



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/OOCG/OAF/2015/0021**

Property : **343 Langsett Road, Sheffield,
South Yorkshire S6 2UP**

Applicant : **Mr Stephen Heraghty**
Representative : **Taylor & Emmett**

Respondent : **Missing Landlord**

Type of Application : **A determination of the amount of the
appropriate sum to be paid into Court
under Section 27(5) of the Leasehold
Reform Act 1967**

Tribunal Members : **Judge J. E. Oliver
Mr Mark Bennett**

Date of Determination : **15 September 2016**

Date of Decision : **15 September 2016**

DECISION

Decision

1. The premium to be paid into Court for the freehold interest in the property known as 343 Langsett Road Sheffield (“the Property”) is £6939.47.
2. The terms of the transfer are as drafted by the Applicants’ representative, save the dates in Clauses 8 and 11 (3), are to be amended to 2016.

Application

3. This is a matter transferred from Sheffield County Court following an application by Stephen Heraghty (“the Applicant”) pursuant to Section 20 of the Leasehold Reform Act 1967 (“the 1967 Act”) that he is entitled to acquire the freehold interest of the Property.
4. The application is also one for leave to make the claim without having first served a Notice upon the Landlord whose whereabouts is unknown, pursuant to Section 27 of the 1967 Act.
5. By an order dated 14th May 2015 District Judge Oldham transferred the matter to the First-tier Tribunal for it to determine the premium payable and the terms of the transfer.
6. On 16th July 2016 the Tribunal issued directions in respect of the application.
7. The Tribunal was subsequently notified a potential Landlord had been identified and that an application had been made to HM Land Registry for their title to the Property to be registered. In the interim a price for the freehold interest was agreed.
8. On 29th July 2016 the Applicant’s representative advised the Tribunal the potential Landlord had not registered its interest and requested the application proceed.
9. The application was thereafter listed for determination on 15th September 2016.

Inspection

10. The Property is a terraced property on three floors. On the ground floor is a kitchen/ dining area and a living room. On the first floor are two double bedrooms and bathroom. On the second floor are two further double bedrooms.
11. The Property is let.
12. The entrance to the Property is onto a small paved area shared with 341 Langsett Road, but there is no garden to the Property.

The Law

13. Section 27 of the 1967 Act sets out those steps necessary to acquire the freehold interest in a property where the Landlord cannot be found.
14. Section 27(5) provides how the amount to be paid for that interest is to be calculated as follows:

The appropriate sum which, in accordance, with subsection (3) above, is to be paid into court is the aggregate of-

- (a) *such amount as may be determined by (or on appeal from) a first-tier tribunal to be the price payable in accordance with section 9 above: and*
 - (b) *the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.*
15. Section 9 of the 1967 Act provides the price to be paid is that of a sale on the open market and between a willing buyer and seller and subject to a number of assumptions.
 16. Section 21 of the Act then sets out the Tribunal's jurisdiction on determining the premium to be paid, including any compensation payable further to sections 17 and 18 of the 1967 Act.

Representations

17. The Applicant's representative, Taylor & Emmet, submitted a Valuation Schedule proposing a premium of £6939.47 to be paid for the freehold interest.

Determination

18. The Tribunal considered the valuation and determined as follows:

Current Value

The Tribunal agreed the valuation at £112,500. Whilst the Applicants did not provide any comparable evidence, the Tribunal relied upon its own knowledge and experience of the Sheffield area.

Yield

The Tribunal noted a yield of 7% had been used. Whilst the Tribunal considered that, within the Sheffield area, a yield of 6.5% was more usual, the effect this would have upon the calculation would be minimal. The Tribunal therefore determined this element of the valuation would remain as proposed, giving rise to a payment of £12.59.

Site Value

The Applicants proposed a site value at 35% of the current value, in the sum of £39,375. The Tribunal determined this to be reasonable, taking into account the Property's situation.

Deferment Rate

The proposed rate was 5.5%. In determining this issue the Tribunal considered ***Cadogan v Sportelli [2007] ESCA Civ 1042*** that gave a deferment rate of 4.75% for a house. However, the Tribunal noted that, in other decisions relating to properties in the Sheffield area, a deferment rate of 5.5% was generally used. This was relying upon the expert evidence of local valuers as in (***Kanaris-Sotiriou v Coppen Estates Ltd MAN/OOCG/OAF/2014/0007; Knowles v Guest and Voice (MAN/OOCG/OAF/2012/0012)***). The Tribunal therefore agreed a deferment rate of 5.5% as proposed by the Applicants.

Reversion to Full Market Value

The Applicants' valuation proposed the value pursuant to Schedule 10 of the Local Government and Housing Act 1989 ("the 1989 Act") should be £90,000, this being approximately 80% of the Property value. The Tribunal determined this to be acceptable, taking into account that the Property is currently let and reflects the risks that may exist at the expiry of the current term.

19. The Tribunal accept the valuation put forward on behalf of the Applicants without amendment and consequently determines the premium payable to be in the sum of £6939.47 as shown in the Schedule.
20. The Tribunal considered the draft deed to effect the transfer of the freehold title and approved the same, subject to an amendment to the date in clauses 8 and 11(3) to reflect the current year.

SCHEDULE

<u>TERM</u>	<u>£</u>	<u>£</u>
Existing ground rent	£1.00	
X YP @ 7% for 31.5 years	12.5892	£12.59
<u>Reversion to Modern Ground Rent</u> <u>(Standing House Approach)</u>		
Property Value	£112,500	
Site Value @ 35%	£39,375	
Modern Ground Rent @ 5.5% of Site Value	£2166	
<u>50 Year Lease Extension</u>		
Modern Ground Rent	£ 2166	
X YP @ 5.5% for 50 years	16.9315	
Deferred for 31.5 years by		
P V of £1 in 31.5 yrs @ 5.5%	0.18523	£6791.88
<u>Reversion to Full Market Value</u>		
Property Value	£112,500	
Property Value (subject to Sch 10 LG&HA 1989)	£90,000	
Deferred 121.5 years @ 5.5%	0.001500	£135.00
		<u>£6939.47</u>