

4424



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

Case Reference : **LON/00AJ/OCE/2016/0320**

Property : **97 Loveday Road London W13 9JU**

Applicants : **Bobby Jaideep Bajaj & Helen
Barbara Bajaj (1)
Xiaomian Wang (2)**

Representative : **Anthony Holden Crofts & Co
Solicitors**

Respondent : **William Anderson**

Representative : **None**

Type of Application : **Determination of the appropriate
sum to be paid into court – section
27(5) and approval of a form of
conveyance – section 27 (3)
Leasehold Reform, Housing and
Urban Development Act 1993**

Tribunal Members : **Judge John Hewitt
Mr W Richard Shaw FRICS**

Date of Decision : **27 January 2017**

DECISION

Decisions of the tribunal

1. The tribunal determines that:
 - 1.1 The appropriate sum for the purposes section 27(5) of the Act is £58,613.00; and
 - 1.2 The form of the draft conveyance (Form TR1) annexed to this decision is a form which has the approval of the tribunal
2. The reasons for our decisions are set out below.

Procedural background

3. On 28 August 1986 the respondent was registered at Land Registry as the proprietor of the freehold interest in the property, 97 Loveday Road, London W13 9JU (Title number MX392421).
4. The Charges Register, Schedule of notices of leases, records two leases have been granted and registered out of the freehold interest:

GFF Flat A: dated 21 April 1988 for a term of 99 years from 25 December 1985 (Title number NGL613295); and

FFF Flat B: dated 19 November 1987 for a term of 99 years from 25 December 1985 (Title number NGL566046)
5. On 11 May 2011 the first applicant was registered at Land Registry as the proprietor of the lease of Flat A.

On 18 January 2016 the second applicant was registered at Land Registry as the proprietor of the lease of Flat B.
6. Evidently the current whereabouts of the respondent freeholder is unknown. On 5 August 2015 the first applicant and the second applicant's predecessor in title (Mr Denis Francis Langan (Mr Langan)) made an application to the County Court at Brentford (Claim Number B01BF587) pursuant to section 26 of the Act on the footing that the respondent was a 'missing landlord' for the purposes of that section.

By order made 7 July and drawn 13 July 2016 the second applicant was substituted as second claimant in place of Mr Langan.
7. By an order made 7 October and drawn 22 October 2016, Deputy District Judge Gilford, sitting at the County Court at Brentford, made an order:

"IT IS ORDERED THAT

1. *The Claimants shall be permitted to proceed with their application under Section 26 without naming a Defendant or serving his claim upon any other party.*

AND IT IS FURTHER ORDERED THAT

2. *The freehold of the Premises be vested in the Claimants, in accordance with the following provisions of this Order, on them paying into Court the appropriate sum in accordance with subsection 26(3) and (5), as determined under paragraph 4 of this Order.*

3. *The vesting ordered on paragraph 1 of this Order shall be effected by the execution by District Judge [blank] of a conveyance which is in a form approved by the Court.*

4. *In order to give effect to this Order, a Leasehold Valuation Tribunal shall determine pursuant to subsection 27 (5) of the 1993 Act, the appropriate sum for the purposes of paragraph 2 of this Order.*

5. *This matter shall be transferred to a Leasehold Valuation Tribunal in Order for paragraph 4 of this Order to be carried out.*

6. *Following the determination of the Leasehold Valuation Tribunal pursuant to paragraphs 4 and 5 of this Order. The Claimant shall file at Court:*

6.1 *a copy of the determination*

6.2 *a draft conveyance for consideration, and if appropriate approval by the Court pursuant to subsection 27 (3) of the 1993 Act and paragraph 3 of this Order.*

7. *The execution of the conveyance pursuant to paragraph 3 of this Order shall take place as soon as practicable after both:*

7.1 *the payment into Court of the appropriate sum in accordance with paragraph 2 of this Order; and*

7.2 *the approval of a form of conveyance in accordance with paragraph 6 of this Order."*

That order appears to be a vesting order for the purposes of section 26(1) of the Act.

8. Section 27(3) of the Act provides that where a vesting order is made under section 26(1) then upon payment into court of the appropriate sum there shall be executed by such person as the court may designate a conveyance which is in a form approved by the appropriate tribunal.

Section 27(5) of the Act provides that the appropriate sum for the purposes of subsection (3) is such sum as may be determined by the appropriate tribunal. Subsections (a) and (b) of subsection (5) specify what elements are to comprise and make up the appropriate sum.

9. As of 1 July 2013, the jurisdictions of the Leasehold Valuation Tribunal were transferred to this tribunal and this tribunal is now the appropriate tribunal for the purposes of section 27 of the Act.
10. The court has ordered the tribunal to determine the appropriate sum but the order does not expressly order the tribunal to settle the form of the conveyance. It is noted that the Court has reserved to itself the approval of the form of the conveyance. In case it be required, and/or of assistance to the Court and to the parties, we have settled a form of conveyance which has the approval of this tribunal.
11. Pursuant to directions issued by the tribunal we have been provided with a hearing file containing the material documents.

The appropriate sum

12. We have been provided with a valuation report prepared by Richard Stacey BA (Hons) PGDipSurv MRICS dated 20 December 2016.
13. We have gone through the report carefully. It is in a format compliant with rule 19 of this tribunal's rules which concerns expert evidence. We have noted Mr Simpson's valuation in appendix 11 and his methodology and the reasons for his conclusions. We find that he has adopted good valuation practice in his approach. He has provided evidence of comparable transactions which are acceptable. His relativeity is supported by the graphs he has identified and relied upon.
14. Taken overall, we find that we can rely upon the expert evidence of Mr Stacey with some confidence. Accordingly, we adopt Mr Stacey's evidence and determine the appropriate sum to be £58,613.00.

The form of the conveyance

15. Annexed to this decision is a copy of the form TR1 submitted by the applicants' solicitors which is approved by this tribunal as amended in red.
16. The amendment in box 9 is to reflect paragraph 2(2)(b) of Schedule 7 to the Act.
17. As to the amendments in box 11
 - 11.1 This is to comply with section 34 (10) of the Act.
 - 11.2 The charges register makes reference to the rights of third parties and the transferor is entitled to be indemnified in the event of any breach of those rights.
18. In the light the indemnity given by the transferees, they should also execute the TR1.

Judge John Hewitt
27 January 2017

AND IT IS FURTHER OREDERED THAT

2. *The freehold of the Premises be vested in the Claimants, in accordance with the following provisions of this Order, on them paying into Court the appropriate sum in accordance with subsection 26(3) and (5), as determined under paragraph 4 of this Order.*

3. *The vesting ordered on paragraph 1 of this Order shall be effected by the execution by District Judge [blank] of a conveyance which is in a form approved by the Court.*

4. *In order to give effect to this Order, a Leasehold Valuation Tribunal shall determine pursuant to subsection 27 (5) of the 1993 Act, the appropriate sum for the purposes of paragraph 2 of this Order.*

5. *This matter shall be transferred to a Leasehold Valuation Tribunal in Order for paragraph 4 of this Order to be carried out.*

6. *Following the determination of the Leasehold Valuation Tribunal pursuant to paragraphs 4 and 5 of this Order. The Claimant shall file at Court:*

6.1 *a copy of the determination*

6.2 *a draft conveyance for consideration, and if appropriate approval by the Court pursuant to subsection 27 (3) of the 1993 Act and paragraph 3 of this Order.*

7. *The execution of the conveyance pursuant to paragraph 3 of this Order shall take place as soon as practicable after both:*

7.1 *the payment into Court of the appropriate sum in accordance with paragraph 2 of this Order; and*

7.2 *the approval of a form of conveyance in accordance with paragraph 6 of this Order."*

That order appears to be a vesting order for the purposes of section 26(1) of the Act.

8. Section 27(3) of the Act provides that where a vesting order is made under section 26(1) then upon payment into court of the appropriate sum there shall be executed by such person as the court may designate a conveyance which is in a form approved by the appropriate tribunal.

Section 27(5) of the Act provides that the appropriate sum for the purposes of subsection (3) is such sum as may be determined by the appropriate tribunal. Subsections (a) and (b) of subsection (5) specify what elements are to comprise and make up the appropriate sum.

9. As of 1 July 2013, the jurisdictions of the Leasehold Valuation Tribunal were transferred to this tribunal and this tribunal is now the appropriate tribunal for the purposes of section 27 of the Act.
10. The court has ordered the tribunal to determine the appropriate sum but the order does not expressly order the tribunal to settle the form of the conveyance. It is noted that the Court has reserved to itself the approval of the form of the conveyance. In case it be required, and/or of assistance to the Court and to the parties, we have settled a form of conveyance which has the approval of this tribunal.
11. Pursuant to directions issued by the tribunal we have been provided with a hearing file containing the material documents.

The appropriate sum

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13. We have gone through the report carefully. It is in a format compliant with rule 19 of this tribunal's rules which concerns expert evidence. We have noted Mr Simpson's valuation in appendix 11 and his methodology and the reasons for his conclusions. We find that he has adopted good valuation practice in his approach. He has provided evidence of comparable transactions which are acceptable. His relative value is supported by the graphs he has identified and relied upon.
14. Taken overall, we find that we can rely upon the expert evidence of Mr Stacey with some confidence. Accordingly, we adopt Mr Stacey's evidence and determine the appropriate sum to be £58,613.00.

The form of the conveyance

15. Annexed to this decision is a copy of the form TR1 submitted by the applicants' solicitors which is approved by this tribunal as amended in red.
16. The amendment in box 9 is to reflect paragraph 2(2)(b) of Schedule 7 to the Act.
17. As to the amendments in box 11
 - 11.1 This is to comply with section 34 (10) of the Act.
 - 11.2 The charges register makes reference to the rights of third parties and the transferor is entitled to be indemnified in the event of any breach of those rights.
18. In the light the indemnity given by the transferees, they should also execute the TR1.

Judge John Hewitt
27 January 2017

Land Registry
Transfer of whole of registered title(s)

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TR1

Approved as amended

John Hewitt 27.01.2017

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Give full name(s).

Complete as appropriate where the transferor is a company.

Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

1	Title number(s) of the property: MX392421
2	Property: 97 Loveday Road, Ealing, London, W13 9JU
3	Date:
4	Transferor: William Anderson <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in England and Wales including any prefix:
5	Transferee for entry in the register: Bobby Jaideep Bajaj and Helen Barbara Bajaj and Xiaomian Wang <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in England and Wales including any prefix:
6	Transferee's intended address(es) for service for entry in the register: Bobby Jaideep Bajaj and Helen Bajaj of 97 Loveday Road, Ealing, London, W13 9JU Xiaomian Wang of 97b Loveday Road, Ealing, London, W13 9JU
7	The transferor transfers the property to the transferee

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 11.

8 Consideration aj

- The transferor has received from the transferee for the property the following sum (in words and figures):
- The transfer is not for money or anything that has a monetary value
- Insert other receipt as appropriate:

Place 'X' in any box that applies.

Add any modifications.

9 The transferor transfers with

No

- full title guarantee
- limited title guarantee

Where the transferee is more than one person, place 'X' in the appropriate box.

10 Declaration of trust. The transferee is more than one person and

- they are to hold the property on trust for themselves as joint tenants
- they are to hold the property on trust for themselves as tenants in common in equal shares
- they are to hold the property on trust for themselves in tenants in common as to 50% for Bobby Jaideep Bajaj and Helen Barbara Bajaj and 50% for Xiaomian Wang

Complete as necessary.

Insert here any required or permitted statement, certificate or application and any agreed covenants, declarations and so on.

11 Additional provisions

Please see Rider A attached

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

12 Execution

Signed as a Deed by

Pursuant to an order of Brentford Country Court in case number B01BF587/ pursuant to order of the First Tier tribunal dated [] in case number []

In the presence of:-

W SIGNATURE:

I

T NAME (in block caps):

N

E ADDRESS:

S

S OCCUPATION:

Also to be executed by the Transferees

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

LON/00AJ/OCE/2016/0326

Rider A referred to in Box 11 of the draft form TR1 approved by the tribunal on 27.01.2017

In Box 11 insert:

- 11.1 This transfer is executed for the purpose of Chapter 1 Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993.**

- 11.2 The transferee covenants by way of indemnity only, on the transferees' behalf and on behalf of the transferees' successors in title, to observe and perform the charges, incumbrances, covenants and restrictions contained or referred to in the Charges register of Title number MX392421 insofar as they are subsisting and capable of taking effect and the landlord covenants in or implied by the leases referred to in the Charges register of the said title, and will keep the transferor indemnified against all proceedings, costs, claims and expenses arising from any failure to do so.**