 7 months. It was in a very poor condition and there were various health and safety risks. To the best of his knowledge, the Respondent had never raised any safety concerns with the previous leaseholder or undertaken any actions to deal with the health and safety problems.

12. He states that the flat was uninhabitable and that he was committed to undertaking renovations so that he could move in with his (then) pregnant partner. He contacted the Respondent to enquire about rules relating to renovations 6 months before completion of the purchase and then again 3 days before completion on 24th July 2018. Later, on 20th August 2018, he submitted his plan for alterations to the Respondent through its managing agent.

13. On or before 6th September 2018, the Respondent entered the Property in the middle of the night when it was still unoccupied and took photographs of the inside. There was no prior request to enter and the Applicant was not informed of any emergency. At around the same time the Respondent's solicitor telephoned him to explain that the Respondent considered that the preparatory works carried out by him constituted a breach of the Lease. The Respondent requested an inspection and this took place on 8th October 2018 and lasted about 30 minutes. At the inspection the Respondent's surveyor said that there were no concerns about the works was being done but that a licence for alterations would need to be granted.

14. In an email dated 15th November 2018 the Applicant summarised to Mr Guy, a director of the Respondent company, the many actions he had undertaken to try to get a licence for alterations and how the Respondent had failed to respond in a timely manner.

15. The Respondent agreed to provide a retrospective licence but required him to use the services of a solicitor to conduct all discussions with the Respondent's solicitor. He re-submitted his application for a licence on

15th November 2018 and neither the Respondent nor its agents or solicitors raised any concerns about the project or suggested any changes. However, the Respondent and its managing agents and its solicitors were all slow to respond throughout the process.

16. The total cost of the licence application process charged by the Respondent to the Applicant was £10,035.00, comprising solicitors' charges of £7,203.00, surveyor's charges of £2,232.00 and managing agent's charges of £600.00. In addition, he incurred further charges of £2,718.00 by virtue of the Respondent insisting that he instruct a solicitor of his own. He considers these charges to be excessive and has summarised the steps that he took to challenge the charges prior to issuing proceedings.

17. The Applicant submits that the charges are unreasonable because they exceed what is normally proportionate for a task of an administrative nature. He argues that it was the Respondent's choice to follow the expensive litigation path instead of processing the licence for alterations, as he had requested. In addition, he argues that the managing agent was negligent throughout the process, ignoring the information that he had submitted and his questions on the licencing process. The cost of the licence is in his view also disproportionate to the cost of the actual renovation carried out. The managing agent charged £600.00, which is 8 times the £75.00 amount stated in the documents that he received when he completed the purchase of the Lease and which in his view does not seem to relate to any work having been done by the managing agent. Instead, the managing agent played an active role in delaying and frustrating the process.

18. As regards the legal work, he submits that it was excessive to treat his actions as a breach of the Lease and also that the solicitor's hourly rates were too high for the work involved. The solicitor also created additional unnecessary cost by incorrectly stating that approval from the Council would be required to change the windows at the Property. The Applicant has provided evidence of what he considers to be an example of a normal cost of a licence, i.e. £850.00 + VAT, in a Witness Statement from Cristina Aguilera and Manuel Porras. The licence for alterations eventually granted to the Applicant was drafted by an associate at the Respondent's firm of solicitors who was not qualified as a solicitor when the licence was being discussed and yet her hourly rate was £385 + VAT.

19. Regarding the amounts charged by the surveyor, he spent about 30 minutes inspecting the Property while the works where being carried out and 5-10 minutes once the work was done, and yet he billed over 13 hours in total. A reasonable charge should be comparable to that for other similar renovation projects.

20. The Applicant estimates that a reasonable cost for the retrospective licence would have been: (i) £850.00 + VAT to draft the licence, (ii) up to £2,000.00 + VAT for advice from the Respondent's solicitors and (iii) £700.00 + VAT in surveyor's fees. The managing agent's fee in his view should be zero in the light of what he characterises as the complete negligence of the managing agent in dealing with this process.

21. In addition, the Respondent's refusal to discuss the matter with the Applicant direct and the requirement that he hire a solicitor for all communications was in his view abusive. He would therefore expect the Respondent to bear the cost of his solicitor but recognises that he did receive some service from his solicitor and therefore would be prepared to split the cost in half so that the Respondent reimburses £1,100.00 + VAT of the Applicant's own legal costs.

22. The Applicant also requests that the Respondent prepare a bill explaining the amounts charged for granting the licence for alterations, including VAT, which he can use for record tracking and tax purposes.

23. At the hearing the Applicant emphasised that the key issue was the level of costs. The Respondent used an expensive solicitor for what was a simple matter and did not make clear what information it needed from the Applicant until quite late on. As to what would be an appropriate charging rate for the legal costs, the Applicant referred to the court guideline rates for 2021. Regarding the surveyor's fees, the number of hours was excessive for the work done and the hourly rate seemed to him to be excessive. The managing agent hindered the process, and simply replying to emails should be part of the standard management fee.

Respondent's case

24. The Respondent states that the Applicant was aware of his obligations under the Lease when he purchased the Property and was also aware of the condition of the Property. However, without first obtaining a licence for alterations in contravention of clause 6.7 of the Lease, he commenced works to carry out significant alterations to the Property, including but not limited to the removal of a wall and changes to the windows. At no time has the Applicant suggested that he was unaware that he needed to obtain the prior consent from the Respondent in the form of a licence for alterations prior to carrying out the works. Furthermore, it does not appear to be a point of dispute that the works carried out were works of a nature that needed consent. The only issue appears to relate to whether or not the costs were reasonable.

25. Clause 6.7.1 of the Lease reads as follows: *"Not without the licence in writing of the Lessors first obtained nor except in accordance with plans and specifications previously submitted in duplicate to and approved by the Lessors (but so that such licence and such approval*

by the Lessors shall not be unreasonably withheld) nor except to the satisfaction of the Lessors to make or permit or suffer to be made any non-structural alteration or addition whatsoever in or to the Demised Premises or to do or suffer in or upon the Demised Premises any wilful or voluntary waste or spoil provided always that it shall be a condition of any consent required under the provisions of this clause that the Lessee shall pay the costs and expenses reasonably incurred by the Lessors in relation to the granting of such consent for the avoidance of doubt this clause includes the approval by the Lessors of any replacement of windows or installation of awnings and no structural alterations shall be permitted whatsoever."

26. The costs incurred were not purely for the issue of the licence for alterations but they also included the costs incurred in remedying the breach of covenant by the Applicant as he commenced works prior to obtaining the licence. The Respondent has authority to take enforcement action against leasehold owners when they are in breach of covenant in accordance with paragraph 2.1 of the Sixth Schedule to the Lease, the relevant part of which reads: *"...the payment of all costs and expenses incurred by the Managing Agents or the Lessors in the running and management of the Development and the collection of the rents and service charge and in the enforcement of covenants and conditions and Regulations contained in the leases of other premises in the Development and any Regulations and other estate regulations from time to time to include all legal fees surveyors fees and any other expenses and costs professional or otherwise..."*.

27. The Respondent states that the total charge of £10,035.00 is around four times the usual cost charged to a leaseholder for the issuing a licence for alterations but that these additional costs were legitimately incurred and were a direct consequence of the Applicant's actions. As the works had commenced prior to a licence being issued, extra surveyor costs were incurred than would ordinarily be the case. The Respondent's surveyor had to attend the Property to inspect the works that had been carried out prior to the licence being issued. As the works gave rise to the potential for damage to adjacent properties and increased the fire risk at the building, the works were unable to be approved in their original form. The surveyor was then further needed to prepare and approve the Applicant's amended plans. Finally, the Applicant caused a significant increase in the professional costs incurred by the Respondent as he failed to provide all the documentation and evidence needed when requested for the licence to be issued. This resulted in additional work having to be carried out by the professional advisers that could have been avoided if the Applicant had provided everything in one bundle.

28. The Respondent also comments that there does not appear to be any assertion by the Applicant that the work carried out by the professional advisers was not to a reasonable standard.

29. The Respondent asserts that the Applicant has never previously raised any health and safety concerns in relation to the Property, and it comments that whether or not the Respondent raised any safety concerns with the previous leaseholder of the Property or acted in relation to any such concerns is immaterial to the points in issue. Furthermore, the Respondent's obligations do not mirror those set out in the Landlord and Tenant Act 1985 as the Lease is for over 7 years.

30. Following receipt of the Applicant's email of 24th January 2018, Ian Joslin, the building manager, offered to meet with the Applicant to discuss the alterations. In July 2018, prior to the Applicant's completion of purchase of the Property, the Applicant engaged in a dialogue with Ian Joslin and the managing agent and his questions were answered. Many of the questions did not relate to works themselves but rather were queries about the basis on which the managing agent and others were able to charge fees. For example, the Applicant was told that a deposit was required to be paid into the managing agent's client account to pay for possible damage caused by the builders engaged by the Applicant, but the Applicant refused to pay the deposit unless an escrow account was set up and a contract of guarantee had been provided. The Applicant also failed to provide a list of works until 20th August 2018 and stated within the same email that the works would commence just two days later. This was an inadequate timeframe for the works to be considered and for a licence to be granted. In addition, the information about the works provided by the Applicant was not in compliance with clause 6.7 of the Lease and the Applicant had been specifically told what information was required.

31. Ian Joslin entered onto the Property on 5th September 2018 due to the smell of damp believed to be emanating from the Property. The Applicant had commenced the unauthorised works at the Property at this date. Water leaks are not uncommon during renovation works, and there was a genuine concern that an emergency situation had arisen. As soon as it was established that there was no leak the Property was secured.

32. The managing agent's charges of £500.00 plus VAT represented fees incurred in connection with the Applicant's application for the licence for alterations. The work done by the managing agent included (i) over 18 emails sent to the Applicant in relation to the Property as at 10th August 2018, (ii) liaising with and taking advice from the Respondent's solicitors as the Applicant failed to provide the required information regarding proposed works and (iii) thereafter acting in the interests of the Respondent to protect its position. The managing agent's hourly rate is £175 + VAT and accordingly he has charged for less than 3 hours' work.

33. Regarding legal fees, for many years the Respondent used the services of a local firm, Alan Edwards & Co Solicitors and then that firm merged

with Russell Cooke LLP and the Respondent continued to use the services of Alan Edwards at the merged firm. When the managing agent advised that solicitors should be engaged to advise the Applicant that he was in breach of the terms of the Lease and should cease works immediately, Russell Cooke LLP were engaged as they were by then familiar with the development and the Lease terms. The Property is situated in London and it is the Respondent's position that using London lawyers is therefore reasonable. The failure of the Applicant to obtain the licence for alterations in advance of the works and his failure to engage with Russell Cooke and with the Respondent caused the Respondent to incur increased legal fees.

34. The Council's approval was thought to be required for the change of the windows at the Property. The Respondent had a duty to investigate this point, but after making relevant enquiries it was discovered that the Council's rules had changed in 2017 and that no planning permission was now required.

35. Regarding the surveyor's fees, Peter Smith's hourly rate was £140 per hour. His invoice dated 17th October 2018 covers seven hours of time spent, including two site visits, reviewing proposals, preparing a sketch plan and producing a report. His second invoice dated 13th March 2019 refers to fees incurred in connection with the conclusion of works, a site visit on 7th March 2019 and signing off the works.

36. The Respondent appears to justify the various professional charges in its written submissions as if they were service charges, but this assertion was effectively corrected by Mr Irvine at the hearing who acknowledged that they had been claimed as administration charges, not service charges.

37. At the hearing, Mr Irvine said that in objecting to the Respondent's costs the Applicant had not used any comparators. He also said that the Applicant had not objected to the level of costs at the time. As regards the legal basis for the charges under the Lease, Mr Irvine said that the Respondent was relying on clause 6.7.1 of the Lease. He also said that the Applicant had very clearly been in breach of covenant and that the Respondent was entitled to recover its costs incurred in dealing with the breach.

Witness evidence

38. In cross-examination, the Applicant accepted that he started carrying out the works before the licence for alterations was obtained but he said that these were only non-structural works. When asked specifically about the demolition of the wall he was unable to recall when this had taken place. As regards the contribution that the Applicant is requesting towards his own solicitor's fees, he said that he would not

have instructed a solicitor if he had not been forced by the Respondent to do so.

39. A witness statement was also given by Bruce Guy, a director of the Respondent company. In it he states that a breakdown of the detail of the works was not provided by the Applicant until 15th November 2018 and that no reasonable explanation for the delay has ever been provided. Even then, the information was still incomplete as it failed to include the schedule of condition for the neighbouring properties which had been requested. Mr Guy also states that while the Respondent could have applied for an injunction requiring the Applicant to cease the works, the directors decided not to take this action on the basis that it would have further increased the costs which would have been recoverable from the Applicant. In addition, he says, the directors were keen to maintain good relations and to be able to get the matter resolved as quickly as possible.

40. As regards the Applicant's statement that the managing agent's standard fee for alterations was £75 + VAT, Chris Remers replied to this point on 6th August 2018 stating that the standard fee for minor works had been increased to £290 + VAT in June 2018. This is the fee that has been applied to all minor works since June 2018 and which he considers more accurately reflects the time spent by the managing agent in such situations. The charge to Mr Sebastian was £500 + VAT and reflected the fact that the works in this case were more major and therefore more work was needed.

41. Mr Guy also states that the Respondent company does not have any source of operating income other than ground rent and occasional fees for licences to assign leases. The lease requirements are in place to protect all the leasehold owners, and having a licence for alterations to regulate works is important to protect the building. If costs could not be recovered from an individual leaseholder, they would have to be passed on to all leaseholders as part of the service charge as there is no other income to cover the costs.

42. In cross-examination, Mr Guy acknowledged that the Applicant had told him how frustrated he was with the licence application process but said that the problem had arisen out of the Applicant's failure to comply with the Lease terms. He said that the Applicant had also received an immediate response from the managing agents telling him that what he had submitted was insufficient. This has been the only case of a leaseholder providing an insufficient specification for works and failing to stop carrying out works when requested to do so.

43. Mr Guy accepted that he probably had not responded to the Applicant's list of concerns contained in his email of 15th November 2018 but he said that he had written in detail to the Applicant in October 2018 and had not received a response.

44. The hearing bundle also contains a witness statement from Cristina Aguilera and Manuel Porras, leaseholders of Flat 23. They state that, when they applied for a licence for alterations for works to their flat, they felt that the fees requested by the landlord seemed unreasonably high. They also claim that the landlord exhibited a lack of professionalism during the process and conclude that *"Kensington Heights is a rogue landlord that abuses its power position to overcharge leaseholders"*.

Tribunal/Court analysis

45. Both parties have provided detailed narratives to support their respective positions, and the above is just a brief summary of what seem to us to be the most salient points.

46. We will first of all deal with the question of whether the disputed charges are payable in principle under the terms of the Lease. The Applicant has not offered an opinion on this point, perhaps simply assuming that they are payable in principle subject only to the question of reasonableness. Mr Irvine for the Respondent submitted at the hearing that these costs (including the costs relating to alleged breach of covenant) were all payable pursuant to clause 6.7.1 of the Lease.

47. The relevant parts of clause 6.7.1 of the Lease, a clause containing one of the tenant's covenants, read as follows:-

"Not without the licence in writing of the Lessors first obtained … to make or permit or suffer to be made any non-structural alteration or addition whatsoever in or to the Demised Premises or to do or suffer in or upon the Demised Premises any wilful or voluntary waste or spoil provided always that it shall be a condition of any consent required under the provisions of this clause that the Lessee shall pay the costs and expenses reasonably incurred by the Lessors in relation to the granting of such consent … ."

48. Clause 6.7.1 thus allows the landlord to recover any reasonable costs incurred in relation to the granting of consent to alterations. However, we do not accept that it is wide enough to cover costs incurred by the landlord in dealing with any breach, or alleged breach, of covenant. There are, though, two clauses elsewhere in the Lease which we consider do – between them – allow the landlord to recover such costs in principle. Clause 3.2 of the Lease reserves various items as 'rent', and paragraph (c) of clause 3.2 reserves as rent and requires the tenant to pay *"the monies expended by the Lessors by way of remedy of default of the Lessee in compliance with its obligations under this Lease"*. Clause 6.1 then contains a covenant to pay *"the said rents"*. Taken together, sub-clause 3.2(c) and clause 6.1 in our view constitute (broadly speaking) a tenant's covenant to reimburse money expended by the landlord in remedying any breach of the tenant's covenants.

Whilst the Respondent has not identified these clauses, the Applicant has not claimed that the Lease does not allow recovery of these sums in principle and we are satisfied that it does.

49. Paragraph 1(1) of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("**the 2002 Act**") defines an "administration charge" as including *"an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly … for or in connection with the grant of approvals under his lease, or applications for such approvals … or … in connection with a breach (or alleged breach) of a covenant or condition in his lease"*. Paragraph 1(3) then defines a "variable" administration charge as being *"an administration charge payable by a tenant which is neither (a) specified in his lease, nor (b) calculated in accordance with a formula specified in his lease"*. Based on these definitions we are satisfied that all of the disputed charges constitute variable administration charges.

50. Under paragraph 2 of Schedule 11 to the 2002 Act, *"A variable administration charge is payable only to the extent that the amount of the charge is reasonable"*.

51. In relation to the point made by the Applicant about the court guideline rates, these rates are specifically stated to be guidelines figures for carrying out a summary assessment of court costs, which is a very different scenario from the current case where the costs incurred by the Respondent were not incurred in the course of court (or tribunal) proceedings but in its dealings with one of its leaseholders. The guidelines are therefore not, in our view, a helpful basis for judging the reasonableness of the charges. Details of amounts actually charged by other law firms for similar work would have been useful up to a point, but the Applicant has not offered any such comparable evidence save for the witness evidence from Cristina Aguilera and Manuel Porras.

52. Whilst we understand the difficulty that can be involved in persuading witnesses to take the time to attend a hearing, the fact that Ms Aguilera and Mr Porras were unavailable to be cross-examined on their evidence necessarily gives that evidence less weight. In any event, it does not seem to constitute comparable evidence demonstrating that the charges should be lower; it is simply another complaint that the Respondent's charges are too high. Without more information and without the ability to cross-examine these witnesses it is difficult to work out what value if any their evidence has. Whilst their comments appear to show that another leaseholder was dissatisfied with the Respondent in what may or may not have been a comparable situation, those comments are not persuasive proof that the Respondent acted unreasonably in the present case and nor do they even prove – in the absence of further information – that the Respondent acted unreasonably in its dealings with Ms Aguilera and Mr Porras or indeed what the Respondent would have stood to gain by allowing its professional advisers to charge more

than an amount that Ms Aguilera and Mr Porras believe to be reasonable.

53. In our view, having established that the disputed charges are recoverable under the Lease in principle subject only to the question of their reasonableness, the best approach on the facts of this case and on the basis of the information provided is to take an overall view on the reasonableness of each professional adviser's charges.

54. Beginning with the Respondent's legal costs, these amount to £7,203.00 inclusive of VAT. We have considered the parties' respective narratives as to what work needed to be done, and we accept that the Applicant was in breach of covenant by carrying out works that required a licence for alterations prior to the granting of that licence. We also agree with the Respondent that it was reasonable for it to instruct solicitors to take steps to challenge the breach of covenant. We understand the Applicant's frustration with the process and we accept that it is very arguable that the Respondent and its professional advisers could have explained the position more clearly to the Applicant at times and that the Respondent could have been more helpful at the stage when the Applicant was trying to establish the basic ground rules for the process. However, we also consider that the Applicant was somewhat cavalier in his approach to the legal process at times and seems to have decided that he knew best as to what the Respondent's requirements should be. On the other hand, the legitimate concerns expressed by the Respondent about the Applicant's breaches of covenant seem at times to have led to an overly pedantic and heavy-handed approach, for example by arguing that the Applicant needed to send more than one copy of the drawings by email.

55. Considering the circumstances as a whole, including the breaches of covenant and the fact that the alterations were significant and therefore that the negotiation of the licence for alterations justified more time and required more thought than for more minor works, we consider that a reasonable overall fee, inclusive of VAT and inclusive of the £3.00 in disbursements, would be £4,203.00 (a reduction of £3,000.00). We note the Respondent's point about its limited sources of income, but this does not justify unreasonably high charges. The amount of the Respondent's legal costs charges payable by the Applicant is therefore reduced to £4,203.00 inclusive of VAT and disbursements.

56. In relation to the surveyor's fees, the first invoice includes a "final inspection on completion plus sign-off of works" and yet there is a substantial second invoice. Having looked at the amount of work done, we consider that the first invoice represents a reasonable charge for two inspections, in the context of quite a basic survey, plus travel and writing of reports. We do not accept that it is reasonable to charge anything on top of the first survey, and in our view the charge of

£1,176.00 inclusive of VAT (as per the first invoice) is comfortably sufficient for the whole of the work done by the surveyor. The second invoice is therefore disallowed (in the context of the Applicant's obligation to pay it) and the amount of the surveyor's charges payable by the Applicant is therefore reduced to £1,176.00 inclusive of VAT.

57. In relation to the managing agent's fee, we accept the Respondent's evidence that it did not agree that the fee would be limited to £75.00 + VAT. In addition, in our view it is perfectly standard for a managing agent to charge extra for this type of work on top of the normal management fee. As regards the work done by the managing agent, whilst it is arguable that communication could have been better this was against a backdrop of the Applicant clearly being in breach of the terms of the Lease. Looking at the interaction between the Applicant and the Respondent's managing agent in the round we consider that £500.00 + VAT, representing less than 3 hours' work at £175 + VAT per hour, is a reasonable charge in the circumstances. The managing agent's fee of £600.00 inclusive of VAT is therefore fully payable.

58. Regarding the Applicant's request that the Respondent be required to pay half of the Applicant's own legal costs incurred in connection with the licence for alterations, there is no proper basis for us to require the Respondent to do so. First of all, it is standard for a tenant to bear his own legal costs in connection with an application for consent under his lease. Secondly, the evidence that we have seen indicates that the Respondent did not in fact insist that the Applicant instruct his own solicitor to negotiate the licence; rather, the Respondent merely required the Applicant to provide a solicitor's undertaking for costs.

59. The Applicant has also requested that the court/tribunal order the Respondent to provide him with invoices for the various professional charges which are addressed to him personally. He has not specified the legal basis on which he believes that he is entitled to require this, and neither we (sitting as a tribunal) nor I (sitting as a county court judge) accept that he is entitled to require this or that the court/tribunal should order it. It is also not accepted that it is necessarily possible or practical for the Respondent to provide the Applicant with an invoice or invoices addressed directly to him, as the service provided by the Respondent's professional advisers was provided to the Respondent and not to the Applicant. However, what does seem possible is for the Respondent to ask its professional advisers to re-issue their invoices so that whilst still being addressed to the Respondent the invoices are expressed to be payable by the Applicant. Whilst we do not order the Respondent to make this request, we would encourage it to do so as it is an easy thing to request and it could be helpful to the Applicant.

Decision

60. The amount payable by the Applicant to the Respondent in respect of the Respondent's legal costs is reduced from £7,203.00 to £4,203.00. The amount payable by the Applicant to the Respondent in respect of the Respondent's surveyor's costs is reduced from £2,232.00 to £1,176.00. The amount payable by the Applicant to the Respondent in respect of the Respondent's managing agent's fee remains at £600.00. No contribution towards the Applicant's own legal costs is payable by the Respondent.

61. In aggregate, the Respondent is therefore required to refund to the Applicant the sum of £4,056.00.

62. No order is made for the Respondent to provide the Applicant with fresh invoices which are addressed to him personally, although the Respondent is encouraged to ask its professional advisers to re-issue their invoices so that whilst still being addressed to the Respondent the invoices are expressed to be payable by the Applicant.

63. It is noted that the Applicant has made no application for interest.

Costs

64. It was agreed at the hearing that any cost applications would be deferred until after the issuing of this decision.

65. If either party wishes to make any cost application they must send written submissions to the tribunal (sitting as a tribunal and a county court) in support of that cost application by **7th January 2022**, with a copy to the other party. Any such written submissions must clarify the legal basis on which the cost application is made and must provide full details of the costs claimed.

66. If any cost application is made, the party against whom the cost application is made may make written submissions in response to that cost application. Those written submissions (if any) must be sent to the tribunal (sitting as a tribunal and a county court) by **21st January 2022**, with a copy to the other party.

Name: Judge P Korn **Date:** 17th December 2021

ANNEX - RIGHTS OF APPEAL

Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.

3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers

5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.

Appealing against the County Court decision

1. A written application for permission must be made to the court at the Regional tribunal office which has been dealing with the case.

2. The date that the judgment is sent to the parties is the hand-down date.

3. From the date when the judgment is sent to the parties (the hand-down date), the consideration of any application for permission to appeal is hereby adjourned for 28 days.

4. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.

5. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers.

6. If an application is made for permission to appeal and that application is refused, and a party wants to pursue an appeal, then the time to do so will be extended and that party must file an Appellant's Notice at the appropriate County Court (not Tribunal) office within 14 days after the date the refusal of permission decision is sent to the parties.

7. Any application to stay the effect of the order must be made at the same time as the application for permission to appeal.

Appealing against the decisions of the tribunal and the County Court

In this case, both the above routes should be followed.