

RESIDENTIAL PROPERTY TRIBUNAL SERVICE for the
LONDON RENT ASSESSMENT PANEL



Residential
Property
TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

LON/LVT/1879/05

Applicant: Ian Hugh Lithman

Respondent: Ladywell Court (Hampstead) Management Ltd

Property: The Lodge at 10 and Garage 3, Ladywell Court
22 East Heath Road, Hampstead, London NW3 1AH

Appearances:

Mr Mark Dencer (Counsel)

For the Applicant

Mr Martin Dray (Counsel)

Mrs Jennifer Israel

Mr Daniel Fireman

For the Respondent

Date of Hearing: 19 July 2005

Members of the Tribunal:

Mr S Shaw LLB(Hons) MCI Arb

Miss M Krisko BSc (EstMan) BA FRICS

Mr P M J Casey MRICS

Date of Decision: 30 August 2005

PRELIMINARY

- 1 This case involves an application made pursuant to Section 21 of the Leasehold Reform Act 1967. Mr Ian Hugh Lithman ("the Applicant") has an admitted statutory entitlement to enfranchisement. The freehold title of the property in question, namely the Lodge at 10 and Garage 3 Ladywell Court, 22 East Heath Road, Hampstead, London NW3 1AH ("the Property") was owned by Ladywell Court (Hampstead) Management Ltd ("the Respondent"). The parties were unable to agree certain matters (to be referred to below) and accordingly the matter was referred by the Applicant to the Tribunal for determination.
- 2 By the time the matter came before the Tribunal on 19 July 2005, all valuation matters had been agreed (in fact the price was nominal at £2). However there remained numerous matters which could not be agreed concerning the terms of the Transfer. The Applicant is himself a conveyancing solicitor with very extensive experience. The Respondent had appointed Mrs Jennifer Israel (also a solicitor of some renown in this area) as a legal expert as well as separate solicitors. Both parties appeared represented by experienced Counsel.
- 3 In the event, with the commendable encouragement of their respective Counsel, the parties were able, during the course of the morning of the Hearing, to agree all terms of the Transfer and a copy of the Transfer form TP1 as agreed by the parties has now been forwarded to the Tribunal under cover of a letter dated 2 August 2005 from the Applicant. The remaining matter which was not capable of resolution at the Hearing, is the question of costs. Directions were given for representations to be made in writing in respect of those costs, and again, those representations have now been received. As indicated, the issue of costs remains the only matter upon which the parties seek a determination from the Tribunal.

COSTS

- 4 Representations in respect of costs from the Respondent amount effectively to four sentences:

“Owing to the multitude of requirements of the Applicant in relation to terms of the transfer, the work required to be carried was extensive, detailed and time consuming and was considered appropriate for a fee earner of partner level. It is for this reason that the costs claimed are substantial. Two partners were involved in this matter. However, no element of duplication of fees is sought.”

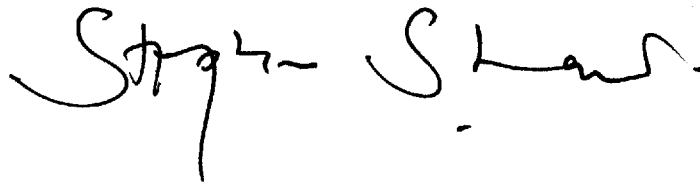
- 5 That representation accompanies a schedule of costs running to four pages prepared on behalf of the Respondent and producing a claim for costs in the sum of £6,363.
- 6 The Applicant in his representations and response to the costs claimed by the Respondent has organised his submissions in accordance with the provisions of Section (4) of the Leasehold Reform Act 1967 and which deals with the *“reasonable costs of or incidental to”* various matters. These submissions run to seven closely argued pages of representations (which have been carefully considered by each member of the Tribunal). No disrespect is meant to the Applicant if these submissions are not analysed meticulously in the context of this determination on costs. These submissions can perhaps robustly be summarised by stating that the Applicant challenges the bill presented on behalf of the Respondent on the basis that:
 - (a) the time spent is excessive and has been generated by an unreasonable stance taken by or on behalf of the Respondent on virtually all matters in respect of this Application. As an example, the Applicant points out that a valuation fee in the sum of £587.50 has been incurred in circumstances where there is 140 years unexpired on the relevant leases, and accordingly no marriage value was applicable. There was a peppercorn rent in each lease and accordingly, argues the Applicant, no sale value to the freehold. This would appear to have been recognised in the agreed nominal price.
 - (b) Allied to the first point, the Applicant contends that there were no especially complex points involved in this conveyance, of a kind which would have merited such high costs being incurred.
 - (c) The charging rate adopted is excessive.

7. The Tribunal is not perhaps in a perfect position to make determinations as to the merits of many of the points made by the Applicant concerning the alleged unreasonable stance taken by the Respondent in the context of this dispute, given that the matter has been resolved consensually, and that these matters have not been investigated on the evidence by the Tribunal. Moreover, it is not the approach of this Tribunal fastidiously to examine the necessity for each and every letter written or considered in the manner that might be adopted in a detailed assessment taking place within the context of court proceedings. It seems to the Tribunal that, doing the best that we can from the information available to us, there is force in the Applicant's contention that the time taken over this matter and claimed for on behalf of the Respondent, appears to be excessive. Many of the matters included within the Transfer would appear to have been lifted from rights previously enjoyed by the Applicant within the context of his lease, and which therefore would have been difficult to resist. It is also noteworthy that the Applicant and Mrs Israel on behalf of the Respondent, for whatever reason, had not met before the day of the Hearing. When they in fact did meet and sat down together they were able to resolve the matter within half a day. This does tend to suggest, that, notwithstanding the no doubt reasonable stance taken by the time of the Hearing, these matters were certainly soluble before the Hearing.
8. So far as the charging rate adopted by the Respondent's solicitors is concerned, the Applicant contends that the appropriate charging rate for Outer London would be £140-£180 and not the £250 claimed by the Respondent's solicitors. In fact, the property concerned is in Hampstead, and the Respondent's solicitors are based in Hampstead. Although outside the epicentre of London, Hampstead is a well known somewhat exclusive area, with properties commanding very high values, and local solicitors may well have a charging rate somewhat beyond that of the ordinary suburban firm. In all the circumstances we would allow a charging rate in a case of this kind and, taking into account the locality concerned, of £200 per hour.
9. The Applicant has however made detailed submissions in respect of the time spent on this matter, organised, as indicated, in accordance with the statutory sub-headings. No attempt has been made on behalf of the Respondent to justify this time by reference to those criteria. We do in fact conclude that the sum claimed is far in excess of anything

that could be allowed by the Tribunal on a transaction of this kind. The market for this type of work has matured and one would expect firms who carry out this work, and who are charging an hourly rate of the kind suggested in this case, to be familiar with the issues concerned, and accordingly complete the work within a reasonable timeframe. Moreover, the competition for this kind of work demands that firms give a competitive estimate at an early stage and then work within that estimate. Again, doing the best we can upon the information available, we would have expected a cost quotation of not more than £2,000 plus VAT in this case, which would represent some ten hours work at the charging rate referred to. In all the circumstances, taking into account the representations made and the Tribunal's own experience, we would allow therefore a sum of £2,000 plus VAT by way of the Responden's entitlement against the Applicant.

10. As indicated, the form of Transfer has been submitted to the Tribunal and agreed by the experienced solicitors on both sides and is approved by the Tribunal. The Transfer is annexed to this decision.

Chairman: S Shaw

A handwritten signature in black ink, appearing to read 'Stephen Shaw', with a stylized flourish at the end.

Date: 30th August 2005