

Ref: LON/NL/2574/04

**LEASEHOLD VALUATION TRIBUNAL FOR THE  
LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN  
APPLICATION UNDER SECTION 60 OF THE LEASEHOLD  
REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

**Applicant:** Mr & Mrs Posner

**Respondent:** Mr & Mrs Collins

**RE:** 7 Lincoln Court, London Road, Enfield

**Application to Tribunal by** Messrs Vanderpump & Sykes dated  
28 April 2004

**Heard:** Tuesday 22 June 2004

**Members of the Leasehold Valuation Tribunal:**

Mrs T I Rabin JP (Chairman)

**Date of Tribunal's decision:** 6 July 2004

LON/NL/2574/2004

7 Lincoln Court London Road Enfield EN2

### **FACTS**

1. This was an application by the tenants, David Stanley Posner and Hettie Posner ("the Applicants") for a determination of the reasonableness of the costs incurred by the Landlord, Duncan Paul Collins and Susan Charlotte Collins ("the Respondents") in connection with the grant of a new lease of the subject property. The procedure regarding costs in connection with the grant of a new lease is set out in Section 60 of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act").
2. The terms for the acquisition of a new lease had been agreed but the agreement of the Respondent's solicitor's costs and disbursements remained at issue and the matter was referred to the Tribunal to be determined without a hearing and on written representations only and the matter was determined on 22<sup>nd</sup> June 2004.
3. The Appellants were represented by Messrs Vanderpump and Sykes who had submitted a bundle of documents. The Respondents had been represented by Messrs Pitmans. The Tribunal had copy correspondence from Messrs Pitmans dated 28<sup>th</sup> May 2004 providing details of the costs incurred. This was in accordance with the directions given by the Tribunal and would be regarded as the Respondent's case. A reply had been received from the Applicants' solicitors on 4<sup>th</sup> June, again in accordance with the directions and this would be regarded as the Applicants' statement in response.

### **DETERMINATION**

4. The Applicants submitted a determination on the question of costs pursuant to Section 60 of the Act which related to Flats 1, 8, 29, 31 and 37 Lincoln Court aforesaid (LON/NL/1630-35/02) which they stated in written submissions was relevant to the subject property. In this determination the Tribunal dealt with the legal costs incurred in the grant of leases to the various tenants in the same block as the subject property and with the same Respondents as in this matter. It was apparent from reading the breakdown of costs and the findings of the other Tribunal that a great deal of the basic work had been carried out in connection with the grant of the various leases by way of Deed of Variation.
5. The breakdown of charges relating to the subject property is contained in the letter from Messrs Pitmans dated 28<sup>th</sup> May 2004, a copy of which is annexed hereto as the Appendix. The charges are challenged by Messrs Vanderpump and Sykes in their response on the basis that the

costs are not reasonable and not within the scope of Section 60 (2) of the Act.

6. Section 60 of the Act provides

(1) Where a notice is given under Section 42 of the Act ...the tenant shall be liable for ....the reasonable costs of and incidental to the following matters (inter alia):

- (a) Any investigation reasonably undertaken of the tenant's right to a new lease
- (b) any valuation of the tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of anew lease under Section 56
- (c) The grant of anew lease under that section

(2) For the purposes of sub-section (1) any costs incurred by a relevant person in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably have been expected to have been incurred by him if the circumstances are such that he was personally liable for those costs

7. The Tribunal proposes to deal with the individual heads of charge set out in Messrs Pitmans letter separately.

**(a) Photocopying**

215 sheets a 10p	£21.50
VAT	£ 3.76

This sum was agreed.

**(b) Attendances by a partner**

5.3 hours @ £275 per hour	£1457.50
VAT	£ 255.06

Messrs Vanderpump and Sykes queried this cost on the basis that some 5.8 hours had been spent on attendances, perusals and investigation in respect of Flats 1, 8, 29, 31, 35 and 37 Lincoln Court aforesaid ("the Other Flats") and it was not reasonable to require a further 5.3 hours of work on the subject property. In addition they did not consider a partners time was merited for a transaction of this nature.

The Tribunal considers that the individual properties were virtually identical and much of the work would have been duplication. Bearing in mind that 5.8 hours was allowed by the Tribunal in respect of the costs incurred for the same work in

relation to the Other Flats, the Tribunal considers that the charges are not reasonable and that the Landlord would not have been reasonably expected to incur these costs for the work described limited to one flat in the block. The Tribunal attributes 3 hours work by a partner would be reasonable making a figure of £825 plus VAT of £144.38.

(c) <b>Courier</b>	£ 18.00
	VAT £ 3.15

This figure was agreed

**(d) Letters and phone calls sent and received**

37 @ £27.50 each	£1017.50
	VAT £ 178.06

This figure was disputed on the basis that the same issues were covered as were dealt with in the Other Flats. Messrs Vanderpump and Sykes asked for confirmation that the letters and telephone calls dealt exclusively with the subject property and none of the Other Flats and proposed that six letters and telephone calls would have sufficed. No response was received from Messrs Pitmans.

The Tribunal considers that the number of letters and telephone calls is excessive and, in the absence of confirmation that all 37 letters and phone calls referred to the subject property, considers that the matter could reasonably have been dealt with by twelve letters and telephone calls at £27.50 each, making a total of £330 plus VAT of £57.50.

(e) <b>Office Copy entries</b>	£ 16.00
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This figure is agreed

**(f) Preparation of Deed of Variation**

2.75 hours @ £275 per hour	£ 756.25
	VAT £ 132.35

This figure is disputed on the basis that the Deed of Variation was a two page document which had been previously agreed in relation to the Other Flats and the only details to be changed were the names, the address of the subject property and the names of the lessees. Messrs Vanderpump and Sykes considered that half an hour was sufficient

The Tribunal agreed that the fee was excessive for the preparation of a Deed of Variation when the form had been

agreed in relation to the Other Flats. Even if this had not been the case, Deeds of Variation are normally in standard form and the charges were excessive, if discounting the fact that the Deed was in agreed form. The Tribunal considers that one hour would have been reasonable and will allow £275 plus VAT of £48.12.

**(g) Completion of the Deed of Variation in accordance with the Act**

3 hours @ £275 per hour	£ 805.00
	VAT £ 148.75

This was not agreed as no evidence of time spent was produced. Messrs Vanderpump and Sykes stated that the matter could have been dealt with by a junior solicitor making one telephone call and writing one letter. The breakdown of costs was not provided and it was considered that one telephone call and one letter at £12.50 plus VAT would be appropriate.

The Tribunal did not consider that the charges for completion of the Deed of Variation were reasonable. There would be very little work involved to complete a Deed of Variation where Deeds of Variation had already been granted in the Other Flats, particularly where a charge has already been made for the preparation of the Deed of Variation. The Tribunal considers that one hour would be reasonable at £275.00 plus VAT of £48.12.

**(h) Valuation Fee**

Landlord's valuers fee	£ 900.00
	VAT £ 157.15

This was not agreed on the basis that it was excessive for one property, especially since the valuer had already prepared valuations in respect of the Other Flats. Messrs Vanderpump and Sykes pointed out that that, had the valuer charged £900 for each of the Other Flats, his fee would have been £6,300 plus VAT. Confirmation was requested that the fee quoted by the valuer related solely to the negotiations for the subject property but no such confirmation has been received.

The Tribunal noted that the fee of the valuer in respect of all the Other Flats was a total of £900 plus VAT. It cannot be considered reasonable to make a charge in the same sum as a charge for six flats in relation to the subject property. The Tribunal considers that a charge for the valuer of £500 plus VAT of £87.50 would be reasonable.

8. In making the determination the Tribunal has been mindful of the provisions of Section 60 (2) of the Act which compares the level of costs allowed to the relevant party with those the relevant party would have incurred had he or she been personally liable for the costs. In this case, a lot of work, both in legal and surveying terms, would have been carried out (and paid for) in relation to the sale of the Other Flats. The Respondent changed solicitors and that may have increased the costs to Messrs Pitmans. However, the Tribunal must look at the costs that would be reasonable in the circumstances of the case in question, taking into consideration the provisions of Section 60 of the Act.

### **DECISION**

9. The Tribunal produces the following table to indicate those fees which it has determined as being payable by the Applicant in connection with the grant of a new lease of the subject property.

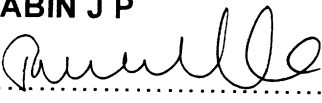
ITEM	CLAIMED	CLAIMED INC VAT	TOTAL ALLOWED INC VAT
	£	£	£
(a) Photocopying	21.50	25.26	25.26
(b) Attendances	1457.50	1712.56	969.38
(c) Courier	18.00	21.15	21.15
(d) Letters and phone calls	1017.50	1195.56	387.75
(e) Office Copy Entries		16.00	16.00
(f) Preparation of Deed of Variation	756.25	888.60	323.12
(g) Completion of Deed of Variation	850.00	998.75	323.12
(h) Valuation fee	900.00	1057.15	587.50
<b>TOTAL</b>		<b>5915.03</b>	<b>2653.28</b>

### **APPENDIX**

Letter from Messrs Pitmans dated 28<sup>th</sup> May 2004

TRIBUNAL

MRS T I RABIN J P

SIGNED  .....

DATED: 6 July 2004

## COPY

Vanderpump & Sykes  
DX 142500  
Enfield 7

E: whoward@pitmans.com  
F: +44 (0) 118 9570371  
Our ref: WIH/NME/COENF  
Your ref: JP/Posner/35715-1  
Date: 28 May 2004

Fax no: 020 8367 6252

Dear Sirs

# 7 LINCOLN COURT

Further to correspondence in the above matter and directions of The Leasehold Valuation Tribunal dated 19 May 2004, we set out below a statement of costs incurred in accordance with The Leasehold Reform & Housing and Urban Development Act 1993:

1.	Photocopying 215 @ 10p	21.50
		VAT 3.76
2.	Attendances and perusals together With preparation and investigation as to the tenants' interest in the premises and ability to proceed under the Initial Notice and matters arising thereout. Dedication of title and obtaining valuation.	
	5.3 hours @ £275 per hour	1,457.50
		VAT 255.06
3.	Courier to client and Valuers	18.00
		VAT 3.15
4.	Letters in and out and telephone calls in and out 37 x £27.50	
		1,017.50
		VAT 178.06



5.	Office copy entries	16.00
6.	Preparation of Deed of Variation 2.75 hours @ £275 per hour	756.25
	VAT	132.35
7.	Completion of Deed of Variation/ Lease Extension pursuant to the Act	850.00
	VAT	148.75
8.	Valuation fees	<u>1,057.50</u>
		£5,915.38

We await agreement regarding the above fees and/or a response in accordance with the said directors. We would point out the directors relate only to 7 Lincoln Court and await your proposals regarding 5 Lincoln Court in respect of which you served notice under Section 42 on 16 December 2002 requiring our client to engage legal services notwithstanding your client did not proceed although no formal notice has ever been given to that effect.

Yours faithfully

**Pitmans**