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**HM COURTS AND TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Case No: CHI/00MR/0CE/2011/0033

Between:

Mr Gareth Austin and Ms Martine McGilligan

(Applicants)

and

Azdien Mohammed Dougman

(Respondent)

**In the Matter of Sections 27(5) and 32 Leasehold Reform Housing and
Urban Development Act 1993 (“the Act”)**

Premises: 74-76 Ernest Road, Portsmouth PO1 5RF (“the Premises”)

Date of Determination : 15th December 2011

Tribunal: Mr D. Agnew BA LLB LLM Chairman
Mr P. Turner-Powell FRICS

DETERMINATION AND REASONS

Determination

The Tribunal determines that the price payable by the Applicants for the freehold of the Premises as at 2nd August 2011 is £9761 and that this is the sum that shall be paid into court under paragraph 2 of the order of District Judge Cawood in Portsmouth County Court (claim number 1PO01203) dated 19th September 2011. The Tribunal also approves the draft transfer submitted to it with the Application duly completed with the price for the transfer as stated above inserted and with the tick removed from box 8.

Reasons

Background

1. On 31st October 2011 the Applicants who are the long lessees of Flats 74A and 74B (the lessees of Flat 76 not participating) applied to the Tribunal for a determination of the price payable for the acquisition of the freehold of the Premises under sections 27(5) and 32 of the Act following a vesting order made in Portsmouth County Court on 19th September 2011. By that order, the price for the transfer of the freehold to the Applicants was to be determined by

the Tribunal who were also to approve the form of the transfer. The vesting order had been made as the court was satisfied that all due enquiries had been made to find the registered proprietor of the freehold, Mr Azdien Mohammed Dougman but to no avail.

Inspection

2. The Tribunal inspected the Premises on 15th December 2011. They found them to be as described in two valuation reports prepared for the applicants by Mr Kenneth John Veness BSc FRICS dated 19th March 2010 and 3rd October 2011. Basically, the premises comprise three flats on two floors of a converted Victorian public house situated in a densely populated suburb of Portsmouth close to local amenities. The condition of the building was poor and the fabric and structure of the building had evidently not been maintained by the freeholder for some time.

Valuation evidence

3. Mr Veness's valuation of the price to be paid for the freehold of the Premises was set out in his revised report of 3rd October 2011. This was based on a current value of the leasehold flats of £70,000 for flat 76 (ground floor front), £50,000 for flat 74A (ground floor rear) and £75,000 for flat 74B (first floor). The Tribunal agreed with these figures. Although the valuations were stated to be as at 3rd October 2011 whereas the valuation date for the purposes of the Act should have been 2nd August 2011, the Tribunal did not consider that there would have been any or any significant difference in the value between those two dates.

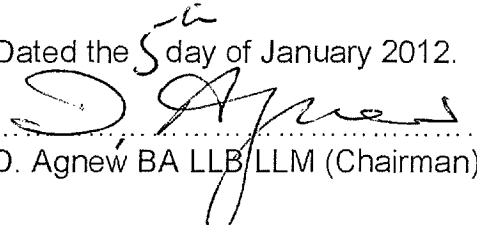
4. Mr Veness applied a capitalisation rate of 7% to the ground rents receivable during the unexpired term which the Tribunal found to be acceptable.

5. A deferment rate of 6% had been applied by Mr Veness to the enfranchised value of the flats. Although this was higher than the 5% approved of by the House of Lords in the case of *Earl Cadogan v Sportelli* [2008] UKHL 71 the densely populated area of Portsmouth is not Prime Central London as was the case in *Sportelli* and the risk factors are greater. The Tribunal considered that 6% was not unreasonable in this particular case.

6 Mr Veness had attributed 15% of the marriage value of the non-participating flat as hope value. Although this was considered to be on the high side, the Tribunal was prepared not to interfere with this assessment.

7. The detailed calculations are attached hereto. They produce a figure of £9761 for the purchase price for the freehold. The Tribunal also approved the draft transfer produced by the Applicants' solicitors with the application subject to the caveats mentioned under the heading "Determination" above.

Dated the 5th day of January 2012.


D. Agnew BA LLB/LLM (Chairman)

Re: 74-76 Ernest Road, Portsmouth, Hants PO1 5RF

Facts

Date of valuation: 3rd October 2011

Capitalisation rate: 7%

Deferment rate: 6%

Description	GF flat no. 76 (front)		GF flat 74A (rear)		FF flat 74B	
Number of flats	1		1		1	
Original term lease length	99		99		99	
From date	06/05/1983		06/04/1983		06/04/1983	
Unexpired period	70.59		70.51		70.51	
Relativity	92%		92%		92%	
First period (years)/rent	4.59	£30.00	4.51	£30.00	4.51	£30.00
Second period (years)/rent	33.00	£66.00	33.00	£66.00	33.00	£66.00
Third period (years)/rent	33.00	£99.00	33.00	£99.00	33.00	£99.00
Total years unexpired	70.59		70.51		70.51	
Participating	No		Yes		Yes	
Unimproved value as existing	£70,000		£50,000		£75,000	
Unimproved value enfranchised	£76,087		£54,348		£81,522	

Value of Freeholders' interest

A1 Ground Rents Receivable

i) Participating flats 74A & 74B

Ground rents:-

4.51 years @ £30 x 2	£ 60	
YP 4.51 yrs @ 7%	<u>3.7569</u>	£ 225.41

33 years @ £66 x 2	£132	
YP 33 yrs def 4.51 yrs @ 7%	<u>9.3998</u>	£ 1,240.77

33 years @ £99 x 2	£198	
YP 33 yrs def 37.51 yrs @ 7%	<u>1.0080</u>	£ 199.58

£1665.76

ii) Non participating flat no. 76

Ground rents:-

4.59 yrs @ £30	£ 30	
YP 4.59 yrs @ 7%	<u>3.8137</u>	£ 114.41

33 yrs @ £66	£ 66	
YP 33 yrs def 4.59 yrs @ 7%	<u>9.3491</u>	£ 617.04

33 yrs @ £99	£ 99	
YP 33 yrs def 37.59 yrs @ 7%	<u>1.0025</u>	£ 99.25

Total for non participator £ 830.70

A2 Reversion to Vacant Possession

i.e. unimproved value with 999 year lease
or share of freehold

i) Participating flats

GF rear (74A) enfranchised	£54,348	
PV £1 in 70.51 yrs @ 6%	<u>0.0164</u>	£ 891.31

FF (74B) enfranchised	£81,522	
PV £1 in 70.51 yrs @6%	<u>0.0164</u>	
		£ 1,336.96

ii) Non participating flat no. 76

Enfranchised	£76,087	
PV £1 in 70.59 yrs @ 6%	<u>0.0164</u>	
		<u>£ 1,247.83</u>
		£ 3,476.10

Therefore, value of freehold £5,972.56

say:- £5,973.00

This is divided

GF no. 76	£2,079
GF no. 74A	£1,724
FF no. 74B	<u>£2,170</u>
	£5,973

B. Calculation of Marriage Value
(2 participating flats 74A & 74B)

Unimproved value of proposed interests
with 999 year leases/share of freehold
(at 100% freehold) £135,870

less

Freehold interest in flats

GF rear 74A	£ 1,724
FF 74B	<u>£ 2,170</u>

£ 3,894

Current leasehold

GF rear (92.% x £54,348)	£50,000
FF 74B (92.% x £81,522)	<u>£75,000</u>

£128,894

Marriage value	£ 6,976
50% attributable to Freeholder	<u>0.5</u>

£ 3,488

C. Other Compensation/Loss Payable
to Freeholder

i) Hope value for non participating flat 76

Value of freehold (see above) as existing	£ 2,079
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Value of freeholder's interest after grant
of new lease

Value with extended lease £76,087
PV £1 in 162.13 yrs @ 6% 0.0001 £ 8

Therefore, diminution of Freeholder's
interest £2,087

Value of proposed interest after grant
of new lease:-

Landlord £ 8
Tenant £76,087

£76,095

less

Value of existing interests:-

Freehold £ 2,087
Leasehold 92% x £76,087 £70,000

£72,087

Marriage value £ 4,008
50% attributable to Freeholder 0.5

£ 2,004
0.15

Non participating therefore say 15%

Hope value

£ 300

Estimated Premium to be Paid
(plus statutory recoverable costs)

£ 9,761