RESIDENTIAL PROPERTY TRIBUNAL

LEASEHOLD VALUATION TRIBUNAL

Reference; LVT/0067/03/17

In the Matter of: Flats 55-60 Grangemoor Court, Cardiff, CF11 0AR

In the Matter of an Application under section 88 (4) of the Commonhold and Leasehold Reform Act 2002 ("the Act")

APPLICANT Grangemoor Court (No 7) RTM Co Ltd

RESPONDENT Fairhold Holdings (2006) Appts Limited (Respondent)

TRIBUNAL: David Foulds (Legal Chair)

Date of Hearing: 21st April 2017

Date of Decision: 5th May 2017

DECISION

That the costs payable by the Applicant to the Respondent are £507.50 plus VAT.

REASONS

The Application

1. This is an application for a determination of the amount of costs payable by the Applicant to the Respondent further to the Tribunal's decision that on the relevant date the Applicant was not entitled to acquire the right to manage the premises known as Flats 55-60 inclusive Grangemoor Court, Dunleavy Drive, Cardiff Bay, Cardiff ("the Premises").

2. Further to the above decision the Respondent submitted a claim for costs to the Applicant dated 2 February 2017 in the sum of £903.00 comprising £750.00 plus VAT profit costs and £3.00 Land Registry disbursements. In response the Applicant made an application to the Tribunal dated 23 February 2017 for a determination of reasonable costs.

3. Further to directions issued by the Tribunal the Respondent has provided a Cost Breakdown under cover of letter dated 24 March 2017 (hereinafter referred to as "Respondent's Costs Breakdown") and the Applicant has provided a document entitled "Applicant's Submissions Regarding Costs" ("hereinafter referred to as "Applicant's Submissions") dated 6th April 2017.

4. The Tribunal based its determination upon the contents of the above documents and without holding an oral hearing.

Reasons

5. The Applicant quite rightly refers to the fact that the present claim for right to manage was one of 10 simultaneous claims. The Respondent's 10 counter notices were served simultaneously. The Applicant's previous application to the Tribunal for a determination that it had the right to manage was also one of 10 like applications made at the same time albeit by separate individual right to manage companies in respect of each of the 10 blocks concerned. The preparatory work carried out by the parties as part of the tribunal proceedings was for all relevant purposes carried out at the same time in respect of all 10 applications. Save for an additional ground of objection in respect of Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited, the issues raised and representation made by the parties in respect of all 10 applications were the same. The Tribunal proceedings also considered all 10 applications at the same hearing.

6. The Applicant in summary makes two overall submissions in respect of the costs namely that some of the costs that have been allocated to an individual application should have been apportioned over all 10 applications. Secondly that certain items of costs are excessive.

7. The Tribunal will now go through each item stated on the Respondent's Costs Breakdown giving its reasons as appropriate for allowing such expenditure or determining a lower sum to be payable.

Assessment of Respondent's Costs Breakdown

8. Item 1. Apportionment considered reasonable and time claimed considered reasonable

9. Item 2. Apportionment considered reasonable and time claimed considered reasonable

10. Item 3. Apportionment considered reasonable and time claimed considered reasonable

11. Item 4. Apportionment considered reasonable and time claimed considered reasonable

12. Item 5. Apportionment considered reasonable and time claimed considered reasonable

13. Item 6. Individually allocated considered reasonable and time claimed considered reasonable

14. Item 7. Apportionment considered reasonable and time claimed considered reasonable

15. Item 8. The Applicant submits the Counter-Notices were pro forma documents and largely generic and lacked specifity. The Applicant submits that an individual allocation of 4 units is excessive.

16. The Tribunal notes that apart from the name of the individual RTM Company concerned, only paragraph 1 of the Counter Notice is case specific. The remainder of the document is a pro-forma document. The Tribunal considers that it would reasonably take a maximum of 4 units to prepare the first such Counter-Notice and then only an additional 2 units in respect of the remaining claims save for Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited where it would be reasonable to allow 3 units each due to the additional ground of objection in each case. The Tribunal is of the opinion that the fairest and most reasonable way to address the repetitive nature of the work over 10 applications is to apportion the time involved. The Tribunal therefore allows 22 units apportioned over all 10 claims and an additional 2 units each to Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited.

17. Item 9. The Applicant submits that an individual allocation of 1 unit per case for a simple covering letter in identical format (save for change of address) is unreasonable and this time should be apportioned. Reminding itself that the Tribunal is considering the time it is reasonable for the solicitor concerned to have been engaged on this work and not support administration staff, the Tribunal agrees with the Applicant. It would be reasonable for the solicitor to consider all 10 cases at the same time and direct the same letter be sent and this should take no more than 3 units apportioned across all 10 cases.

18. Item 10. Apportionment considered reasonable and time claimed considered reasonable

19. Item 11. Apportionment considered reasonable and time claimed considered reasonable

20. Item 12. Apportionment considered reasonable and time claimed considered reasonable

21. Item 13. The Applicant submits it is unreasonable to claim 1 hour in total across all 10 cases (the result of 1 unit individually allocated per case as

claimed) for sending a simple letter comprising two sentences and duplicated across all 10 cases. The Tribunal notes however that the description of work claimed for goes beyond the sending of this letter and includes “Considering letter from Tribunal and documents from to Rees Wood Terry”. The Tribunal has no further information in respect of the work involved and thus it is difficult to conclude the time that would be reasonably engaged in this work. On the basis that the Respondent reviewed paperwork in order to confirm the grounds relied upon the Tribunal considers the amount claimed to be reasonable and individual allocation to be reasonable.

22. Item 14. Apportionment considered reasonable and time claimed considered reasonable

23. Item 15. The Applicant submits individual allocation of 2 hours per case for drafting the Statement of Case and filing and serving the same to be unreasonable. Save for Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited, the Applicant correctly submits the Statements of Case were virtually identical and submits that the time engaged as claimed is excessive and the time engaged should be apportioned. The Tribunal considers it reasonable to have been engaged for 2 hours on the first Statement of Case. Having already identified that the issues in respect of all the other cases were virtually identical save for Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited, the Tribunal considers it reasonable to have then been engaged for an additional 8 units per case amending the Statement of Case specific to that case. Whilst the amendments were relatively minimal the Tribunal recognises the importance of ensuring the accuracy of this document and considers 8 units reasonable. In respect of Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited the Tribunal considers an additional 3 units individually allocated also to be reasonable. The Tribunal considers the fairest way to address the repetitive nature of the work is to apportion the work and in total therefore allows 92 units to be apportioned over all 10 cases and an additional individual allocation to for Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited of 3 units per case.

24. Item 16. The Applicant submits that it is unreasonable to claim 2 hours in total (the result of 2 units individually allocated per case as claimed) for reviewing the Applicant’s Responses which were virtually identical documents. The Tribunal takes a like approach as per item 15 above and considers it reasonable to have been engaged for 8 units to study the first Response (it being only a 6 ½ page document of no particular complexity) and an additional 3 units per case thereafter but allowing an individual further allocation of 2 units in respect of Grangemoor Court (NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company. The Tribunal therefore allows 35 units to be apportioned over all 10 cases and an additional individual allocation to Grangemoor Court

(NO 4) RTM Company Limited and Grangemoor Court (NO 10) RTM Company Limited of 2 units per case.

25. Item 17. The Tribunal notes that no time engaged has been stated and therefore no costs have been allowed.

26. Item 18. The Applicant submits that a claim of 2 hours (the result of 2 units individually allocated per case as claimed) for a simple covering letter enclosing two copy documents is excessive and that the task was largely administrative and should have been apportioned. The Tribunal agrees. The letter in question should not reasonably have taken more than 4 units at most to prepare and check the enclosures over all 10 cases and thereafter the task was an administrative one. The Tribunal allows 4 units apportioned over all 10 cases.

27. Item 19. Apportionment considered reasonable and time claimed considered reasonable

28. Item 20. Apportionment considered reasonable and time claimed considered reasonable

Applicant's further general submissions

29. The Applicant submits that some of the apportionment time includes entries for liaising with managing agents and the applicant queries what this is for, pointing out that notices and submissions in the case were filed separately by the managing agents own legal representatives. The Tribunal notes that in total only 3 units have been claimed and apportioned for liaising with the other Respondent and the Tribunal considers this to be reasonable.

30. The Applicant submits that it was not necessary for a Grade A fee earner to have carried out the work as the issues were not complex and the work could have been carried out by a Grade B fee earner. The Tribunal considers that in respect of the items of work claimed it was reasonable for this work to be carried out by a Grade A fee earner. The cases presented issues of law that were commensurate with that grade. The Tribunal notes that an hourly rate of £250 has been claimed. The Tribunal considers this to be reasonable.

31. Finally the Applicant submits that the Respondent would not have reasonably been expected to pay for a Grade A fee earner if meeting the costs itself. The Tribunal considers that it would have been reasonable to expect the Respondent to agree to pay for such a level of fee earner given the nature of the work and the various issues of law raised therein and the importance of the work to the Respondent. The Applicant further submits the Respondent would have wanted a discount for the number of cases. The Tribunal has already addressed this issue by means of apportionment of the work involved.

Amount payable

Taking account of the above the individual allocated units for this case are 3 units @ £250 per hour = £25 per unit = £75.00

The total units to be apportioned across all 10 cases are 173 units making a claim of 17.3 units per case @ £250 per hour = £432.50.

Total costs = £507.50 plus VAT.

Dated this 5th day of May 2017

CHAIRMAN