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LVT 96/5

**LEASEHOLD VALUATION TRIBUNAL  
OF THE  
MIDLAND RENT ASSESSMENT PANEL**

Our Ref: M/LRC 479

*DECISION OF LEASEHOLD VALUATION TRIBUNAL*

*ON AN APPLICATION UNDER SECTION 21(1) (ba)  
OF THE LEASEHOLD REFORM ACT 1967*

Applicant: Mrs Evans  
Respondent: Mrs G F D Carpenter  
Re: 81 Coronation Road, Birmingham, West Midlands,  
B43 7AU  
Date of Tenants Notice: 17 September 2002  
Application to Tribunal dated: 22 October 2002  
Heard at: The Panel Office  
On: 17 December 2002  
APPEARANCES:  
For the Applicant: Mr Anthony Brunt  
For the Respondent: Not Represented

Members of the Leasehold Valuation Tribunal:

Mr N R Thompson FRICS (Chairman)  
Mr J H Dove  
Mrs N Jukes

Date of Tribunals decision:

**06 JAN 2003**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER SECTION (1) (ba) OF THE LEASEHOLD REFORM ACT 1967 TO DETERMINE  
THE FREEHOLDER'S COSTS PAYABLE UNDER SECTION 9 (4) OF THAT ACT AND  
SCHEDULE 22 PART 1 (5) OF THE HOUSING ACT 1980**

**IN THE CASE  
OF  
EVANS v CARPENTER & OTHERS**

**81 CORONATION ROAD  
GREAT BARR  
BIRMINGHAM  
B43 7AU**

**BIR/OOCS/0C6/2002/0042**

### **Background**

This is a determination pursuant to Section 21 (1) (ba) of the Leasehold Reform Act 1967 as to the freeholder's reasonable costs payable under Section 9 (4) of that Act and Schedule 22 Part 1 (5) of the Housing Act 1980 following notice to purchase the freehold of the above property under the 1967 Act from the Lessee, Mrs M G Evans.

### **Hearing**

At a Hearing held in Birmingham on 17<sup>th</sup> December 2002, the Lessee was represented by Mr A W Brunt FRICS of Anthony Brunt & Co. Chartered Surveyors of Birmingham. The Landlords were not present or represented but had submitted written representations in the form of:

- a letter from their valuer, Mr D H Hackett BSc FRICS IRRV of Bigwood, Chartered Surveyors, of Birmingham, and
- a letter from their solicitors, Messrs Hepburns of Oxted, Surrey.

On the subject of the Landlords' legal costs, Mr. Brunt presented his case by suggesting a reasonable fee for the conveyancing work involved would be £275 (plus VAT if applicable and disbursements). He pointed out that the freehold title was registered and it was normal practice for the purchase's solicitor to prepare any formal contract if that was requested. In consulting a number of solicitors in the area, Mr Brunt had found such simple conveyancing work to be undertaken on a very competitive basis and cited a long established practice in Cradley Heath prepared to charge a fixed fee of £195 +VAT and disbursements in cases such as this.

He also referred to the fact that this figure, and more normally £250 (plus VAT and disbursements), had been adopted by the Tribunal in numerous previous cases as further authority for the adoption of that figure.

In relation to the Landlords' valuation fees, Mr. Brunt submitted that if there was no evidence to suggest a valuation of the property had been carried out prior to the application to the Tribunal, then

the Landlords were not entitled to recover any valuation costs from his client. If however, a valuation had been undertaken then he submitted that the level of fee payable by his client should depend very much on whether an external inspection had been made and how much time had been spent on the matter. Mr Brunt confirmed that an internal inspection had certainly not been undertaken, and he had not seen or been supplied at any stage with a valuation prepared by the freeholder's valuers.

In their letter to the Tribunal, Bigwood had merely suggested a valuation fee of £250 but had not offered any background evidence or justification for that figure.

In response to questions from the Tribunal, Mr Brunt confirmed that prior to the service of a Notice of Claim by his client to purchase the freehold of the property, an informal approach had been made to the freeholder's surveyors on 4<sup>th</sup> September 2002. They had responded to this on 5<sup>th</sup> September indicating a price and level of fees at which their client would be prepared to sell the freehold.

On 18<sup>th</sup> September 2002, a formal Notice of Claim had been served to which the freeholder's surveyors responded on 23<sup>rd</sup> September by suggesting a different (and lesser) price based on a specified site value. Negotiations were concluded between Mr Brunt and Mr Hackett of Bigwood shortly thereafter in respect of the price to be paid for the freehold, but agreement was not reached about the level of fees to be paid by the claimant lessee, and this culminated in the current application to the Tribunal dated 22<sup>nd</sup> October 2002.

In their submission to the Tribunal regarding legal fees, Messrs Hepburns made a number of points:

- They have acted in many hundreds of similar transactions, and have never had any question raised as to the level of their fees.
- Their suggested fees of £475 Plus VAT and disbursements reasonably reflected the charging rate applicable to qualified members of staff and their assistants and were consistent with the charges of the majority of solicitors practices in the south east.
- They have recently considered whether their fees should be increased as a result of the charges made by solicitors acting for other parties in transactions they have been involved with.
- In such matters the scope of their work includes, inter alia, dealing with general correspondence; providing evidence of Title; dealing with any requisitions raised and the approval of the Transfer, plus (where appropriate), the lodging of the Land Certificate, as well as dealing with enquiries from purchasers' solicitors.
- Against that background they did not consider the proposed fee of £475 plus VAT and disbursements to be unreasonably high.

## **Decision**

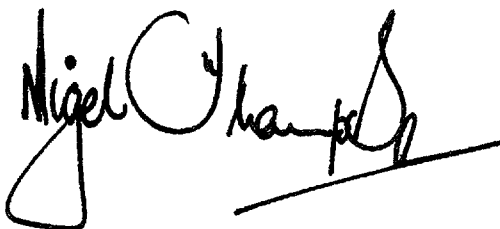
### **Legal costs:**

In cases of this type the conveyancing is normally of a very straightforward nature which many solicitors are therefore prepared to undertake on a competitive basis – particularly as no formal contract is required. At the present time, and in this instance, a reasonable charge is considered to be £275 (plus VAT and any Land Registry fee for Office Copies).

### **Valuation:**

From their response to the initial and informal approach about the possible sale of the freehold on 4<sup>th</sup> September 2002, it is clear that Bigwood first undertook some form of valuation at that time. However, this was not produced pursuant to the service of a Notice of Claim under the 1967 Act and therefore did not entitle them or their clients to recover a valuation fee from the lessee under the legislation.

Following the service of the formal Notice of Claim on 18<sup>th</sup> September 2002 however, it is equally clear that Bigwood must have carried out a further valuation given that they quoted a different price to Mr Brunt in their response on 23<sup>rd</sup> September and included in that, mention of the site value on which part of the valuation was based. This valuation was produced pursuant to the service of the Notice of Claim and as it was also prior to the reference to the Tribunal for a determination, the freeholder is entitled to recover a valuation fee for it. In the absence of any evidence or indication that even an external inspection of the property had been carried out as part of that second valuation process, however, the Tribunal determined that a reduced fee of £100 (plus VAT) would be commensurate with the work involved and should therefore be payable by the Lessee pursuant to Section 9 (4) (e) of the 1967 Act.

A handwritten signature in black ink, appearing to read 'Nigel R Thompson', with a horizontal line underneath.

**Nigel R Thompson**  
**Chairman**

**16 JAN 2003**