

Case Ref. BIR/41UD/OAF/2006/0142

MIDLAND RENT ASSESSMENT PANEL

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

Leasehold Reform Act 1967

On an application under Section 21(1)(ba) to determine the Landlord's valuation fees payable under Section 9(4) to acquire the Freehold interest under the Act.

24 GILBERT ROAD, LICHFIELD, STAFFORDSHIRE, WS13 6AX

Applicants	Paul Stuart Coombe and Joanne Boyer (Tenants)
Respondent	Lichfield District Council (Landlord)
Date of Notice	23rd May 2006
Date of Application to Tribunal	30th August 2006
Heard at	The Panel Office
On	23rd November 2006

Members of the Leasehold Valuation Tribunal:

Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mrs M. Robertson
Mr D. Underhill

Date of Tribunal Determination: **04 DEC 2006**

Determination:	Valuation Fee	£150.00 plus VAT
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1 Introduction

- 1.1 This is an application by the Lessees for the Tribunal to determine the landlord's valuation fee in respect of the purchase of the Freehold interest from their landlord Lichfield District Council under s.21(1)(ba) of the Leasehold Reform Act 1967.

2 Legal Provisions

- 2.1 Under s.9(4) of the Act the Applicant is responsible for 'the reasonable costs of or incidental to any of the following matters:- ... (e) any valuation of the house and premises;'
- 2.2 Section 9 was amended by the Commonhold and Leasehold Reform Act 2002 as follows: '(4A) Subsection 4 does not require a person to bear the costs of another person in connection with an application to a leasehold valuation tribunal.'
- 2.3 It follows that any valuation fees claimed by a Respondent have to be incurred between the date of the Applicant's Notice to purchase and the date of application to a Leasehold Valuation Tribunal.
- 2.4 On 23rd May 2006 the Applicants' agents, Midland Valuations Limited, served Notice to acquire the Freehold interest from the respondent landlords.
- 2.5 On 30th August 2006 the Applicants' agents applied to the Leasehold Valuation Tribunal for determination of the price of the Freehold under sections 21(1)(a) and 9(1) of the Leasehold Reform Act 1967 and the landlord's costs under s.21(1)(ba) and 9(4).
- 2.6 The parties had agreed the price of the Freehold and the landlord's legal fees but not the valuation fee and the matter was referred to the Tribunal for Hearing.

3 Hearing

- 3.1 The lessees were represented at the Hearing by Mr J. Moore of Midland Valuations Limited. Mr Moore said he had not received a response from the landlord following his notice and applied to the Tribunal on 30th August 2006. He had seen no evidence that the landlord had carried out a valuation pursuant to the Notice, rather than pursuant to the application to the Tribunal, and accordingly submitted that no fee should be payable.
- 3.2 In the alternative, if it were found that a valuation had been carried out, the fee should be appropriate for an external inspection as there was no evidence that a landlord's Valuer had inspected the interior. In previous cases in the same block of property, the Leasehold Valuation Tribunal had awarded valuation fees of £100 each plus VAT where the Tribunal had been asked to determine 7 cases heard collectively on 7th June 2006. In those cases the landlord's valuer had been the same as in the present case, the Valuation Office Agency. (Refs. BIR/41UD/OC6/2006/004-10)

3.3 Prior to the Hearing, the Tribunal received a written Submission from the Valuation Office Agency advising that they acted as agents for the landlord and claiming that they had carried out an external inspection on 4th August 2006. They said they had sent a letter to the lessees' agents on 10th August 2006 proposing terms which had unfortunately not been received and had sent a copy on 26th September 2006.

3.4 They requested valuation fees of £310 plus VAT.

4 Determination

4.1 Although there were no copies of a dated valuation submitted to the Tribunal, the District Valuer claimed to have carried out an external inspection and we find that in the absence of evidence to the contrary and on the balance of probability this is accepted.

4.2 We find that a fee of £310 plus VAT would be appropriate for a full internal and external inspection but where the inspection was limited it should be less. We considered the cases referred to by Mr Moore but note that seven cases had been heard together and would have attracted economies of scale. In the present case, there is only one valuation but the Valuer would have spent similar time visiting the site undertaking basic research. The fee should therefore be between £100 and £310, plus VAT.

4.3 Having considered the evidence, we determine the valuation fee at £150 (One Hundred and Fifty Pounds) plus VAT.



I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

04 DEC 2006