

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

Ref: BIR/44UF/OC6/2006/0001

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

**Applicants:** Mr and Mrs C.T. Watson (leaseholders)

**Respondents:** The Trustees of the Stoneleigh Estate Settlement ( freeholders)

**Subject property:** Alliance Cottage  
The Bank  
Stoneleigh  
Warwickshire  
CV8 3DA

**Application to the LVT:** 21 January 2006

**Hearing:** 26 April 2006

**Appearances:**

*For the applicants:* The Applicants appeared in person and their surveyor Mr. P.G. Rosier FRICS

*For the respondents:* No appearance

**Members of the LVT:** Mr. A.P. Bell MA LLB  
Mr. D.J. Satchwell FRICS  
Mrs A.M.Bartram

**Date of determination:** **12 MAY 2006**

## **Introduction**

- 1 This is a decision on an application under section 21(1) of the Leasehold Reform Act 1967 ("the 1967 Act") in respect of premises at Alliance Cottage The Bank Stoneleigh Warwickshire CV8 3DA ("the subject property") made on 21 January 2006 for the determination of the reasonable costs payable under section 9(4) of the 1967 Act.

## **Hearing**

- 2 The hearing was attended by the Applicants and their surveyor Mr. P.G. Rosier. The Respondents did not attend and were not represented.

## **Representations of the parties**

3. Mr. Watson spoke to his written submission of 17 February 2006 making the following points:
  - (a) the legal costs of their own solicitor amounted to £650 excluding VAT and disbursements representing 4½ hours work.
  - (b) the Respondents' solicitors had prepared the draft conveyance as they had told the Applicants' solicitors that it would be appropriate for them to prepare this as they had a standard form of conveyance for transactions of this nature.
  - (c) the Respondents claimed legal fees of their solicitors in respect of investigating and reporting on the claim amounting to £1,116.25 (including VAT and disbursements) representing 8 hours of time incurred by a trainee/junior assistant at an hourly rate £90/£150 and legal fees of £1,527.50 (including VAT and disbursements) in respect of deducing title and the conveyancing work representing 9 hours of a junior assistant's time at an hourly rate £150.
  - (d) he referred the Tribunal to various decisions of Midland Leasehold Valuation Tribunals and in particular that relating to 23 Barn Lane Kings Heath Birmingham of 28 April 2005 (Ref BIR/OOCN/OAF/2005/0025).
  - (e) he submitted that he had not received a full breakdown of the costs as he had requested which he had expected would be accompanied by detailed time records as he had assumed that the Respondents' solicitors would have these.
4. Boodle Hatfield on behalf of the Respondents submitted their written representations in a letter of 23 February 2006 (to be considered in conjunction with their trial bundle) in which they made the following points:
  - (a) they had produced a full report on the validity of the Notice of Claim and the contents of the Applicants' lease and also drafted and submitted a Notice in Reply.
  - (b) the conveyance of a property with an unregistered title was necessarily more complicated than that with a registered title involving as it did the deduction of title and the preparation of a draft conveyance, which they had prepared as they

considered this was more appropriate.

- (c) they considered that it was reasonable for the Applicants to pay those costs which it would be reasonable to charge their clients rather than be faced with a situation where their clients were required to make up any shortfall if a lower figure was awarded.

### **Decision of the Tribunal**

5. The Tribunal have not found it an easy task to assess what are the reasonable costs of the Respondents' solicitors in this case in the absence of detailed time records. The Tribunal conclude, following perusal of all the papers in the Respondents' trial bundle, that the transaction did not raise complex or unusual points of law, nor was it protracted by any lack of cooperation on the part of the Applicants' solicitors.
6. The Tribunal decided that they must approach the task by deciding what they consider, using their own knowledge and experience, was a reasonable time for carrying out the work evidenced by the trial bundle and then determining the reasonable hourly charging rate in order to arrive at the figure for the costs. They have done the first part of the exercise by following the breakdown of time as set out under four sub-headings in Boodle Hatfield's letter of 23 February 2006 under the heading "Investigation of the claimant's right to acquire the freehold" and then continuing under the references to items 9 to 14 inclusive of the trial bundle as referred to in the same letter under the heading "Conveyance". This breakdown of time involves cross referring to the documents contained in Boodle Hatfield's trial bundle.
7. The Tribunal have shown below the time that they find reasonably attributable in respect of and incidental to dealing with the various aspects of the transaction in those circumstances where the Applicants are liable for the Respondents' legal costs.

#### **Investigation of the claim**

Correspondence in respect of requesting title and rateable value information	½ hour
Considering the validity of the Notice of Claim etc	¾ hour
Drafting the report and reviewing the terms of the claimant's lease	1½ hours
Drafting and submitting a Notice in Reply (refer to paragraph 8 below)	No time

#### **The Conveyance**

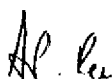
Item 9 -producing the epitome of title	½ hour
Item 10 - reviewing the lease	¾ hour
Item 11 - instructions as to the provisions of the conveyance	¼ hour
Item 12 - drafting the conveyance	1¼hours
Item 13 - consideration as to plans	¼ hour
Item 14 - taking instructions re the conveyance	¼ hour

#### **Total time**

**6 hours**

The total time of 6 hours determined by the Tribunal as being reasonable for the work undertaken compares with the recorded time of 4½ hours of the Applicants' solicitors, who admittedly did not prepare the draft conveyance as would normally be the case.

8. The Tribunal have disallowed the Respondents' claim for fees in respect of "Drafting and submitting a Notice" as they conclude that this work is outside the ambit of section 9 of the 1967 Act. This view is reinforced by the comment in paragraph 6-39 of Hague on Leasehold Enfranchisement ( 4<sup>th</sup> edition) that the tenant is not liable for "the landlord's costs of preparing and serving a Notice in Reply, serving copies on other persons interested, and taking general advice as to his rights under the Act".
9. The Tribunal note that, apart from the first couple or so letters, the work of Boodle Hatfield was carried out by a junior assistant or trainee whose relative inexperience might account for the time spent on the transaction, which the Tribunal find was an excessive amount of time for a reasonably experienced conveyancer to spend on a relatively straightforward matter, and may also have resulted in a certain amount of duplication, supervision and training in respect of work of the trainee and junior solicitor. However, without time records of who did what work and when this cannot be verified.
10. The Tribunal accept that the Respondents can recover their costs at the hourly rates charged by London solicitors where these are not unreasonable, having regard to the nature of the work, and such rates should not be reduced in consequence of lower hourly rates being charged by solicitors elsewhere. For this reason the Tribunal have allowed the recovery of the Respondents' legal costs for six hours work at a blended rate of £150 per hour in respect of the work variously done by a partner (which appears to be minimal), a junior solicitor and a trainee with a resultant figure for such costs of £950 plus VAT if applicable.
11. The Tribunal therefore determine that the reasonable costs incurred, in pursuance of the Applicants' notice in respect of the matters set out in section 9(4) of the 1967 Act, amount to £900 plus VAT ( if applicable).



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A. P. Bell  
Chairman

Dated **12 MAY 2006**