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

Case reference : **LON/00BC/OC9/2014/0005**

Property : **18 Cambridge Road London E11
2PN**

Applicant : **James Kenneth Forrester**

Representative : **Wiseman Lee LLP**

Respondent : **18 Cambridge Road (Freehold)
Limited**

Representative : **Pinney Talfourd**

Type of application : **Application under section 91
Leasehold Reform, Housing and
Urban Development Act 1993 (the
"Act") for a determination of the
costs payable under S33(1) of the
Act**

Tribunal member : **Mrs E Flint DMS FRICS**

: **Determination without an oral
hearing in accordance with
Regulation 31 The Tribunal
Procedure (First-tier Tribunal)
(Property Chamber) Rules 2013**

Date of decision : **18 March 2014**

DECISION

Attendances:

10. The Applicants stated that this case had unusual or complex features in that the Tenants' claim related to part only of the land in the registered freehold title. There was a dispute over the precise terms of the transfer deed which was amended a number of times. The land the subject of the Tenants' claim had a road frontage; the remainder of the land has no road frontage. It was necessary to consider the appropriate rights of way to be agreed, including those over land not included in the Initial Notice. A schedule of the costs relating to work undertaken by both Mr Williams and Ms Rose, but without any dates, in relation to the attendances was provided.
11. The Respondents replied that there was no explanation for 15 telephone calls and 7 letters. The claim was excessive both by reason of the charging rate and the time spent. It is not clear why two fee earners were necessary. A copy of a letter from the Landlord's solicitors dated 8 November 2013 in which the valuer's fees are confirmed at £850 + VAT and the legal fees are stated to be £1,811 inclusive of VAT and disbursements was appended to their statement of case. The landlord's solicitors were now claiming £1,873.50 + VAT and disbursements without providing any explanation or justification for the increase of £475.
12. The Applicant stated that the solicitors originally gave a figure of £1500 + VAT and disbursements which was a rounded down figure. They had been prepared to accept this sum if it had been agreed. Since it was not agreed a detailed assessment had been carried out and this resulted in a figure higher than the initial figure.

Valuation Costs: £850 + VAT claimed.

13. The valuer's fee account itemised the areas of work undertaken in relation to the valuation as including obtaining copies of the leases and studying the same, making arrangements to and carrying out an inspection of the property, making detailed notes, making appropriate enquiries and investigations, preparing the valuation and providing copies of the report to the client and his solicitors.
14. The Respondent was willing to accept £600 + VAT was an appropriate fee. The Respondent questioned the need for the valuer to review and consider the Tenant's section 42 Notice since this was a matter for the solicitors. A charge had been made for an inspection but no internal inspection had been carried out. Furthermore the valuer had been responsible for the management of the property for some years and should have been familiar with it and the provisions of the leases. The offer to accept £600 + VAT was supported by the decision in Draper v Hedges (LON/00AC/OLR/2011/0063).

15. The Applicant considered that the knowledge obtained by managing the property did not supplant the need to inspect for the purpose of the valuation. The case of *Draper v Hedges* if anything supports the view that the valuer's fee was reasonable.

The Tribunal's decision

16. Legal costs of £1811.00 including VAT and disbursements are payable. Valuation fees of £850 + VAT are payable.

Reasons for the Tribunal's decision

17. In the absence of a full breakdown of letters/emails/telephone calls in a way which would enable the Tribunal to analyse to what the correspondence relates the Tribunal is of the opinion that it must do its best to estimate the time spent on those matters which are covered by section 33 of the Act. The Tribunal is mindful that as late as November 2013 the Landlord's solicitors stated that their costs were £1811.00 inclusive of VAT and disbursements. The disbursements are a matter of fact and the quantum must have been known prior to November 2013.
18. The schedule of time spent provides very little detail and does not include any dates as to when the work was undertaken. There is no supporting correspondence in the bundle. However the Respondent has not provided a detailed assessment of the costs which it considers would be properly payable under the Act. Having taken all the information available into account, including the somewhat unusual circumstances relating to the transfer and associated rights of way the Tribunal determined that the costs set out in the letter of 8 November were reasonable and therefore payable. It does not accept that the charging out rates of the two solicitors were unreasonable.
19. The Tribunal determines that the valuer's fee of £850 + VAT is payable. The valuation was in respect of a collective enfranchisement and it would have been necessary to read all the leases. The case relied on by the Respondent related to one flat only. Moreover previous Tribunal decisions relating to costs are of very little assistance since each case is decided on the evidence before the Tribunal. Indeed such decisions are not binding on other tribunals and therefore the Tribunal looked at the issues afresh.

Name: Evelyn Flint

Date: 18 March 2014