

4691



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

Case reference : **NAT/LON/00AW/OLR/2017/0251**

Property : **Flats 34,37 and 73 Chesterton
Square, Pembroke Road, London
W8 6PH**

Applicants : **(1) Hanna Lore Wittye
(2) Gary Irvine and Jane Irvine
(3) Sacha Newall**

Representative : **Comptons Solicitors LLP**

Respondents : **The London Borough of Kensington
and Chelsea**

Representative : **Legal Department**

Type of application : **Application for Determination of
Costs payable, pursuant to section
60 of the Leasehold Reform,
Housing and Urban Development
Act 1993**

Tribunal member(s) : **Judge Shaw
Mr L Jarero BSc FRICS**

**Date and venue of
hearing** : **17th April 2018
10 Alfred Place, London WC1E 7LR**

Date of Decision : **17th April 2018**

DECISION

INTRODUCTION

1. This case involves an application by the above named applicants for a determination of the costs to be paid by them, following the granting of new leases to them, under the above mentioned statutory provisions. The 3 leases were granted, for premiums of £8,600, £8,600, and £9,000 respectively, by the respondent local authority landlord. Section 60 costs are payable by the applicants, but the level of legal and surveyor's costs is disputed.
2. Directions were given in this dispute by the tribunal on 20th February 2018, and the respondent was required to supply effectively a breakdown of their costs as claimed in a proper schedule of costs, together with invoices and/or other relevant documents. According to the applicants, no proper breakdown has in fact been supplied. None appears in the Tribunal file.
3. The applicants were required to supply a Statement of Case together with legal submissions. They have done so, and the Statement appears at Tab 6 of the bundle prepared by them. The statement has been prepared by James Stephen Compton of the applicants' solicitors.
4. First, the legal costs claimed are challenged. The respondents claim £1,800 per flat. The applicants argue that on the basis of the authorities referred to at paragraph 4 of the statement of case, it is incumbent on the respondents, quite apart from the directions already given, to provide a proper breakdown – which they have failed to do. Further, the London Grade 3 rate is appropriate for an in-house legal department, and the hourly rate for a Grade A solicitor would be £229-£267.
5. The applicants suggest that about 5 hours work would be appropriate for each renewal (with which the Tribunal agrees). By taking the lowest level of the band, and applying a 10% discount for the duplication involved, they argue that the costs per flat should be £1030 per flat.

6. The view of the Tribunal is that there is no need to go to the lowest level, based only on the assertion that “*Local Authorities tend to charge a lower charge out rate...*”. Nor is the precise level of duplication clear from the material supplied by the applicants – although undoubtedly there will have been some repetition.

7. Doing the best it can on the material before it, and in the absence of any submissions from the respondent, the tribunal considers it fair to take the middle of the range supplied (£250), allow 5 hours (£1250) and apply a discount of approximately 5%, bringing the allowable costs to £1190 for each of the flats. The Tribunal agrees that £8 disbursement for office copy entries should be allowed but not the administrative costs of postage etc.

8. Secondly, the applicants challenge the valuation costs of £1500+ VAT for each flat. They submit that in the absence of a breakdown and given the modest level of the premiums, the fee should be reduced to £850 + VAT per flat.

9. The respondents engaged Cluttons LLP, as they were entitled to do. The applicants have not demonstrated that the flats are identical, and there is not a large volume of flats and duplication involved as is the case involved in some extensive housing developments. Again, doing the best it can on the sparse material before it, the tribunal considers that a fee consistent with the provisions of section 60, as set out in the applicants statement of case, would be £1000+ VAT for each flat, and this is the determination of the Tribunal.

CONCLUSION

10. For the reasons set out above, the tribunal determines that the legal costs payable in this case are £1000 + £8 disbursements for each flat, and surveyor’s valuation fees of £1000+ VAT for each flat.

Judge Shaw

17th April 2018