



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

Case Reference : LON/OOAZ/OCE/2015/0174

Property : 67 Chileric Road, London SE14 6DQ

Applicants : James Rafferty (1)
Carolyn Jack (2)
Phillip Williams

Representative : B.D Laddie Solicitors

Respondent : Mohammed Siddiq

Representative : None

Type of Application : Determination of premium payable
under Schedule 9(1) of the
Leasehold Reform Act 1967

Tribunal Members : Mrs Sonya O'Sullivan – Tribunal
Judge
Mr Duncan Jagger MRICS – Valuer
Member

**Date and venue of
Paper Determination** : 12 January 2016
10 Alfred Place, London WC1E 7LR

Date of Decision : 12 January 2016

DECISION

Decisions of the tribunal

The tribunal determines that the appropriate sum to be paid into Court for the purchase of the freehold interest by the Applicants for 67 Childeric Road, London SE14 6DQ (“the Property”), pursuant to schedule 9(1) of the Leasehold Reform Act 1967 (“the 1967 Act”), is £48,681.

The application

1. The Applicants who are the qualifying tenants of the Property seek the tribunal’s determination of the price to be paid for and the terms of the transfer of the freehold interest in the Property.
2. The landlord is missing and on or around 25 February 2015 the Applicants issued a Part 8 Claim in the Woolwich County Court under claim number BOOWO205. On 7 May 2015 (but issued on 14th) an order was made by Deputy District Judge Pearce under section 26 of the 1993 Act which confirmed that the Court was satisfied that the Applicants were entitled pursuant to the provisions of section 27 of the Leasehold Reform Act 1967 (the “1967 Act”) to have the freehold of the premises known as 67 Childeric Road, London SE14 6DQ being the premises registered at HM Land Registry under freehold title LN172290 vested in them.
3. It was further ordered that that the Applicants be at liberty to apply to this tribunal for a determination of the terms of that acquisition and that the tribunal approve the form of the transfer. Deputy District Judge Pearce also ordered that the Applicants pay the appropriate sum as determined by the tribunal into court and that the Court shall thereafter execute the transfer.
4. This determination is made on the basis of written representations in accordance with the procedure set out in regulation 13 of the Leasehold Tribunals (Procedure) (England) Regulations 2003. Directions were issued on 6th August 2015. The paper determination took place on 12 January 2016.
5. The Applicants’ solicitors supplied the tribunal with a hearing bundle that contained copies of the existing leases, Land Registry searches for the freehold and leasehold titles, relevant documents from the County Court proceedings and a valuation.
6. The tribunal did not consider that an inspection of the Property was necessary given that we had been provided with a photograph of the Property and full details of the comparables relied upon and the information provided in the report of Mr Card (see below).

7. The relevant legal provisions are set out in the Appendix to this decision.

Tenure

8. The Property contains two flats. The lease of the upper flat is for a term of 99 years from 25th September 1985 at a ground rent of £50 per year rising to £75 after 33 years and £100 after 66 years. The lease has 69.38 years unexpired. The lease of the lower flat is for a term of 99 years from 25 March 1986 at a ground rent of £50 per year rising to £75 after 33 years and £100 after 66 years. The lease has 69.88 years unexpired.
9. The tenants rely on a valuation prepared on their behalf by John R Card FRICS, a consultant for Maitlands Acorn Professional Ltd. Mr Card has inspected the Property and has provided a photograph, description and a list of comparable transactions and a valuation rationale.
10. He describes the Property as a two storey end terrace house originally built around 1895 and subsequently converted into two self contained flats. The flats each have two bedrooms.

The tenants' valuation

11. The county court claim was issued on 25 February 2015. However Mr Card has adopted the date of the order of Deputy District Judge Pearce made on 7 May 2015.
12. Mr Card goes on to review 4 local comparables as follows;
 - i) 63A Barlbrough Street SE14 – this is a two bedroom conversion flat on the ground floor. It has a share of the freehold and was sold on 21 April 2015 at £395,000. The flat is said to be in good order.
 - ii) 8b Billington Road SE14 – this is a first floor two bedroom conversion flat which completed in May 2015 at £345,000. It has an unexpired lease of 112 years and smaller than the subject flats. It is said to have been refurbished to a reasonable standard.
 - iii) 412b New Cross Road SE14 - this is a first and second floor conversion flat which was under offer at £345,000 with 112 years unexpired.
 - iv) 12 Casella Road SE14 - this is a lower ground floor flat with a new 125 year lease under offer at £335,000.

13. Mr Card then stands back and taking into account the condition of the subject property adopts an extended lease value of £325,000 for the upper flat and £330,000 for the lower flat.
14. He adopts a relativity rate of 89.5% for the upper flat and 89.75% for the lower flat. He relies on the Greater London & England section of the RICS research report dated October 2009 which shows a relativity range for 69.38-69.88 year's unexpired range from 90.5% to 94%. He says that in his opinion the lowest graph from Nesbitt & Co has proved to be the most accurate in this area of South East London and this shows a relativity of 91% at 70 years unexpired. He also relies on a tribunal decision case reference LON/OOAH/OLR/2014/0762 in which the lease had 68.43 years unexpired and the tribunal set a relativity figure of 87.5%. He also relies on a recent settlement where the unexpired lease was 71.89 years where relativity was agreed at 90%.
15. Mr Card adopts a capitalisation rate of 7% for the ground rental income as he has in many local settlements as he says there is no reason to depart from this figure.
16. Mr Card suggests a deferment rate of 5% as he says there is no reason to depart from Sportelli.
17. The premium proposed by the Applicants is £46,083 as set out in the valuation attached to Mr Card's report.

The tribunal's decision

18. The premium payable under Schedule 9(1) of the 1967 Act is £48,681.

Reasons for the tribunal's decision

19. The tribunal carefully considered the contents of Mr Card's report.
20. The correct valuation date is 25 February 2015 being the date of issue of the proceedings.
21. As far as the long lease values are concerned we accept his long lease value from the lower flat of £330,000. In considering the long lease values we took the average of the pound per square metre for the four comparable properties finding an average rate of £5,540 per square metre. This provides a value of £326,860 for the lower flat which supports Mr Card's valuation of £330,000. However in relation to the upper flat using the same calculation a value of £343,480 is reached in comparison to Mr Card's valuation of £325,000. Further we consider

an allowance should be made for hope value in relation to the possibility of the conversion of the loft space to provide habitable accommodation in respect of the upper flat. Taking these matters into account the tribunal concluded that after adopting the figure of £340,000 a further allowance of £15,000 should be made for hope value. We therefore reached a long lease value for the upper flat of £355,000.

22. As far as the relativity rate is concerned we accept 89.5% for the upper flat and 89.75% for the lower flat on the basis of Mr Card's evidence in support.
23. We agree that there is no reason to depart from 7% for the capitalisation rate.
24. As far as the deferment rate is concerned we accept a rate of 5% as contended for by Mr Card.
25. We accept the valuation of the lower flat at £22,938. We attach a revised valuation in respect of the upper flat in the sum of £25,743.
26. Accordingly we conclude that the price to be paid into court for the freehold of the property is £48,681.
 - i. We are satisfied with the terms of the transfer as set out in the transfer submitted to us.

Name: S O'Sullivan

Date: 12 January 2016

Appendix of relevant legislation

Leasehold Reform, Housing and Urban Development Act 1993 (as amended)

Section 26

26 Applications where relevant landlord cannot be found.

(1) Where not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises but—

(a) (in a case to which section 9(1) applies) the person who owns the freehold of the premises cannot be found or his identity cannot be ascertained, or

(b) (in a case to which section 9(2) or (2A) applies) each of the relevant landlords is someone who cannot be found or whose identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make a vesting order under this subsection—

(i) with respect to any interests of that person (whether in those premises or in any other property) which are liable to acquisition on behalf of those tenants by virtue of section 1(1) or (2)(a) or section 2(1), or

(ii) with respect to any interests of those landlords which are so liable to acquisition by virtue of any of those provisions,

as the case may be.

(2) Where in a case to which section 9(2) applies—

(a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and

(b) paragraph (b) of subsection (1) does not apply, but

(c) a notice of that claim or (as the case may be) a copy of such a notice cannot be given in accordance with section 13 or Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give such a notice or (as the case may be) a copy of such a notice to that person.

(3) If, in a case to which section 9(2) applies, that person is the person who owns the freehold of the premises, then on the application of those tenants, the court may, in connection with an order under subsection (2), make an order appointing any other relevant landlord to be the reversioner in respect of the premises in place of that person; and if it does so references in this Chapter to the reversioner shall apply accordingly.

(3A) Where in a case to which section 9(2A) applies—

(a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and

(b) paragraph (b) of subsection (1) does not apply, but

(c) a copy of a notice of that claim cannot be given in accordance with Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give a copy of such a notice to that person.

(4) The court shall not make an order on any application under subsection (1) (2) or (3A) unless it is satisfied—

(a) that on the date of the making of the application the premises to which the application relates were premises to which this Chapter applies; and

(b) that on that date the applicants would not have been precluded by any provision of this Chapter from giving a valid notice under section 13 with respect to those premises.

(5) Before making any such order the court may require the applicants to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person or persons in question; and if, after an application is made for a vesting order under subsection (1) and before any interest is vested in pursuance of the application, the person or (as the case may be) any of the persons referred to in paragraph (a) or (b) of that subsection is traced, then no further proceedings shall be taken with a view to any interest being so vested, but (subject to subsection (6))—

(a) the rights and obligations of all parties shall be determined as if the applicants had, at the date of the application, duly given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises to which the application relates; and

(b) the court may give such directions as the court thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Chapter or of regulations made under this Part.

(6) An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a conveyance under section 27(3) and, after it

is withdrawn, subsection (5)(a) above shall not apply; but where any step is taken (whether by the applicants or otherwise) for the purpose of giving effect to subsection (5)(a) in the case of any application, the application shall not afterwards be withdrawn except—

(a)with the consent of every person who is the owner of any interest the vesting of which is sought by the applicants, or

(b)by leave of the court,

and the court shall not give leave unless it appears to the court just to do so by reason of matters coming to the knowledge of the applicants in consequence of the tracing of any such person.

(7)Where an order has been made under subsection (2) or (3A)dispensing with the need to give a notice under section 13, or a copy of such a notice, to a particular person with respect to any particular premises, then if—

(a)a notice is subsequently given under that section with respect to those premises, and

(b)in reliance on the order, the notice or a copy of the notice is not to be given to that person,

the notice must contain a statement of the effect of the order.

(8)Where a notice under section 13 contains such a statement in accordance with subsection (7) above, then in determining for the purposes of any provision of this Chapter whether the requirements of section 13 or Part II of Schedule 3 have been complied with in relation to the notice, those requirements shall be deemed to have been complied with so far as relating to the giving of the notice or a copy of it to the person referred to in subsection (7) above.

(9)Rules of court shall make provision—

(a)for requiring notice of any application under subsection (3) to be served by the persons making the application on any person who the applicants know or have reason to believe is a relevant landlord; and

(b)for enabling persons served with any such notice to be joined as parties to the proceedings.

Upper Flat, 67 Childeric Road, London SE14 6DQ

APPENDIX A

The Tribunal's Valuation

Assessment of premium for new lease

In accordance with the Leasehold Reform, Housing and Urban Development Act 1993

LON/OOAZ/OCE/2015/0174

Components

Valuation date:	25 th February 2015	
Deferment rate:	5%	
Capitalisation rate:	7%	
Share of Freehold value:	£355,000	
Existing leasehold value	£317,725	
Relativity	89.5 %	
Unexpired Term	69.38 years	
Ground rent currently receivable	£50	
Capitalised @ 7.0% for 3.38 years	2.9142	£146
Rising to:	£75	
Capitalised @ 7.0% for 33 years	12.7538	
Deferred 3.38 years @ 7.0%	0.796	£761
Rising to:	£100	
Capitalised @ 7% for 33 years	12.7538	
Deferred 36.38 years @ 7.0%	0.0854	<u>£109</u>
		£1,016
Reversion to:	£355,000	
Deferred 69.38 years @ 5%	0.033885	<u>£12,029</u>
		£13,045
Less value of Freeholders proposed interest		
Reversion to VP value:	£355,000	
Deferred @ 5% for 159.38 years	0.00042	<u>149</u>
		£12,896
Marriage Value		
<u>Value of Proposed Interests</u>		
Extended leasehold interest	£355,000	
Value of Freehold interest	<u>£149</u>	£355,149
<u>Value of Existing Interests</u>		
Landlord's existing value	£12,029	
Existing leasehold value	<u>£317,725</u>	<u>£329,754</u>
		£25,395
Freeholders share @ 50%		£12,698
LEASE EXTENSION PREMIUM		£25,743