

**Y TRIBIWNLYS EIDDO PRESWYL**

**RESIDENTIAL PROPERTY TRIBUNAL**

**LEASEHOLD VALUATION TRIBUNAL  
(Commonhold and Leasehold Reform Act 2002)**

**Reference:** LVT/0015/05/19

**Property:** Cors y Gedol, High Street, Barmouth, Gwynedd, LL42 1DP

**Applicant:** CYG RTM Limited

**Respondents:** Gedol Limited, Adriatic Land 3 Limited

**Committee:** Chairman J Rostron  
Surveyor Neil Martindale FRICS  
Lay Member Eifion Jones JP

**REASONS FOR THE DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

**The tribunal's determination of the costs payable under section 88(4) of the *Commonhold and Leasehold Reform Act 2002* (the "Act") are £3206.40 plus VAT if applicable and £24 for disbursements.**

**Introduction.**

1. We convened as a Leasehold Valuation Tribunal under the provisions of the *Commonhold and Leasehold Reform Act 2002* on the 7 October 2019. We had before us an application for determination that, on the relevant date, the applicant Right to Manage (RTM) company was entitled to acquire the right to manage premises known as Cors y Gedol, High Street, Barmouth, Gwynedd, LL42 1DP under section 84(3) of the Act. Prior to the hearing the parties had agreed that the only matter now for determination was the reasonable costs payable by the Applicant under section 88(4) of the Act.

**The Law**

2. The relevant law is section 88 Costs: general-
  - (1) A RTM company is liable for the reasonable costs incurred by a person who is: -
    - (a) landlord under a lease of the whole or any part of any premises,
    - (b) party to such a lease otherwise than as landlord or tenant, or
    - (c) a manager appointed under Part 2 of the *Landlord and Tenant Act 1987* to act in relation to the premises, or any premises containing or contained in the

premises, in consequence of a claim notice given by the company in relation to the premises.

(2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.

(3) .....

(4) Any question arising in relation to the amount of any cost payable by an RTM company shall, in default of agreement, be determined by [the appropriate tribunal].

### **Hearing**

3. The hearing took place at Tyr Craig Castle Hotel, Llanaber Road, Barmouth, LL42 1YN. Commencing at 11.00am and finishing at 12.45pm. The Applicant was represented by Ian James Adams and Andrew Charles Norton. The Respondent was represented by Russell Moffet Counsel of Linenhall Chambers.
4. Prior to the hearing the parties had been invited to submit cost schedules and statements indicating what costs the Respondent was claiming and the Applicant was objecting to.
5. The costs were in respect of three notices dated 11 February 2018, 2 January 2019 and 5 March 2019. The initial notice was withdrawn on 3 July 2019. The second notice dated 2 January 2019 was withdrawn on 19 February 2019. The third notice dated 5 March 2019 succeeded and the Respondent claims they are entitled to costs up until the date at which the Applicant made application to the tribunal [i.e. between 5 March and 30 May 2019]. The Respondent conceded that as the third notice ultimately succeeded any costs incurred in the tribunal proceedings are not recoverable.
6. The Applicants, when questioned as to what they felt was reasonable in terms of costs contained in the Respondents schedules, felt that they did not have the qualifications or experience to make a valid assessment of the reasonableness of the costs claimed.
7. The Respondents argued that in terms of time spent the schedule of costs submitted was reasonable. They acknowledged that the work had been done by a grade B fee earner who was charging £220 per hour. A grade B fee earner it was accepted could charge £192 per hour.

## Decision

8. The tribunal carefully examined the schedules of costs and the statements submitted. Regarding the initial notice it considered that 11.40 hours claimed was somewhat excessive and should be reduced by 1 hour to 10.40 hours. This was because the 2 hours claimed for filing statement of case was considered excessive and should be reduced by 1 hour.
9. Regarding the notice dated 2 January 2019 the tribunal considered that 3.80 hours was reasonable for the work carried out.
10. In respect of the notice dated 5 March 2019 the tribunal considered that 2.50 hours was reasonable for the work carried out
11. The disbursements of £24 for Land Registry Search Fees was accepted as reasonable.
12. Taking account of the revised hourly rate mentioned in paragraph 8 above the tribunal determined that the reasonable legal fees are £192 per hour x 16.70 hours = £3206.40 plus VAT and £24 disbursements.

## Order

13. For the above reasons, the decision of the tribunal is, that the reasonable costs payable in accordance with section 88(4) of the Act are £3206.40 plus VAT if applicable and £24 for disbursements.

Dated this 21<sup>st</sup> day of October 2019



J Rostron  
Chairman

## The Law & Appeal to the Upper Tribunal

1. Section 231 of the Housing Act 2004 allows a party following a refusal to appeal from the Residential Property Tribunal to seek permission from the Upper Tribunal.
2. Regulation 37 of the *Residential Property Tribunal Procedures and Fees (Wales) Rags, 2016* explains the appeals procedure.

3. Part 3 of the *Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 S.1. 2010 No. 2600 (L.15)* as amended explains the process for making an application to appeal.
4. You must apply for permission to appeal in writing to be received by the Tribunal no later than 14 days after the date on which the tribunal that made the decision under challenge sent notice of its refusal of permission to appeal to the Applicant.

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