

904



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

**Case Reference** : **LON/OOAM/OAF/2014/0012**

**Property** : **13 Killowen Road, London E9 7AG**

**Applicants** : **(1) Matthew John Kerruish-Jones  
and (2) Nicola Mary Williams  
Hughes**

**Representative** : **Jolliffe & Co, solicitors**

**Respondent** : **Robert Reardon**

**Representative** : **None**

**Type of application** : **To determine the terms on which  
the freehold is to be acquired  
where the landlord is missing**

**Tribunal members** : **Angus Andrew  
Ian Holdsworth FRICS**

**Date of determination** : **19 June 2014**

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## DECISION

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1. The property was originally a house but was converted to form two maisonettes. Mr Kerruish-Jones holds a lease of the lower maisonette and Ms Hughes a lease of the upper maisonette. Both leases are for terms of 125 years from 24 June 1987 at initial ground rents of £100 per year rising to £150 per year after 33 years and to £200 per year after 66 years.
2. On 27 March 2014 His Honour Judge Halbert determined that the applicants were entitled to acquire the freehold reversionary interest in the property under Part I of the Leasehold Reform Act 1967 (“the Act”) and nominated District Judge Sanderson to execute the transfer of the property upon payment into court of the price now found to be payable (together with the sum of £800 in respect of unpaid ground rent).
3. The applicants subsequently applied to this tribunal under sections 21(2) and 27(5) of the Act to determine the price to be paid for the property and the terms of the proposed transfer.
4. The applicants rely on a valuation report prepared by Maurice Berger FRICS, FBEng. Although he does not identify the basis of his valuation it was clearly prepared under section 9(1) of the 1967 Act. However in this particular case a section 9(1) valuation is only applicable if the property (or the two flats taken together) had a rateable value of £1,000 or less on 31 March 1990. As Mr Berger neither dealt with that issue nor gave the rateable value of the house on 31 March 1990 we directed that he should provide a short supplemental report. We have now received that report and are satisfied that the price falls to be valued under section 9(1) of the Act so that marriage value is not payable.
5. Mr Berger has identified the correct valuation date being the date of the application to the county court: 25 March 2014. He has adopted a three stage valuation. He first capitalised the rent payable under the leases from the date of the application to the court until their term dates. He then capitalised the value of the section 15 rent from the original term dates until the expiry of the 50 year extension. Finally he valued the landlord’s reversion to the site after the 50 year extension.
6. In general (and subject in particular to our comments below in respect of the third stage) the three stage approach was approved by the Upper Tribunal in an appeal by Clarise Properties Limited [LRA/170/2010] and we agree with it.
7. As far as the first stage is concerned Mr Berger has applied a capitalisation rate of 7%, which we consider to be appropriate for the relatively low ground rents. He has however inadvertently applied an

incorrect Years Purchase multiplier to the total ground rent of £400 per year to be paid after 66 years of the term. Applying the correct multiplier of 14.0219 (rather than 12.7472) results in a small increase to the value of the term interest. He has also applied a deferment rate of 4.75% in respect of the ground rents payable after 33 and 66 years and again we agree with that rate.

8. Turning to the second stage or first reversion Mr Berger considers that the property is worth £960,000 at the valuation date. Although he had regard to a number of transactions he effectively based that value on the sale of 12 Killowen Road in September 2013 for £890,000. Relying on the HM Land Registry house price index for Hackney he uplifted that price to £960,000 at the valuation date.
9. We agree with Mr Berger that 12 Killowen Road is an ideal comparable and should form the basis of the second stage valuation. However we have difficulty with his inflation uplift. The index for February 2014 was 699.62 and for September 2013, 635.09. Thus the increase was 64.53 or 10.16%. Consequently the adjusted value is £980,500 rather than £960,000.
10. That apart we agree with Mr Berger that 35% of that value is reasonably attributable to the site value and that it is appropriate to decapitalise the site value at 4.75% to ascertain the section 15 rent. Equally we have no difficulty with his use of the same rate to both capitalise that rent over 50 years and defer the payment for 98.25 years being the unexpired terms of the existing leases.
11. We have more difficulty with Mr Berger's valuation of the third stage or second reversion. As explained above Mr Berger has simply valued the landlord's reversion to the site. He has presumably assumed that the house will no longer be standing. Having regard to the character of the area and the type of property under consideration we can see no basis for that assumption and certainly none is offered. We prefer to value the landlord's reversion to the house and site discounted to allow for the possibility that a tenant may be in possession and that consequently the landlord may not obtain possession. That was the approach adopted in Clarise and in the absence of any evidence to the contrary it is the approach that we have adopted. As in Clarise we have adopted a discount of 20%.
12. The price to be paid for the freehold reversion is £7,895 and our revised valuation is attached to this decision.
13. We are asked to approve the form of transfer. We are content with the draft form TR1 which has been submitted at pages 153 to 156 of the document bundle, which is approved as drawn.

**Name: Angus Andrew**

**Date: 19 June 2014**

**Property:** 13A and 13B Killowen Road, London E9 7AG  
 LON/00AM/OAF/2014/0012

<b>Lease Data</b>			
Lease Term:	99 Years from 24th June 1987		
Lease Expiry date:	23rd June 2112		
Length of Term:	125 Years		
Unexpired term as at valuation date:			98.25
Valuation date	25th March 2014		
<b>Rent receivable by landlord for both flats:</b>			
Payable from 25/03/14 for 6.25 years	£	200	
Payable from 25/04/20 for 33 years deferred 6.25 years	£	300	
Payable from 25/03/53 for 59 years deferred 39.25 years	£	400	

**Values**

Current value of standing house with vacant possession and "developed to its best advantages" £ 980,500

**Value of Freeholders present interest with statutory (S15) ground rent**

<b>Term</b>			
Ground rent payable	£	200	
Capitalised at 7% for 6.25 years		4.9262	£ 985
Ground rent payable		300	
Capitalised at 7% for 33 years		12.7538	
Deferred 6.25 years		0.655	
	£		2,507
Ground rent payable		400	
Capitalised at 7% for 59 years		14.0219	
Deferred 39.25 years		0.070257	
	£		394
			<u>£ 3,886</u>

**First Reversion**

<b>Section 15 Ground Rent</b>			
Entirety value	£		980,500
Site apportionment at 35% of "Entirety value"	35.0%	£	343,175
De-capitalisation rate at 4.75%	4.75%	£	16,301
YP at 4.75% for 50 years	18.9844		
deferred 98.25 years at 4.75%	0.01047	£	3,239.45
			<u>£ 3,239</u>

**Second Reversion**

Standing House value	£		980,500
20% deduction for tenants rights under Schedule 10 of the Local Government and Housing Act 1989	£		196,100
Residual Standing House value subject to tenancy after reversion	£		784,400
PV of £1 in 149.25 years at 4.75% after 50 year term plus existing lease term	0.000981	£	769

**Overall Total Payable for lease enfranchisement**

**£ 7,895**

**Notes:**

1. The price for lease enfranchisement is calculated in accordance with the Leasehold Reform Act 1967 as amended. Section 9(1) valuation in accordance with RV less than £1000 as at March 1990.