



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

Case Reference	:	LON/00AH/OC9/020/0081: Paper
Property	:	Land on the Southside of Fellmongers Yard, Olla Court, Croydon, Surrey CR0 1FG
Applicant	:	Carter Haswell Properties Ltd
Representative	:	Jeremy Marozzi & Co. Solicitors
Respondent	:	RNF International Ltd
Representative	:	Lawcomm Solicitors
Type of Application	:	Costs – s 33(1) Leasehold Reform, Housing and Urban Development Act 1993
Tribunal Member	:	Judge Tagliavini
Date and venue of hearing	:	10 Alfred Place, London WC1E 7LR 27 February 2020
Date of Decision	:	4 November 2020

DECISION

The tribunal's summary decision

- I. The tribunal finds that the sum of £5,367.00 (inclusive of VAT) is payable by the applicant to the respondent for all costs incurred under section 33(1) of the Leasehold Reform, Housing and Urban Development Act 1993.
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The application

1. This is an application made under section 33(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ('the 1993 Act' concerning the costs payable and arising from the applicant's application seeking the collective enfranchisement of property known as Land on the Southside of Fellmongers Yard, Olla Court, Croydon, Surrey CRO 1FG comprising five flats in a self-contained building and appurtenant land ('the Property').

Background

2. In an Initial Notice dated 19 July 2020 the Applicant sought to acquire the freehold of the subject Land at a premium payable of £17,500. In a Counter Notice dated 23 September 2019 the respondent admitted the Applicant's right to the collective enfranchisement of the subject Property and claimed a premium of £65,500 was payable. In a letter to the tribunal dated 3 June 2020 it was stated that the parties had agreed a premium of £27,000 was payable by the applicant to the respondent.
3. In accordance with the provision of the 1993 Act the respondent seeks costs including valuation fees of £10,680 (inc. VAT) in respect of the acquisition of the freehold. However, the applicant asserts that the reasonable legal and valuation costs are payable in the sum of £3,960 (inc. VAT).
4. For the purpose of the determination of the application, the tribunal was provided with a bundle of documents numbering 75 pages containing the parties' documents on which they sought to rely.

The respondent's case

5. The respondent provided a Statement of Costs dated 15 June 2020 in which the valuation costs amounted to £4,140 (inclusive of VAT); legal costs of £6,540 (inclusive of VAT) and Land Registry costs of £27.00. In a Statement dated 6 October 2020, the respondent denied that the costs claimed are unreasonable and asserted that the applicant had failed to provide details of its own costs in comparison. The respondent

asserted that as a small firm it does not have a Grade C fee earner and therefore all the work was carried out by a Grade A fee earner at a rate of £250/hr. The respondent asserted that the applicant's challenges to its Schedule of Costs was vague and lacking in particularity as to why the various items were challenged.

6. The respondent also asserted that the valuation costs of £1950.00 (plus VAT) for the costs of the valuation and report and £1,500 (plus VAT) for negotiations and agreeing the premium payable were both reasonable and payable

The Applicant's case

7. In answer to the respondent's Statement the applicant provided the tribunal with a Statement dated 22 September 2020 in which The applicant asserted that the costs were excessive. The applicant asserted that the work should have been carried out by a Grade C earner at the rate of £161/h based on the rates of a solicitor working in the Portsmouth/Southampton area. The applicant asserted that the time spent on the transaction was excessive.
8. The applicant challenged the valuation costs are excessive and that no breakdown of them has been provided. The applicant also asserted that the value second invoice for negotiating costs of £1,500 (plus VAT) is irrecoverable under section 33 of the Act together with counsel's fees. Lastly, the applicant asserted that as a limited company the respondent should be able to claim any VAT paid back of solicitor's cost and that no VAT should be paid by the applicant.

The tribunal's decision

9. The tribunal finds that the applicant has provided little detail as to its own valuation and legal costs incurred which could be placed in direct comparison with those of the respondent. Further, although the applicant suggests that the entirety of the work should have been carried out by a Grade C fee earner it offers no insight into whether the fee earner utilised by the applicant was a Grade C fee earner or above. Similarly, the applicant fails to provide the tribunal with any detail about its own valuation costs. The tribunal has not been made aware of any particular legal difficulties that have arisen in this apparently straightforward and relatively modest transaction.
10. In the absence of any evidence to the contrary, the tribunal allows the respondent's choice of fee earner at £250/h. However, the tribunal finds the 21.8 hours claimed by the respondent to be excessive for a highly qualified and experienced fee earner and reduces this to 10 hours providing a total of £2,500 plus VAT in legal costs (£3,000 inc VAT).

11. The tribunal accepts the applicant's argument that the second invoice in the sum of £1,500 is not recoverable under s 33 of the 1993 Act. However, in the absence of any comparison evidence from the applicant, the tribunal allows the respondent fixed valuation costs of £1,950.00 (plus VAT).
12. The tribunal allows the survey fees of £27.00 and it rejects the applicant's argument that VAT is not payable.
13. Therefore, the tribunal finds that the applicant is to pay to the respondent the following sums:

Legal costs of £2,500 (plus VAT) = £3,000
Valuation fees of £1950 (plus VAT) = £2340
Survey fees of £27.00
13. In conclusion the tribunal finds that the sum of £5,367.00 is payable by the applicant to the respondent for all costs incurred under the provisions of the 1993 Act.

Name: Judge Tagliavini

Dated: 4 November 2020

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).