



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

**Case Reference** : LON/00AJ/OCE/2013/0137

**Property** : 6 Jessamine Road, London, W7  
3SQ

**Applicants** : (1) Karen Lee Wells (2) Julie  
Christine O'Donnell

**Representative** : WAG Davidson & Co, Solicitors

**Respondent** : Garrett Damien Fitzgerald

**Representative** : Did not appear and was not  
represented

**Type of Application** : Section 26 of the Leasehold  
Reform, Housing and Urban  
Development Act 1993

**Tribunal Members** : Judge Ian Mohabir  
Mr Neil Martindale

**Date and venue of  
Hearing** : 10 Alfred Place, London WC1E 7LR

**Date of Decision** : 27 August 2013

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**DECISION**

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## **Introduction**

1. This is an application made by the Applicants under section 26 of the Leasehold Reform, Housing and Urban and Development Act 1993 (as amended) ("the Act") for a determination of the price to be paid to acquire the freehold interest in the property known as 6 Jessamine Road, London, W7 3SQ ("the property").
2. The Applicants are the lessees of the ground and first floor flats respectively in the property.
3. The Respondent is the landlord and freeholder.
4. By a claim form issued on 9 November 2011 under action number 1BFO0992 in the Brentford County Court the Applicants sought dispensation under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 from the requirement to serve a notice under section 13 of that Act and a declaration that they are entitled to acquire the freehold of the premises by exercising their right to collectively enfranchise.
5. By Order of Deputy District Judge Campbell dated 21 May 2012 service of the section 13 notice was dispensed, that the freehold interest be vested in the Applicants and the matter transferred to the Tribunal for a determination of the purchase price to be made and the terms of the transfer.
6. The valuation evidence relied on by the Applicants is set out in the report prepared by Mr Wilson Dunsin, FRICS dated 13 August 2013.

## **Decision**

7. The Tribunal relied on the description of the property internally given in Mr Dunsin's report and refer to page 7 of that report for the description. The Tribunal did not carry out an inspection.
8. The leases are each granted for a term of 99 years from 25 March 1985. At the relevant date, namely 9 November 2011 (see section 27(1)(b) of the Act), the leases had 72.39 years to run.
9. The relevant legislation is set out in an annex to this decision. Because the leases have less than 80 years to run, marriage value at 50 per cent is payable. Compensation under paragraph 5 of Schedule 6 to the Act does not arise. In respect of (any) arrears of rent, the landlord has not served demands in statutory form, so no arrears of rent are payable.
10. The value of the ground rents should be discounted at 7 per cent per annum. We agree with Mr Dunsin's figure on the basis that the ground rent would not be attractive to an investor due to the relatively small amount receivable and

the relatively high cost of collecting it. Moreover, the landlord would not be able to take any steps to forfeit the leases for a period of 5 years in the event that either tenant failed to pay the ground rent. This accords with the Tribunal's own knowledge of market values for this type of investment.

11. We agree with Mr Dunsin's use of 5% for the deferment of the reversion, which is in accordance with the decision in *Sportelli*.
12. We accept Mr Dunsin's evidence that the first floor flat are is worth £185,000 and the ground floor flat is worth £195,000 allowing for tenants' improvements respectively.
13. Mr Dunsin assesses the existing leasehold value of the flats by applying relativity of 93.76%, which he derives from the taking an average from several graphs of relativities. We accept this figure.
14. The Tribunal's valuation is annexed hereto and shows the amount payable is £18,355.
16. The Tribunal approves the terms of the Transfer (TR1) as drawn.

## 6a & 6b Jessamine Road W7

Enfranchisement			
Valuation Date		40856	
Expiry of existing lease		31131	
Existing Term unexpired		72	
Capitalisation rate		0	
Deferment rate		0	
VP Value of Freehold		400000	
VP Value of Freehold excluding improvements		380000	
VP Value of existing interests excluding imps		356288	

### **Landlords Present Interest**

Fixed Present GR		75	
YP for 6.39 years @ 7%	5.0144		£376
No deferment			
Fixed GR from first RR in 6.39 years		150	
YP for 33 years @ 7%	12.7538		
PV £1 in 6.39 years @ 7%	0.649		£1,242
Fixed GR from second RR in 33 years		300	
YP for 33 years @ 7% to lease end	12.7538		
PV £1 in 39.39 years @ 7%	0.0696		£266
VP Value of Freehold		380000	
PV £1 in £72.39 years @ 5%	0.02925		£11,115
			<b>£12,999</b>

### **Tenants Present Interest**

VP Value of Freehold		380000	
% relativity between Present LLH and FH	93.76		
VP Value of Present Leasehold interests			£356,288

### **Marriage Value**

VP Value of Freehold		380000	
LESS Landlords Present Interest		12999	
LESS Tenant's Present Interest		356288	
<b>Marriage Value</b>			£10,713
Landlords Share of Marriage Value 50%			<b>£5,356</b>

<b>Landlords Present Interest</b>			£12,999
<b>plus Landlords Share of Marriage Value</b>			£5,356

### **Enfranchisement Price**

**£18,355**

## ANNEX: THE LEGISLATION

## Schedule 6 Part II

## FREEHOLD OF SPECIFIED PREMISES

**Price payable for freehold of specified premises**

2(1) Subject to the provisions of this paragraph, where the freehold of the whole of the specified premises is owned by the same person the price payable by the nominee purchaser for the freehold of those premises shall be the aggregate of—

- (a) the value of the freeholder's interest in the premises as determined in accordance with paragraph 3,
- (b) the freeholder's share of the marriage value as determined in accordance with paragraph 4, and
- (c) any amount of compensation payable to the freeholder under paragraph 5.

(2) Where the amount arrived at in accordance with sub-paragraph (1) is a negative amount, the price payable by the nominee purchaser for the freehold shall be nil.

**Value of freeholder's interest**

3(1) Subject to the provisions of this paragraph, the value of the freeholder's interest in the specified premises is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with no person who falls within sub-paragraph (1A)] buying or seeking to buy) on the following assumptions—

- (a) on the assumption that the vendor is selling for an estate in fee simple—
  - (i) subject to any leases subject to which the freeholder's interest in the premises is to be acquired by the nominee purchaser, but
  - (ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser;
- (b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease (except that this shall not preclude the taking into account of a notice given under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);
- (c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
- (d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the conveyance to the nominee purchaser of the freeholder's interest is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to Schedule 7.

(1A) A person falls within this sub-paragraph if he is—

- (a) the nominee purchaser, or
- (b) a tenant of premises contained in the specified premises, or
- (ba) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or

- (c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining that amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of the interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Where a lease of any flat or other unit contained in the specified premises is to be granted to the freeholder in accordance with section 36 and Schedule 9, the value of his interest in those premises at the valuation date so far as relating to that flat or other unit shall be taken to be the difference as at that date between—
- (a) the value of his freehold interest in it, and
  - (b) the value of his interest in it under that lease, assuming it to have been granted to him at that date;
- and each of those values shall, so far as is appropriate, be determined in like manner as the value of the freeholder's interest in the whole of the specified premises is determined for the purposes of paragraph 2(1)(a).
- (5) The value of the freeholder's interest in the specified premises shall not be increased by reason of—
- (a) any transaction which—
    - (i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and
    - (ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by a qualifying tenant of a flat contained in the specified premises; or
  - (b) any alteration on or after that date of the terms on which any such superior interest is held.
- (6) Sub-paragraph (5) shall not have the effect of preventing an increase in value of the freeholder's interest in the specified premises in a case where the increase is attributable to any such leasehold interest with a negative value as is mentioned in paragraph 14(2).