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

Case reference : LON/00AW/OCE/2015/0340

Property : 14 Lennox Gardens, London, SW1X 0DG

Applicant : The Wellcome Trust Limited

Representative : Cameron McKenna LLP

Respondents : 14 Lennox Gardens Freehold Limited

Representative : Penningtons Manches LLP

Type of application : Application for permission to appeal

Tribunal members :
(1) Judge Amran Vance
(2) Mr N. Martindale, FRICS
(3) Mr D Jagger, MRICS

Date of decision : 29 January 2017

Decision as to whether to grant permission to appeal

BACKGROUND

1. The tribunal has received a letter dated 19 December 2016 from the respondent seeking permission to appeal its decision 22 November 2016. It asserts that when considering sales of comparable properties we should have disregarded transactions relating to Flat C 16-18 Lennox Gardens and Flat 7, 15 Lennox Gardens.
2. It has also received written representations from the applicant opposing that application, sent under cover of its letter dated 12 January 2017, in which it contends that the application should be dismissed for non-compliance with rule 52(5)(c) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the "2013 Rules"). The assertion was that the application was defective for failing to state the result the respondent was seeking, namely what freehold value ought to be attributed to flats 2 and 3 in the subject Building and what price ought to be paid in consequence.
3. In its letter in response, dated 13 January 2017, the respondent's solicitors sought permission from the tribunal to amend its application under rule 8(2)(b) and rule 6 of the 2016 Rules to include the price it considers to be payable for the freehold of Flat 2 (£2,076,033) and Flat 3 (£1,278,400). It also applied, in the alternative, for waiver of any deficiency under rule 8(2)(a).
4. That application was opposed by the applicant's solicitors in a letter dated 20 January 2017 in which they also argued that the amended figures for the freehold values of Flat 2 and Flat 3 were incorrect and too high. According to its calculations, the enfranchisement price if the two comparables in dispute were disregarded would be £4,392,214 and not £4,161,100 as suggested by the respondent, a figure that was only 6% less than the figure determined by this tribunal. The respondent replied in a letter dated 23 January 2017, submitting that the applicant had failed to draw a distinction between the grounds of appeal and the result of the appeal if permission was granted. It anticipated that if permission was granted the Upper Tribunal would conduct a rehearing and would assess what weight to be given to all relevant comparable transactions.

Decision

1. The tribunal grants permission to the applicant to amend its application for permission to appeal as per the attached amended grounds. It does so under rule 6(2)(c) of the 2013 Rules. In the tribunal's view this was a technical error that has caused no substantive prejudice to the respondent and that it would be in accordance with the

overriding objective to deal with cases fairly and justly to allow the amendment.

2. The tribunal has considered the grounds of appeal and determines that:
 - a. it will not review its decision; and
 - b. permission to appeal is refused.
3. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, each of the parties may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
4. Our reason for reaching this decision is that we consider our original decision was based on the evidence before us and no error of law in that decision has been identified that would that justify the grant of permission to appeal.
5. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (assuming that a further application for permission to appeal is made), the tribunal sets out below its comments on the specific points raised in the application for permission to appeal.

Name: Amran Vance

Date: 29 January 2017

price. That was a conclusion we were entitled to reach on the evidence presented to us.