



4574

**First-tier Tribunal  
Property Chamber  
(Residential Property)**

**Case reference** : CAM/22UN/OLR/2017/0173-79

**Properties** : Flats C, D, 3 and 24, 36, 40 & 45 Frinton Ct.,  
The Esplanade,  
Frinton-on-Sea,  
C013 9DP & DW

**Applicants** : David Geer & Claire Geer (flat C)  
Grace Woodford (flat D)  
David Fugeman (flat 3)  
Sandra Ann Sayer (flat 24)  
Teifon Daviers & Janice Davies (flat 36)  
Barbara Leech (flat 40)  
John Frank & Rita Pauline Wood (flat 45)

**Respondent** : Slogantree Ltd.

**Date of Applications** : 28<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup> September & 3<sup>rd</sup> October 2017

**Type of Applications** : To determine the Applicant's costs of  
valuation for the lease extension of flat 24  
and an application by the Applicants for a  
contribution towards their costs and fees  
(rule 13 of the Tribunal Procedure (First-tier  
Tribunal)(Property Chamber) Rules 2013  
("the 2013 rules"))

**The Tribunal** : Bruce Edgington (lawyer chair)  
David Brown FRICS

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**DECISION**

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1. The reasonable valuation fees incurred by the Respondent and payable by the Applicants is £3,450.00.
2. The services being paid for are provided to the Respondent and if it is able to recover VAT as an input, such VAT on the fees claimed is not recoverable from the Applicants. If it is not able to so recover, then VAT is to be added to the fees and is payable by the Applicants.
3. The Tribunal orders the Respondent to reimburse the Applicants the full amount of the hearing fees paid to the Tribunal in the sum of £1,400.00 within 28 days of this decision pursuant to rule 13(2) of the 2013 rules.

12. The amounts claimed by the Respondent are £950.00 for flat 24 and £3,950.00 for the remaining 6 flats. The Applicants offer £500.00 for flat 24 and £2,950.00 for the remainder. All figures are exclusive of VAT.
13. The directions order made by the Tribunal on the 13<sup>th</sup> October 2017 required the Respondent to provide details of the qualification and experience of the fee earner and a breakdown of the number of hours spent. None of this information has been provided. Indeed, there appears to no information about how the valuations fees are made up.
14. Thus the Tribunal can only use its extensive knowledge and experience of these matters. Apart from flat 24, the fees for the 6 other flats appear to be just under £660.00 each. Despite the comments made on behalf of the Respondent, the Tribunal's view is that a normal commercial client required to meet the valuer's fee personally would expect its valuer to have local knowledge and would not expect to pay much by way of travel expenses in a location, such as this, where there are a number of good, experienced surveyors in private practice.
15. Assuming a charge out rate of, say, £200.00 per hour for a senior practitioner and 7 properties in close proximity, the Tribunal notes that 5 Initial Notices were served on 25<sup>th</sup> May 2017. The other 2 were served on 8<sup>th</sup> February (flat 24) and 19<sup>th</sup> May. Thus flat 24 would have been dealt with initially which presumably accounts for the higher figure and the other 6 could all have been dealt with at the same time with little extra research in view of the fairly short time between.
16. The Applicants' solicitors clearly feel that the total time should be split equally between the 7 flats and this does make sense in that the shorter time spent on the other 6 would be partly taking advantage of the time spent on flat 24. Reports in these cases take considerable advantage of templates and the Tribunal notes from pages 81-119 in the bundle that the valuer has only prepared 1 report for all 7 properties. Having said that, the flats are not the same in all cases.
17. On the basis of the Applicants' offer of £491.66 per flat, excluding flat 24, assuming 30 minutes for each inspection, no more than an hour for inspecting the exterior and locality, an hour for research and 30 minutes for correspondence, the balance is around an hour and a half per flat for calculations and writing the report which, given the duplication of some of the calculations, is more than adequate. The Applicants' marginal uplift for flat 24 is sufficient. The offer made by the Applicants is therefore considered to be reasonable.

### **Discussion – rule 13**

18. The 3 issues here are (1) whether the hearing fees should be reimbursed, (2) whether the Respondent acted unreasonably and, if so (3) what it should pay towards the Applicants' costs, if anything.
19. The agreed facts are that the experts agreed premiums in November 2017 when everyone knew that the hearing was taking place on the 29<sup>th</sup> January 2018. The Respondent would not accept its own expert's advice. The Tribunal itself attempted to give the Respondent more time by delaying the payment of the hearing fee for over 5 weeks. The premiums agreed were eventually accepted

by the Respondent on the 16<sup>th</sup> January 2018 i.e. 13 days before the hearing and 3 days before the hearing bundles had to have been delivered to the Tribunal.

20. The Respondent's solicitors say that it is a very experienced landlord which means that both the solicitors and their client knew or should have known that if agreement was not reached before 12<sup>th</sup> January 2018, the hearing fees would have to be paid. By that time, it would have been too late to try to introduce another expert valuer and it was therefore known that the determination of the Tribunal on valuation was inevitable.
21. The Applicants' solicitors claim for costs starts from 22<sup>nd</sup> November 2017. The Schedule provided shows no details of when costs were actually incurred and precisely why. Certainly, the Tribunal would not have expected extra costs to have been incurred until well into 2018. It does not seem to the Tribunal that the bundle lodged is a great deal different to that which would have been prepared originally save for the claim for rule 13 costs. Thus the time for redrafting the index etc. at 3 hours 24 minutes seems excessive.

### **Conclusions**

22. Doing the best it can from the limited and incomplete information supplied by the parties, plus the failure on the part of the Respondent to follow the directions order, the Tribunal uses its knowledge and experience to come to a figure of £3,450.00 i.e. the amount offered by the Applicants.
23. The behaviour of the Respondent in not accepting the inevitable for weeks when it knew or ought to have known that extra costs were being incurred by way of hearing fees and legal costs is vexatious and, accordingly, unreasonable. The Tribunal orders the reimbursement of the hearing fees. As far as the legal costs are concerned, the Tribunal does find that some extra legal fees have been incurred as a result of the unreasonable behaviour but the amount claimed is excessive. Again, doing the best it can from the limited information available, the Tribunal orders the Respondent to pay £500.00 plus VAT towards the Applicants' legal fees which amounts to just over 2 hours extra time spent on telephone calls, letters, e-mails and time.

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**Bruce Edgington**  
**Regional Judge**  
**29<sup>th</sup> January 2018**

### **ANNEX - RIGHTS OF APPEAL**

- i. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
- ii. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

- iii. 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.
- iv. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.