

LON/ENF/851/03

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

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 33 OF THE LEASEHOLD
REFORM HOUSING AND URBAN DEVELOPMENT ACT 1993**

Applicant: Mr S Rafter & Ms J A Grosvenor

Respondent: Dr C Morrell

RE: 68 Stanlake Road, London, W12 7HL

Application to Tribunal by Tenant dated 21 May 2003

Heard: 14 October 2003

Appearances: Mr S V Rafter
Ms J A Grosvenor
for the nominee purchaser

Members of the Leasehold Valuation Tribunal:

Mr N K Nicol LLB (Lond) **(Chairman)**
Mrs J E Davies FRICS
Mr M A Loveday BA (Hons)

Nominee purchaser's section 13 notice dated: 25 September 2002

Landlord's section 21 counter-notice dated: 26 November 2002

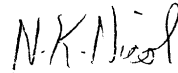
Date of Tribunal's decision: 14 October 2003

DETERMINATION & REASONS

1. The two leaseholders of the two flats at 68 Stanlake Road, London W12, Mr Rafter and Ms Grosvenor, are looking to exercise their right of collective enfranchisement under the Leasehold Reform, Housing and Urban Development Act 1993. The leaseholders eventually reached agreement with the freeholder, Dr Morrell, on the price to be paid for his interest, namely £6,500. However, they were not able to agree on the amount to be paid in respect of the legal fees incurred by Dr Morrell and a hearing was held on 14th October 2003 to determine this one remaining issue.
2. Dr Morrell was unable to attend the hearing. His application for an adjournment had been refused. Instead, he sent written representations by letter dated 29th September 2003 supported by a paginated bundle of documents. Mr Rafter and Ms Grosvenor also sent in representations by letter dated 7th October 2003 but also attended the hearing.
3. Dr Morrell appointed Alan Edwards & Co, a firm experienced in collective enfranchisement matters, to represent him. Their fees, broken down on pages 2 and 3 of Dr Morrell's bundle, amounted to £2,242 plus VAT. Mr Rafter and Ms Grosvenor think this is excessive and had offered to pay £1,000 plus VAT instead.
4. The Tribunal is inclined to agree that the proposed legal fees are high and have three particular areas of concern.
5. Firstly, there are two items listed at the end of the breakdown of costs, namely "Consideration of file and calculation as to costs – 1.50 hours" for £345 and "Proposed costs to bring matters to completion" for £450. They are the two largest single items but are entirely unsupported by any detail, explanation or evidence.
6. Secondly, the Tribunal must bear in mind that costs should be proportionate to the value of the case. This case is of a relatively low value compared with the majority of collective enfranchisements. It also appears to this Tribunal that it is entirely straightforward. Dr Morrell suggests that there was a question as to the validity of the leaseholders' initial notice. However, the only consideration of this point appears to be a few paragraphs in one letter from Alan Edwards & Co to Dr Morrell. The supposed question was never raised in correspondence between the parties and so does not appear to have been regarded by anyone as important.
7. Thirdly, over half of the costs allegedly incurred by Alan Edwards & Co were incurred after 24th December 2002 and yet, in a letter of that date to Dr Morrell, Mr Edwards himself states, "I would not anticipate that my involvement is going to be great in the future as the negotiations will be

conducted by Roger [Dr Morrell's valuer]". Once due consideration had been given to the leaseholders' right to enfranchise, as it had done by this date, the solicitors are entirely right to think that their involvement would diminish.

8. In the light of these factors, the Tribunal determines that the amount payable by the leaseholders in respect of the freeholder's legal fees shall be £1,250 plus VAT.
9. As far as the Tribunal is aware, this concludes the issues in dispute between the parties. The leaseholders expressed concern that the freeholder might want to delay matters further. The Tribunal sees no further reason for delaying the enfranchisement and would expect this transaction to be completed shortly.



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NK Nicol
Chairman
14th October 2003