



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

Case reference : LON/00BJ/OCE/2014/0008

Property : 46, Summerley Street, London
SW18 4EU

Claimants : H.Mogford, S.Halliday, R.Halliday

Representative : Gregsons - Solicitors

Defendant : Carol Hook

Representative : None

Type of application : Determination of the appropriate
sum and form of conveyance –
under Section 27 of the Leasehold
Refom,Housing and Urban
Development Act 1993 (the Act)

Tribunal member(s) : A.ENGEL – Judge
W.R.SHAW F.R.I.C.S.

**Date of reviewed
decisions** : 21st March 2014

REVIEWED DECISIONS

- A. THE APPROPRIATE SUM TO BE PAID INTO COURT IS £37,233**
- B. THE TRANSFER IS APPROVED IN THE FORM ANNEXED
HERETO, MARKED "Appendix 2".**

REASONS

Introduction

1. The Property comprises 2 Flats . The Landlord of the Property is the Defendant. The Claimants are the (long) lessees of the flats.
2. The leases of both flats are for a term of 99 years from 25th March 1983 with ground rents of £50 per annum each.
3. The first Claimant (H.Mogford) became the lessee of the ground floor flat in February 2004. No rent has been paid by the first Claimant to the Defendant.
4. The second and third Claimants (S.Halliday and R.Halliday) became the lessees of the other flat in September 2009. No rent has been paid by the second and third Claimants to the Defendant.
5. On 13th December 2013, the Wandsworth County Court made a vesting order (under Section 26 of the Act which deals with cases where the Landlord cannot be found) and the matter was referred to this Tribunal pursuant to Section 27 of the Act.
6. This Tribunal has determined the matter on the papers – pursuant to Rule 31 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013.
7. The Tribunal promulgated its decisions on 18th February 2014.

Review

8. Thereafter, the Applicant's Solicitors applied for a correction of the "appropriate sum" under the "slip rule" on the basis that, by reason of Section 19 of the Limitation Act 1980 rent arrears are not recoverable after the expiration of 6 years, whereas the Tribunal had calculated the "appropriate sum" by including over 6 years rent arrears in respect of the ground floor flat.
9. The Tribunal agrees with the Applicants' Solicitors that the unpaid rent in respect of the ground floor flat should be limited to 6 years – giving a sum of £300 (6 x £50).

10. It is not possible to correct the previous decision under the slip rule (Rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules) as there was no “clerical mistake or other accidental slip or omission”.
11. However, the Tribunal treats the application for correction as an application for permission to appeal (pursuant to Rule 56) and reviews its previous decision (pursuant to Rule 55), being satisfied that a ground of appeal on the basis set out at No.9 above is likely to succeed.
12. Accordingly, the Tribunal has amended its previous Decisions and Reasons dated 18th February 2014) and incorporated the amendments into this document.

Section 27

13. Under Section 27 of the Act, this Tribunal has the tasks of:-
 - (i) Determining the “appropriate sum” to be paid into Court – see Section 27(5);
and
 - (ii) Approving the form of the conveyance - see Section 27 (3).
14. The appropriate sum comprises:-
 - (a) The price payable for the freehold – Section 27(5)(a);
 - (b) The amounts or estimated amounts of unpaid rent – Section 27(5)(b).

The Price

15. There was adduced in evidence before us a report from JRM Boret Surveyors Limited, which contains a valuation (the Boret valuation).
16. We agree with the constituents of the Boret valuation, save that the unexpired term should be 68.38 years (rather than 69 years) and we consider that the capitalisation rate should be 7% (rather than 8%).
17. Thus our valuation – annexed hereto, marked “Appendix 1” – gives a price of £36,708.

Unpaid Rent

18. This sum is to be calculated up to the date of the execution of the conveyance (see Section 27(5)(b)) – which we estimate will be in March 2014.

19. Accordingly, we estimate the unpaid rent as follows:-

Ground Floor Flat :- February 2004 to March 2014. 10 years 1 month @£50 a year = £504 but limited to £300 – see No.9 above.

Other Flat:- September 2009 to March 2014. 4 years 6 months @ £50 a year = £225.

Total:- £525.

Appropriate Sum

20. Thus, the “appropriate sum” is £36,708 + £525= £37,233.

Conveyance

21. Adduced in evidence was a draft transfer, which we have amended – Appendix 2 – and which we approve in its amended form.

A.J.ENGEL - Judge

An Appeal to the Upper Tribunal can be made, with the permission of this Tribunal. Application for such permission must be made within 28 days of the date on which this document is sent to you. Such application must identify the decision to which it relates, state the grounds of appeal and the result sought.