



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

Case Reference : LON/00AE/OCE/2017/0230

Property : 12 & 12a Deacon Road, Willesden
Green, London NW2 5QH

Applicant : Bethan Rhiannon Lloyd, Peter
Lloyd, Pamela Mary Lloyd and Joel
Daroux

Representative : Laytons Solicitors LLP

Respondent : Darshan Singh

Representative : N/A

Type of Application : S26 Leasehold Reform Housing
and Urban Development Act 1993,
Missing Landlord

Tribunal Members : P M J Casey MRICS
M Mathews FRICS

**Date and venue of
Hearing** : Paper hearing on
21 November 2017
10 Alfred Place, London WC1E 7LR

Date of Decision : 5 December 2017

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the purchase price payable for the Freehold interest in 12 & 12a Deacon Road, Willesden Green, NW2 5QH (“the property”) is the sum of £52,100.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

The application

1. The applicants seek a determination by the Tribunal pursuant to an order made under the provisions of S26 of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by Deputy District Judge Arnold sitting at the County Court at Willesden on 15 September 2017 of the price to be paid into Court on the acquisition of the freehold interest in the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 21 June 2017 by Laytons Solicitors LLP on behalf of the applicants in which it was said that the applicants were entitled to acquire the property under the provisions of the Act.

The hearing

3. In response to the Tribunal’s directions which provided for a determination on the papers to be submitted, the applicants’ solicitors provided a bundle of documents including a valuation report dated 2 November 2017 for use in Tribunal proceedings prepared by Nicholas Richard Plotnek LLB of Nick Plotnek Associates. The report contained the requisite declarations required of a Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 21 November 2017. No inspection of the property was deemed necessary given the description, plans and photographs included in the report.

The evidence

5. From Mr Plotnek’s description of the property it is a purpose built two storey Victorian inner terrace building which comprises two self-contained flats. There are adjoining ground floor entrances to each flat. The ground floor is arranged as a two bedroomed flat with a narrow side yard and a narrow strip of land hard up against the rear of the building, whilst the other, also two bedroomed, first floor flat has the benefit of the rear garden accessed via a rear stairway. The ground floor has a gross internal area (GIA) of 58.9 m² whilst that of the first floor is 62.7m²

6. The ground floor flat at the property is held on a 99 year lease from 24 June 1975 subject, at the valuation date, to a ground rent payment of £50.00 per annum rising to £75.00 per annum for the final 33 years of the term. The first floor flat is held on a 189 year lease from the same date at a peppercorn ground rent.
7. At the Valuation Date, 21 June 2017, the leases had 57 and 147 years unexpired respectively.
8. Mr Plotnek provides market evidence for the extended lease values of the flats at the property as at the Valuation Date by reference to four transactions involving similar properties at around that time the details of which are provided in the report. The details of these sales are briefly:

Address	Price	Date	Term in years	Area m ²
30 Deacon Road	£420,000	27 October 2017 (though offer made 20 June 2017)	99.5	60.1
46a Sandringham Road	£480,000	10 February 2017	82.6	70.8
51 Villiers Road	£460,000	24 June 2016	97.7	68
16a Deacon Road	£450,000	31 March 2016	96.9	59.6

He also advised that the existing leasehold interest in 12a Deacon Road had been purchased for £330,000 on 14 August 2015 when the unexpired term was 58.9 years.

9. Mr Plotnek regards the sale of 30 Deacon Road as providing the best evidence in being closest in time to the valuation date and nearly the same size as 12a. He bases his valuation of 12a entirely on this sale making an adjustment of £20,000 because it has a garden (12a does not) to give a valuation of £400,000 from which he deducts a further £5,000 to give effect to the statutory requirement to disregard the value of tenant's improvements which he says comprise a refitted kitchen (£2,000), a refitted bathroom (£2,000) and double glazing to give an extended lease value of £395,000 which he increased by 1% to give the freehold value of £398,950. For flat 12 he adopts a freehold valuation of £449,450 for the freehold value without being specific as to how he arrived at the figure.

10. To capitalise the ground rent income for the unexpired term of the existing lease of 12a in his valuation of the existing freehold interest in the property he adopts a rate of 7% whilst to arrive at the present value of the freeholder's right to possession on the expiration of the existing lease terms he adopts the "Sportelli" deferment rate of 5%.
11. To calculate the marriage value and the landlord's entitlement to 50% thereof he has assessed the value of the existing lease term in 12a, disregarding the value of the rights conferred by the Act, by reference to what are generally referred to as graphs of relativity as he says there is no local sales' evidence for properties held on leases of such unexpired terms. He refers to the five graphs relating to outer London/England which were published in an RICS report into relativity. Averaging the five suggests to him that in a "no Act world" the existing lease term would have a value of 83.5%. He makes one further adjustment to his valuation of the existing lease; a further reduction of 2% to reflect the requirement to value that interest as though the Act gave no rights to extend the lease or enfranchise; the "no Act world".
12. His valuation attached to his report produces a purchase price of £48,830 of which £350 is attributable to flat 12.

The decision

13. Mr Plotnek's adoption of a capitalization rate of 7% cannot in the present case be said to be wrong where there is a relatively low ground rent and again, in the absence of extensive evidence to the contrary, his adoption of the "Sportelli" deferment rate of 5% is accepted.
14. However his valuation of an extended lease in 12a looks too low at £395,000. The existing leasehold interest was bought for £330,000 in August 2015. Updating this to the valuation date using the House Price Index for Brent included in the bundle (117.05/104.24) gives £370,553. Applying the Savills 2002 graph of relativities, also in the bundle and based on the actual market, to reflect the nearly 2 years shortening of the lease term would reduce this by nearly 1% to say £367,000 or 91.75% of the extended lease value (ignoring adjustments for improvements) which is far higher than any of the relativity graphs show even allowing for Act rights. His unexplained extended lease value of flat 12 at £445,000 even allowing for his garden adjustment and the slightly larger floor area also makes the valuation of 12a look too low.
15. Whilst Mr Plotnek is probably right to identify 30 Deacon Road as the best comparable he appears to have completely ignored the other comparable transactions he identified. These could have been adjusted for the passage of time, lease length (46a Sandringham Road's lease has only 82.6 years unexpired). The resulting adjusted sale prices could have been devalued by the floor areas with a greater weighting given to

30 Deacon Road as the best comparable to produce a rate/m² to be used in the valuation. The tribunal does not propose to do this itself but rather take a broad brush view of all the evidence. Allowing £20,000 for those with gardens we are of the opinion that the existing lease value of 12a as excluding tenant's improvements is £425,000. We accept his 1% uplift to freehold values.

16. The only evidence before the tribunal for the existing lease value of 12a are the various relativity graphs. As these in the main express the relativity of any given term of years as a percentage of freehold value and claim that they reflect the "no Act World" Mr Plotnek is wrong to apply the relativity percentage to the extended lease value and has no need to make a specific adjustment to reflect the "no Act World". The only one of the five outer London graphs that might possibly require adjustment to reflect Act rights is that of South East Leasehold said to be "principally based on open market research including analysis of sales and questionnaires completed by estate agents undertaken in 1997". It is also the highest of the five graphs. If this is excluded because of the doubt about adjustment for Act rights the average of the remaining four graphs for an unexpired term of 57 years in 82.25% which the tribunal adopts in its attached valuation. This gives an existing lease value of £353,058.

Name: Patrick M J Casey

Date: 5 December 2017

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case. The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case

number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

**First Tier Tribunal
Property Chamber (Residential Property)**

S26 Leasehold Reform Housing and Urban Development Act 1993

**Price payable for the Freehold Interest in 12 & 12a Deacon Road, Willesden Green,
London NW2 5QH**

Valuation date: 21 June 2017

A Ground floor flat (12a Deacon Road)

Value of Freehold Interest

Term 57 years unexpired

Ground Rent Income £50 pa

YP 24 years @ 7%

Review to £75 pa

YP 33 years deferred 24 years @7%

£50
11.4693 £573

£75

2.5144 £189

£762

Reversion to F/H Vacant Possession Value

Deferred 57 years @ 5%

£429,250

0.0619741

£26,602

£27,364

Marriage Value

Proposed Interest

£429,250

Less

Existing interest @ 82.25% relativity

£353,058

Plus freehold interest

£27,364

£380,422

£48,828

Marriage Value to Freeholder @ 50%

£24,414

£51,778

Say **£51,750**

B First floor flat (12 Deacon Road)

Value of Freehold Interest

Term 147 years unexpired

Ground Rent Income

Reversion to F/H Vacant Possession Value

Deferred 147 years @ 5%

£449,450

0.000767

NIL

£345

Marriage Value

NIL

Say **£350**

Ground floor (12a) £51,750

First floor flat (12) £350

Total for Freehold Interest £52,100