

**SOUTHERN RENT ASSESSMENT PANEL & LEASEHOLD VALUATION TRIBUNAL**

Leasehold Reform, Housing & Urban Development Act 1993

D M Nesbit JP FRICS FCI Arb (Chairman)  
R P Long LLB

**RE: 2 LYNTON COURT, 40 ST AUBYNS**  
**HOVE, EAST SUSSEX BN3 2TD**

Parties: Mr M D Grabsky & Maxiwood Ltd  
Case No: CHI/00ML/OCE/2004/0033

1. Arising from a decision of the Leasehold Valuation Tribunal dated 30th July 2004, the lessee, Mr Michael D Grabsky, made an application under Section 91(2)(d) of the Leasehold Reform Housing & Urban Development Act 1993 to determine a matter remaining in dispute between the parties, namely the amount of costs payable.
2. The determination of price for an enfranchisement includes costs within Section 32(2)(c). The amount for costs under Section 33 is 'the reasonable costs of and incidental to ....' and under Section 33(d) - "any valuation of any interest in the specified premises", and Section 33(e) - "any conveyance of any such interest".
3. The legal and valuation costs were, £270.25 legal costs; and £352.50 valuation fees of Stewart Gray FRICS, Austin Gray of Hove. Mr Grabsky accepted the legal fees, but objected to the valuation fee.
4. We invited the parties to submit representations. They did so. Copies were sent to both parties who confirmed that the matter could be determined by a Tribunal, without a Hearing.

**Representations**

Mr Grabsky maintained that Mr Gray's valuation had been undertaken without inspecting the flat, and that his own surveyor had made a charge of £250 + VAT. Mr Grabsky made other representations which have been noted.


6. Mr Gray permitted the release of his original report and valuation with his calculations. Mr Gray stated that £300 + VAT was his minimum fee for a lease extension valuation which had applied in several other cases he had handled.
7. Mr Gray was aware of the valuation prepared by Mr Grabsky's surveyor, he had local market evidence and he had made enquiries with the Land Registry. Mr Gray had provided, at our request, a copy of his original confirmation of instructions letter dated 22nd April 2003. We noted that the 'Basis of valuation' section stated that 'The valuation date is at the date of inspection unless otherwise confirmed.' Mr Gray had made an external inspection.

### Consideration

8. There is a difference of £50.00 plus VAT between the fee accounts of the two valuers.
9. We take the view that any Chartered Surveyor as a valuer would not accept instructions to provide a valuation opinion, unless he had the professional knowledge, experience and skill to undertake the specific instruction.
10. There are bound to be variations in charges among surveyors and valuers to reflect business and office costs, as well as an individual's ability and knowledge. The fact that another unidentified valuer may have charged £50 plus VAT less for similar work, does not of itself make Austin Gray's costs unreasonable.
11. Further, in these days of competitive fees, a client seeking a valuation would seek a fixed fee where the amount payable was certain at the outset.
12. Mr Gray did not provide a breakdown of his fee or hourly rate. Fees usually cover costs, profit and an allowance for risk, in that any valuation has the potential to give rise to a negligence claim. All professional work has the potential for negligence proceedings.
13. Whilst it may be unusual to provide a valuation without an internal inspection, Mr Gray stated he had sufficient information and his enquiries provided evidence for him to prepare his valuation.

### Determination

14. We find that the valuation costs of Austin Gray were incurred in pursuance of a notice giving rise to the application for a lease extension; there were costs of and incidental to the valuation of an interest in the property; they are reasonable to the extent that they might have reasonably been incurred if the freeholders had been personally liable, and that the costs do not relate to costs incurred with the LVT proceedings.
15. The valuation fee of £352.50 is payable to Mr S Gray FRICS, Austin Gray of Hove.

  
D M NESBIT  
Chairman