



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

Case Reference	:	LON/00AE/OCE/2015/0229
Property	:	Flats A and B at 11 Goodson Road, London NW10 9LR
Applicants	:	(1) Darwin Joseph Ramlal (2) Neville Gordon
Representative	:	Gupta Law, solicitors
Respondent	:	David Arthur Flood
Type of Application	:	Determination of terms of leasehold enfranchisement (missing landlord)
Tribunal Members	:	Mr A Vance, Tribunal Judge Mr R Shaw FRICS
Date of Decision	:	1 December 2015

DECISION

Decisions of the Tribunal

1. The premium to be paid by the Applicants for the freehold interest in 11 Goodson Road, London NW10 9LR (the "Property") is £43,276.
2. The Tribunal approves the terms of transfer in Form TR1 provided with the application with the following exceptions:
 - (a) The transferees should be both Darwin Joseph Ramlal and Neville Gordon and not Darwin Joseph Ramlal alone;
 - (b) The transfer **must** be made with limited title guarantee as opposed to full title guarantee (see paragraph 2(2) of Schedule 7 to the Leasehold Reform, Housing and Urban

Development Act 1993 (“the 1993 Act”) as amended by the Law of Property (Miscellaneous Provisions Act 1994;

- (c) The Declaration of Trust in panel 9 should be completed.
- (d) The transfer **must** contain a statement that the transfer is made pursuant to the 1993 Act (see section 34(10) of the 1993 Act. The following wording is suggested:

“This transfer is executed for the purposes of chapter 1 of part 1 of the Leasehold Reform, Housing and Urban Development Act 1993

- (e) As the freehold title is subject to continuing restrictive covenants that are enforceable for the benefit of other property an indemnity covenant **must** be given by the transferees to the transferor ((see paragraph 5 of Schedule 7 to the 1993 Act. The following wording is suggested:

“It is hereby declared that the same covenants for title shall be implied herein as if the owner was conveying or transferring the property with limited title guarantee”.

- (f) The execution clause for the Transferor should state:

“Signed as a Deed by the officer of the Court nominated to execute this deed on behalf of David Arthur Flood in accordance with the Order of the Court dated [.....]

Introduction

- 3. The Property is a two storey mid-terrace Victorian building consisting of two self contained flats. Flat 11A is the ground floor flat and Flat 11B is the first floor flat.
- 4. The First Applicant, Darwin Joseph Ramlal is the long leaseholder of Flat 11A and holds his interest under the terms of a lease dated 6 October 1982 and registered under title number NGL464692. That lease was granted by Dennis Walter James Sinclair to Sheila Ann Waterworth and Caroline May Waterworth for a term of 99 years from 24 June 1982 The lease reserves a ground rent of £30 a year for the first 33 years of the term rising to £60 for the next 33 years and then to £90 for the remainder of the term. The residual term of the lease is now

vested in the First Applicant who was registered as the leasehold proprietor on 29 September 2004.

5. The Second Applicant, Neville Gordon, is the long leaseholder of Flat 11A and holds his interest under the terms of a lease dated 14 October 1982, registered under title number NGL436828. That lease was granted by Dennis Walter James Sinclair to David Arthur Flood and Claire Joanna Prete for a term of 99 years from 24 June 1982. The lease reserves a ground rent of £30 a year for the first 33 years of the term rising to £60 for the next 33 years and then to £90 for the remainder of the term. The residual term of the lease is now vested in the Second Applicant who was registered as the leasehold proprietor on 20 January 1999.
6. The registered freehold proprietor of the Property is the Respondent, David Arthur Flood who was registered as such at HM Land Registry on 6 October 1987.
7. By order made by District Judge Bloom on 10 August 2015 and on the court being satisfied that the Applicants had taken reasonable steps to locate the Respondent but had been unable to find him, the Respondent's interest in the subject property was vested in the Applicants in accordance with section 26 of the Act.
8. It was further ordered that the matter be transferred to this Tribunal for a determination of the terms of the transfer of the Respondent's interest to the Applicants.
9. The Tribunal considered the issue on the papers submitted by the Applicants, without a hearing, in accordance with the directions issued on 20 August 2015. The paper determination was originally scheduled to take place in the week commencing 28 September 2015 but this was not possible due to omissions and an error in the valuation report submitted by the Applicants. The Applicants were directed to provide an amended valuation report stating the correct valuation date, details of the comparable evidence relied upon and a signed expert witness declaration. An amended valuation report has now been provided.

The statutory basis of valuation

10. Schedule 6 to the Act provides that the price to be paid by the nominee purchaser, in this case the Applicants, for the freehold interest shall be the aggregate of the value of the freeholder's interest, the freeholder's share of the marriage value, and compensation for any other loss.
11. The value of the freehold interest is the amount which, at the valuation date, that interest might be expected to realise if sold in the open market subject to the tenancy by a willing seller (with the nominee

- purchaser, or a tenant of premises within the specified premises or an owner of an interest in the premises, not buying or seeking to buy) on the assumption that the tenant has no rights under the Act either to acquire the freehold interest or to acquire a new lease.
12. Paragraph 4 of the Schedule, as amended, provides that the freeholder's share of the marriage value is to be 50%, and that any marriage value is to be ignored where the unexpired term of the lease exceeds eighty years at the valuation date.
 13. Paragraph 5 of the Schedule provides for the payment of compensation for other loss resulting from the enfranchisement.

The evidence before the Tribunal

14. The Applicants provided a valuation report dated 20 October 2015 by Natalie Gering, MRICS and Mr Hari Hirani, FRICS both of Anderson, Wilde & Harris, chartered surveyors ("the Valuation Report"). Their report contains a formal Statement of Truth confirming that in so far as the facts stated in the report are within their own knowledge that they believe them to be true and includes a statement of compliance confirming that they understand their duty to this Tribunal as expert witnesses.
15. Having considered the contents of the Valuation Report and the opinions expressed in that report the Tribunal is satisfied that the method adopted is appropriate to determine the enfranchisement price for the Property. The Tribunal accepts the description of the property and its location as stated in the Valuation Report.
16. A photograph of the exterior of the Property was included in the Valuation Report. The Tribunal did not consider it necessary or proportionate to carry out an inspection of the Property.

Valuation

17. Flat 11A is a two bedroom ground-floor flat which has access to a private rear garden. It comprises two bedrooms, a reception room, a kitchen and a bathroom/WC. Ms Gering and Mr Hirani state that they understood that the flat was originally a one-bedroom flat which was later converted into the existing two-bedroom flat. The gross internal area is stated in the Valuation Report to be 505 sq ft.
18. Flat 11B is a one bedroom flat on the first floor of the Property. It comprises one bedroom, a reception room, a kitchen and a bathroom/WC. The gross internal area is stated in the Valuation Report to be 573 sq ft.

19. Entry to the two flats is via a shared ground floor entrance door.
20. It is stated in the Valuation Report that both flats are reasonably presented throughout but that the ground floor flat would benefit from upgrading. The authors of the Valuation report have factored for some tenants improvements within their calculations, including the installation of double glazing to Flat 11B.
21. The valuation date prescribed by section 27(1) of the Act is the date of the Applicant's application to the Court namely 8 June 2015. The unexpired residue of the leases for both flats is approximately 66.04 years as at the valuation date.
22. Ms Gering and Mr Hirani's assessment of the market value of both flats is based on evidence of sales of three comparable flats in the NW10 postcode during the period December 2014 to May 2015 .
23. The first comparable, 90A Craven Park, London, NW10 8QE was a sale of a one-bedroom ground floor flat in a mid-terraced house which sold at £337,000 in May 2015 with 117 years of the lease term remaining and which has a gross internal area of 546 sq ft. Ms Gering and Mr Hirani considered this comparable to be similar in type, age, style and location, being set within a half mile radius of the Property. The sale of this comparable equates to £617 per sq ft and applying this sq ft rate to the ground floor flat in the subject Property produces a value in the region of £310,000. Ms Gering and Mr Hirani made adjustments to reflect the disparity in size between the upper floor flat in the comparable property and the upper floor flat in the subject Property as well as for the fact that the upper flat in the Property has no access to a garden.
24. The second comparable, 12A Tunley Road, London, NW109 9JS was a sale of a one-bedroom ground floor flat of a period converted building which sold at £372,500 in January 2015 with 98 years of the lease term remaining and which has a gross internal area of 646 sq ft. Ms Gering and Mr Hirani considered this comparable to be similar in type, age, style and location, being set within quarter of a mile of the Property. They made adjustments to reflect the fact that the ground floor flat is larger then that in the Property and because of the passage of time from the sale date to the valuation date of the Property. They also made adjustments to reflect the disparity in size between the upper floor flat in the comparable property and the upper floor flat in the subject Property as well as for the fact that the upper flat in the Property has no access to a garden.
25. The third comparable, 14A Oldfield Road, London, NW10 9UE was a sale of a one-bedroom ground floor flat in a mid-terraced Edwardian house which sold at £310,000 in December 2014 with 125 years of the lease term remaining and which has a gross internal area of 548 sq ft.

Ms Gering and Mr Hirani considered this comparable to be similar in type, age, style and location, being set within quarter of a mile of the Property. They made adjustments to reflect the fact that the ground floor flat is slightly larger than that in the Property and because of the passage of time from the sale date to the valuation date of the Property. to reflect the disparity in size between the upper floor flat in the comparable property and the upper floor flat in the subject Property as well as for the fact that the upper flat in the Property has no access to a garden.

26. From this material Ms Gering and Mr Hirani draw the conclusion that the long lease value of Flat 11A as at as at the valuation date was £310,000 and that the long lease value of Flat 11B on that same date was £290,000. The Tribunal was satisfied with the relevance and details of the comparable properties provided in the Valuation Report and with the authors assessment as to the market value of both flats.
27. The Tribunal calculates the freehold vacant possession value ("FHVP") of Flat 11A to be £313,100 and the FHVP of Flat 11B to be £292,900 (applying a1% uplift to the long lease values of each flat).
28. In order to determine the value of the unexpired residue of both leases, the FHVP of both flats was then adjusted by a factor of 90% taking a rough average of the Beckett & Kay, South East Leasehold, Nesbitt & Co, Austin Gray and Andrew Pridell graphs of relativity. From its own knowledge from other similar cases, the tribunal is satisfied with this assessment of relativity and that it is broadly consistent with assessments of agents specialising in outer London property as represented on the RICS composite graph of leasehold/freehold relativity.
29. Applying 90% to the FHVP of Flat 11A of £313,100 for Flat 11A produces a value as at the valuation date, of £281,790.
30. Applying 90% to the FHVP of Flat 11B of £292,900 for Flat 11B produces a value as at the valuation date, of £263,610.
31. The diminution in the value of the landlord's interest in the tenants' flats is represented first by the capitalised value of the grounds rent receivable under their leases. That income stream is capitalised by Ms Gering and Mr Hirani at 7%, which the Tribunal accepts is robust and appropriate in this case.
32. Next, the effect of enfranchisement will deprive the landlord of the freehold reversion of the Property. The present value of the reversion is determined by applying a deferment rate to the freehold value of both flats. The deferment rate appropriate for leasehold flats in Central London was authoritatively determined to be 5% in the case of *Earl*

Cadogan v Sportelli (2006) LRA/50/2005. Ms Gering and Mr Hirani have also adopted the Sportelli deferment rate of 5% which the Tribunal accepts.

33. The marriage value is to be shared equally between the parties, as required by the Act.
34. The Tribunal's own valuation is appended to this decision as Appendix 1. It differs from Ms Gering and Mr Hirani's valuation mainly because of the higher(freehold) value the Tribunal has attributed to the tenants' proposed interest in the marriage value calculation.
35. The premium to be paid by the Applicants for the freehold interest in 11 Goodson Road, London NW10 9LR (the "Property") is therefore £43,276.

Name: Amran Vance

Date: 1 December 2015

Appendix 1

Collective enfranchisement

11 Goodson Road, London NW10 9LR

Flats A and B

Present Lease 99 Years from 24 June 1982
Valuation Date 08-Jun-15 66.04 years unexpired

GF flat Long lease value £310,000 FF Flat Long lease value £290,000
F/H = long lease value + 1%
GF Flat F/H value £313,100 FF Flat F/H value £292,900
Flat A existing lease value £281,790 Relativity 90%
Flat B existing lease value £263,610
YP 7% PV = 5%

Ground Rent	1st 33 years	2nd 33 yrs	residue
Flat A	£30	£60	£90
Flat B	£30	£60	£90
Total	£60	£120	£180

Value of Freeholder's interest

Term

Rent £60
YP 0.04 yrs @ 7% 0.0386 2

Rent £120
YP 33 yrs @ 7% 12.7538
Deferred 0.04 yrs @ 7% 0.9973 1,526

Rent £180
YP 33 Yrs @ 7% 12.7538
Deferred 33.04 yrs @ 7% 0.1069 245
1,773

Reversion

F/H value of both flats 606,000
Deferred 66.04 yrs @ 5% 0.0399 24,179

Value of F/H interest

25,952

Marriage Value

Aggregate of values after enfranchisement

Landlord's interest	0		
Tenant's proposed interest	606,000	606,000	F/H

Less

Aggregate of values before enfranchisement

Landlord's interest	25,952		
Tenant's interest	545,400	571,352	

Marriage value		34,648	
	50%		17,324

Enfranchisement price 43,276