

Ref: LON/LVL/19/05

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

**DETERMINATION**

RE APPLICATION AS TO APPORTIONMENT OF COSTS

under

Section 91(1)(2)(d)(e) and Schedule 1 Part II para.8(2) to the Leasehold  
Reform, Housing and Urban Development Act 1993

**PREMISES:**      **15 Surbiton Hill Park, Surbiton, Surrey KT5 8EQ**

**Applicant:**            15 Surbiton Hill Park Ltd                            [*Reversioner*]

**Respondents:**      (1) RIAD Ltd  
                              (2) Source Investments Ltd            [*Intermediate Lessors*]

**Member of the Tribunal:**

Professor J T FARRAND QC LLD FCIArb Solicitor

1. In pursuance of Directions dated 13 June 2006, this Application, received has been determined without any further oral hearing, on the basis of the written representations and supporting documentation received by the Tribunal.
2. Those Directions required that the Respondents should, by Wednesday 5 July 2006, each serve on the Applicant and copy to the Tribunal a fully detailed Statement, together with any documents which they wish taken into consideration, in Response to the Statement of Case already submitted by the Applicant.
3. However, nothing has been received by the Tribunal from either Respondent. Accordingly, the Tribunal has considered the Application 'off the papers' received from the Applicant alone.
4. Essentially, the Applicant claims that the Respondents should make a just contribution to costs of £19,333 which it had incurred as the Reversioner in enfranchisement proceedings. A summary with details of these costs was supplied with the Application, but without supporting invoices and/receipts. The Tribunal has jurisdiction to determine the amount and apportionment of costs payable under the 1993 Act (under s.91(1)(2)(d) and (e)).
5. The 1993 Act provides (para.8(2) of Schedule 1):

“Each of the relevant landlords shall make such contribution as shall be just to the costs and expenses properly incurred by the reversioner in pursuance of section 9(3) which are not recoverable or not recovered from the nominee purchaser or any other person.”
6. As freeholder, the Applicant was the “reversioner” and as intermediate landlords, the Respondents were “relevant landlords” (s.9(2) and Schedule 1 Part 1). The costs of the proceedings are not recoverable from the nominee purchaser (s.33(5)).
7. Section 9(3) provides (*italics supplied*):

“*Subject to the provisions of Part II of Schedule 1*, the reversioner in respect of any premises shall, in a case to which subsection (2) [or 2A] applies, conduct on behalf of all the relevant landlords all proceedings arising out of any notice given with respect to the premises under section 13 (whether the proceedings are for resisting or giving effect to the claim in question).”

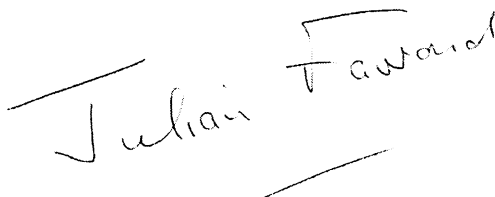
8. However, each of the Respondents gave notice under para.7(1) in Part II of Schedule 1 to the 1993 whereby they became entitled to be separately represented in legal proceedings. Therefore the Applicant was no longer obliged or entitled to conduct the Tribunal proceedings on their behalf. It follows that the Applicant's costs were not incurred in pursuance of s.9(3) as required in order for any contributions to be payable.

9. The Tribunal does not consider this a mere matter of legal technicalities. In reality, the Applicant never purported to conduct the proceedings on behalf of the Respondents but against them. Indeed, the application made by the Applicant to the Tribunal in those proceedings was vigorously opposed by the representatives of each of the Respondents, in particular at the Hearing by Mr Ratcliff for RIAD Ltd (despite the fact that he had required it, as he was entitled to under para.7(3) in Part II of Schedule I).

10. In all the circumstances, the Tribunal could not regard it as just for the Respondents to be required to contribute to their adversaries' costs and expenses of such proceedings. The statutory purpose of para.8(2) of Schedule 1 must be to cater for the situation where all the landlords are on the same side with a reversioner representing all of them against a nominee purchaser. That was all too evidently not the situation during the enfranchisement proceedings in the present case.

11. Accordingly, the Tribunal determines that no amount of contribution to the Reversioner's costs and expenses of those proceedings would be just and that none is payable by either Respondent.

12. The Tribunal does also have an appropriate jurisdiction to determine that any party to proceedings should pay the costs incurred by another party (see para.10 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002). This jurisdiction is limited to the circumstances specified in the provision and the amount must not exceed £500. However, no application has been made within this limited jurisdiction for the Tribunal to consider.

Julian Fawcett

**CHAIRMAN**

**DATE**

25 July 2006

THE LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL.

LON/LVL/19/06

**Commonhold and Leasehold Reform Act 2002**

**DECISION ON AN APPLICATION FOR LEAVE TO APPEAL**  
**RE: 15 Surbiton Hill Park, Surbiton, KT5 8EQ**

**Applicants:** 15 Surbiton Hill Park Ltd

**Respondents:** RIAD Ltd  
Source Investments Ltd

1. The Tribunal has considered the Applicant's request for Leave to Appeal dated **10<sup>th</sup> August 2006** and determines that Leave be granted to Appeal to the Lands Tribunal.

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**Tribunal:** Mr. J. Farrand QC LLD FCI Arb

**Signed:** .....  .....

**Dated:** ..... 17 Aug 2006 .....