

LONDON RENT ASSESSMENT PANEL

**DETERMINATION OF APPLICATION RELATING TO COSTS
UNDER SECTION 60 OF THE LEASEHOLD REFORM, HOUSING AND
URBAN DEVELOPMENT ACT 1993**

Case Reference: LON/00BD/0C9/2013/0011

Premises: 105 Cowley Road, Mortlake, London SW14 8QD

Applicants: Mr SE Gill
Mrs V Gill

Representative: Calvert Smith & Sutcliffe

Respondent: Mountview Estates plc

Representative: Winckworth Sherwood

**Leasehold Valuation
Tribunal:** Mr NK Nicol

Date of decision: 9th April 2013

1. The parties have agreed the premium and the terms for an extension to the Applicants' lease. They have also agreed the costs to be paid by the Applicants in relation to the valuation obtained by the Respondent but not in relation to their legal costs. Therefore, the Applicants have applied for a determination of those legal costs under section 60 of the Leasehold Reform, Housing and Urban Development Act 1993:-

Costs incurred in connection with new lease to be paid by tenant.

- (1) Where a notice is given under section 42, then (subject to the provisions of this section) the tenant by whom it is given shall be liable, to the extent that they have been incurred by any relevant person in pursuance of the notice, for the reasonable costs of and incidental to any of the following matters, namely—

- (a) any investigation reasonably undertaken of the tenant's right to a new lease;
 - (b) any valuation of the tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56;
 - (c) the grant of a new lease under that section;
- but this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.
- (2) For the purposes of subsection (1) any costs incurred by a relevant person in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.
2. The Respondent's solicitors provided a breakdown of their costs by letter dated 18th February 2013. Their total legal costs were £2,606.96 plus VAT. Given that this constituted 25% of the sum of £10,415 claimed in the Counter-Notice, let alone 27.5% of the agreed premium of £9,500, the legal costs would appear disproportionate on their face and need to be examined carefully.
3. This would appear to have been a straightforward, fairly typical lease extension application which has been dealt with by solicitors experienced in such matters. The only non-typical factor was an issue about whether the extended lease should transfer the responsibility for buildings insurance to the Respondent but that should not have resulted in a substantial amount of additional time being spent on this case.
4. The one aspect of the Respondent's solicitors' costs breakdown which stands out is the 5 hours and 6 minutes a partner, the most senior lawyer involved, apparently spent working on the documents solely in relation to investigating the Applicants' right to a new lease. Ms Elizabeth Marrinan, the partner involved at the Applicants' solicitors, urged in her statement that only three hours would be appropriate which is the time she spent on the issue. Given the seniority of the lawyer involved, the Tribunal agrees.
5. Nothing else in the costs breakdown stands out as unreasonably incurred. Ms Marrinan questioned the hourly rate of £325 for the partner involved in comparison with the guidance hourly rate for a Band A solicitor in the London 3 area which is a maximum of £267. However, the relevant test is set out in s.60(2). The Respondent is not obliged to find the cheapest lawyer or even one which observes the relevant guidance. The Tribunal is satisfied that the rate is that which the Respondent might reasonably be expected to have incurred if liable for these costs.
6. Therefore, adjusting for work done on the documents in relation to costs recoverable under s.60(1)(a), the Respondent's costs should be reduced by £682.50. Further therefore, the Tribunal has determined that the total legal costs payable under s.60 by the Applicants is £1,924.46, plus VAT.

Name: N.K. Meel

Date: 9th April 2013