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

**Case reference** : **LON/00BH/OC9/2016/0265**

**Property** : **395a & 397a High Road, London  
E10 5NA**

**Applicant** : **N. Sloam & J. Tye  
Trustees of JPT Pension Scheme**

**Representative** : **Winckworth Sherwood**

**Respondent** : **M. Hussain & N. Hussain**

**Representative** : **Howard Kennedy**

**Type of application** : **Application for permission to  
appeal**

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**Tribunal members** : **N. Martindale**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **12 October 2016**

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**DECISION**

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### DECISION OF THE TRIBUNAL

1. The Tribunal has considered the respondent's request for permission to appeal received 20 September 2016 and **determines** that:
  - (a) it will review its decision; but
  - (b) permission to appeal be refused.
2. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
3. The Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710); or by email: [lands@hmcts.gsi.gov.uk](mailto:lands@hmcts.gsi.gov.uk).

### REASON FOR THE DECISION

4. The reason for the decision is that the Tribunal had considered some of the points now raised by the Respondent, when reaching its original decision. It addresses the remainder, below.
5. The directions issued prior to the hearing, set out what was required of each party in order for the matter to be fully considered by the Tribunal. The Applicant Landlord complied except notably by providing two sets of near identical bundles, one for each flat rather one, as directed; no Tenants submissions were received.
6. It appears that the alleged unauthorised alterations to each of the two original flats had created four new units in each original flat; eight overall, rather than as the Tribunal had understood, four in total.
7. The Applicant maintains that each Notice and what arose, was dealt with entirely independently from the other. In support of this it refers to the Notices, each concerning a separate flat, two Counter Notices, two investigations of title by the Landlords solicitors, two requests to counsel to advise on the two Notices, and two valuations (one of each flat).
8. The Tribunal noted that the representative for the Landlord had apparently found equal difficulty in considering first one and then the other Notice. Similarly in properly investigating the title of first flat, and then wholly anew the other flat. However the Landlord made only a single request of counsel to advise on the same problem, which had

arisen at each flat, at the same time. Such advice, on both, was duly devised and supplied by counsel, who followed up with a single bill.

9. This appears to the Tribunal to be quite different from the assertion, repeated once more in the appeal, that two sets (not one set) of separate advice, albeit on the identical issue affecting the adjacent flats, were sought from counsel: That these were separately provided, separately billed and that on each of the two occasions the total cost was identical, at £747.50 plus VAT.
10. However this assertion is undermined by the fact that only one invoice from counsel was received and presented to the Tribunal. The same invoice, bearing the same invoice number, for the same amount, apparently for the same advice, headed 395a and 397a High Road was included, with the same photocopy in each of the two packs. The claim appears to be double billing of a single counsel's fee. Therefore only £747.50 (+VAT) is allowed, in total, as before.
11. Unlike the duplication of the single bill from counsel, in addition to the description of combined work by the solicitors, on both flats, as set out in paragraph 29 of the decision, the Tribunal did find two separate bills for provision albeit at the same time, by the same valuer, of valuations of all but identical adjacent properties.
12. The Tribunal therefore acknowledges the provision of one valuation for the first flat, but considers that the sum of £500 plus VAT sufficient for this task. It further considers that the client would expect the undertaking of an all but identical exercise on the adjacent property, at the same valuation date, would attract a significant discount. The tribunal determines this at 50% of the fee or £250 plus VAT. Therefore, albeit for a different reason, only £750 (+VAT) is allowed, in total, as before.
13. The Tribunal notes that particular complexities were felt by the Landlord's solicitors to have arisen at both addresses. They needed to correctly respond to the Notices of claim, but in doing so felt compelled to seek specialist opinion as such matters lay beyond their own expertise. Whilst this did result in a separate bill from counsel, as addressed above, it did relieve the solicitor of some of their work and consequentially their costs arising, as previously stated in the decision.
14. The Tribunal has reviewed the sums billed by the solicitor. It notes that these are for identical work, taking an identical time, of the same grade of staff, generating an identical cost, and creating an identical bill. Had the issues been demonstrably different in one flat from the other, these might have been to some extent justified, but they were not. The bill from counsel supports the view that the issues and tasks which arose were identical and could be properly dealt with simultaneously by the solicitor, as they had by counsel.
15. The Tribunal notes that as both claims were contested and did not progress, it was not reasonable for significant work in preparation of

draft documents extending the leases to be undertaken by the Landlord, but some costs were allowed

16. The Tribunal previously directed that these costs be considered not as two, but only as a single claim. Contrary to this direction the Landlords still made two identical, separate, submissions for costs. The Tribunal made clear beforehand that it only ever had one determination to make on costs arising from these Notices, and that is what it did.
17. The Tribunal has reviewed its earlier decision but comes to the same substantive conclusions as set in paragraphs 33, 34, 35, and 36 to the decision. The Applicant is however correct in drawing attention to the grand total figures for dealing with both flats. These and the layout of the figures and the treatment of VAT on the solicitor's costs are therefore duly clarified and corrected below.
18. S.60(1)(a) Solicitors costs £877.50 (+VAT): Counsels costs £747.50 (+VAT), Land Registry £31.
19. S.60(1)(b) Solicitor's costs £357.50 (+VAT): Valuers fees £750 (+VAT).
20. S.60(1)(c) Solicitor's costs £325 (+VAT).
21. Grand Total £3088.50, with VAT on the sums, as indicated above.

**Name:** Neil Martindale

**Date:** 12 October 2016