



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

Case Reference : LON/00BA/0C9/2015/0175

Property : Flat 85, Grosvenor Court, London Road, SM4 5HQ

Applicant : Daejan Investments Limited (1) & Tripomen Limited (2)

Representative : Wallace LLP

Respondent : David Cordey

Representative : Gardener Thorpe Solicitors

Type of Application : Application for determination of reasonable costs – flats and premises – Section 91(2)(d) Leasehold Reform, Housing and Urban Development Act 1993

Tribunal : Mr M Martynski (Tribunal Judge)

Date of Decision : 18 June 2015

DECISION

Decision summary

1. The costs payable to the Applicants are:

<i>First Applicant's legal fees:</i>	To be calculated in accordance with the decision below
<i>First Applicant's valuation fees:</i>	£1,146
<i>Second Applicant's legal fees:</i>	£360
<i>Land Registry Fees</i>	£30

Background

2. The Applicants' claim for costs arises out of the Respondent's claim to acquire a new lease of the subject flat. His Notice of Claim is dated 28 April 2014.
3. The freehold interest of the subject building is held by the first Applicant. The second Applicant has a headlease of various flats including the subject flat.
4. Following service of the Notice of Claim, the first Applicant served a Counter-Notice, that notice was without prejudice to its assertion that the Notice of Claim was invalid because the Notice did not propose to pay a sum to the second Applicant in respect of the new lease.
5. The Respondent did not pursue the matter further and accordingly the Notice of Claim was deemed withdrawn.

The Application

6. The Applicants' application to this tribunal is dated 7 April 2014. In that application the Applicants seek costs as follows:-

First Applicant's legal fees:	£1,920
First Applicant's valuation fees:	£1,146 ¹
Second Applicant's legal fees:	£360
Land Registry Fees	£30
7. The application was set down to be dealt with on the Paper Track. Statements of Case were filed by the parties. There was no request for an oral hearing and accordingly I have considered this application on the papers alone.

The Respondent's case

8. The Respondent argued that VAT should not be payable on any of the fees claimed as the Applicants are VAT registered and therefore they should reclaim the VAT on the various fees.

¹ The sum actually sought in the original application was £1,020, a higher sum was later claimed in respect of an aborted journey made by the valuer when access was not granted

9. As to the legal costs of the first Applicant's solicitors, Wallace LLP, the Respondent contended that the appropriate fee-earner was an Assistant Solicitor (with limited input from a Partner) and that the hourly rate should be as per rates awarded in the High Court which are £317 for Partners, £226 for Assistant Solicitors and £138 for paralegals.
10. The claims for the valuation fees and the Second Applicant's legal costs were not opposed save for the VAT point.

The Applicants response as to VAT

11. In their Statement of Case, the Applicants stated as follows:-

..... it is confirmed that Daejan is registered for VAT and has not opted to tax (this is to waive exemption on) the property at Grosvenor Court. The Tribunal is asked to note that it is not possible to opt to tax a residential property. On the basis that Daejan is not making taxable supplies on this property, it cannot recover input VAT on expenditure relating to that property. As a result, VAT is properly recoverable from the Respondent.

12. As to Tripomen, the Statement of Case assumed that they were in the same position as Daejan in connection with VAT; Daejan's solicitors were to confirm this with Tripomen.

Decision

VAT

13. There was no response to the Applicant's Statement of Case and accordingly I accept what they say regarding the VAT position. This is however subject to Daejan confirming the position as to Tripomen by letter to the tribunal and to the Respondent's solicitors no later than **1 July 2015**.

Charging Rates

14. The Applicants, in their Statement of Case, made the point that this area of the law is complex and that the First Applicant was entitled to use Wallace LLP who are specialists in this area of law and who have been, for many years, the Applicants' solicitors of choice.
15. Beyond this general assertion, it was not argued that the claim in this matter was complex. The Applicant pointed to the fact that it had found the Notice of Claim to be invalid, however the invalidity was rather obvious, there was nothing complex about the failure to offer a sum to the intermediate landlord.
16. The property involved in this matter is a modest building on the outskirts of Greater London; the sums involved were small.

17. Whilst I accept that a Grade A fee-earner or Partner is entitled to do this work, the work itself does not warrant that level of fee.
18. I do not accept that the national guide line hourly rates published for contentious work are of any useful relevance to the work in question.
19. I consider that a rate of £300 per hour for an Assistant Solicitor (as actually charged by Wallace) for a Central London specialist firm is within the market norm. A charge of £410 (again as actually charged by Wallace) for a Partner is probably at the upper end of a reasonable norm.
20. I do not consider that someone procuring legal services for a matter of this nature would reasonably be prepared to pay Partner rates for the majority of the work.
21. Accordingly I agree with the Respondent that this matter would have warranted no more than one hour's worth of Partner time and that the rest of the work could have been carried out by less senior fee-earners.
22. I have not been able to reconcile the print-outs attached to the Applicants' Statement of Case as to the breakdown of the work with the total that Wallace have charged and therefore I am not able to specify a final figure for their fees. The fees payable in respect of Wallace's fees should be recalculated on the basis of one hour at the partner rate with the rest of the work charged at £300 per hour for an Assistant Solicitor (save where a paralegal has carried out work, that work should be charged at Wallace's paralegal rate).

Mark Martynski, Tribunal Judge
18 June 2015