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

Case Reference : **NAT/LON/00AJ/OLR/2017/0166**

Property : **13 Tachbrook Road, Southall,
Middlesex, UB2 5JA**

Applicant : **Mr Umair Sahid and Ms Gillian
Gardener**

Representative : **EDC Lord & Co, Solicitors**

Respondent : **Mr Richard Roy Davies**

Representative : **N/A**

Type of Application : **S26 Leasehold Reform Housing
and Urban Development Act 1993,
Missing Landlord**

Tribunal Members : **P M J Casey MRICS**

**Date and venue of
Hearing** : **Paper hearing on 22 August 2017
10 Alfred Place, London WC1E 7LR**

Date of Decision : **1st September 2017**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the purchase price payable for the Freehold interest in 13 Tachbrook Road, Southall, Middlesex, UB2 5JA (“the property”) is the sum of £37,700.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

The application

1. The applicants seek a determination by the Tribunal pursuant to an order made under the provisions of S26 of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by Deputy District Judge Mendel sitting at the County Court at Uxbridge on 20 June 2017 of the price to be paid into Court on the acquisition of the freehold interest in the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 26 April 2017 by EDC Lord & Co, Solicitors on behalf of the applicants in which it was said that the applicants were entitled to acquire the property under the provisions of the Act but had been unable to trace the relevant landlord to serve the requisite notice.

The hearing

3. In response to the Tribunal’s directions which provided for a determination on the papers to be submitted, the applicants’ solicitors provided a bundle of documents including a valuation report dated 3 August 2017 for use in Tribunal proceedings prepared by Harj Padda, MRICS, of Buntings Chartered Surveyors. The report contained the requisite declarations required of a Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 22 August 2017. No inspection of the property was deemed necessary given the description, plans and photographs included in the report.

The evidence

5. From Mr Padda’s description of the property it is a two storey Victorian inner terrace former house which has been converted into two self-contained flats. The ground floor is arranged as a two bedroomed flat, whilst the other is a one bedroomed flat though having a larger floor area. Both flats use the front and rear garden areas.

6. Both flats at the property are held on a 99 year leases from 29 September 1983 subject, at the valuation date, to ground rent payments of £50.00 per annum.
7. At the Valuation Date, 26 April 2017, the leases had 65.43 years unexpired.
8. Mr Padda provides market evidence for the extended lease values of the flats at the property as at the Valuation Date by reference to eight transactions involving similar properties at around that time details of which are provided in the report. He gives for each transaction the address of the property, a reference number linked to his location plan, the sale price, date of sale, brief lease details, number of bedrooms and a reference to condition and/or refurbishment are also given. Mr Padda also gave floor areas and provided sales particulars. He made adjustments to the sale prices for time and devalues the adjusted prices to give a rate per square foot. The rates he derives range from £340 to £440 per square foot for flats sold on long leases with an average of £386.
9. Mr Padda says there have been, unspecified, tenant's improvements in both flats. He says he is valuing to an in repair but unmodernised condition whilst most of the comparables are in good/refurbished condition and he makes an unspecified adjustment for this factor, as well as for his view that Tachbrook Road is a less appealing location than most of the comparables. He values the extended lease of the ground floor flat at £200,000 (484 square feet @£413) and that of the larger first floor flat at £225,000 (646 square feet @ £348). He increases these figures by 1% to give virtual freehold values of £202,000 and £227,250 respectively.
10. To capitalise the ground rent income for the unexpired terms of the existing leases in his valuation of the existing freehold interest in the property he adopts a rate of 6% whilst to arrive at the present value of the freeholder's right to possession on the expiration of the existing lease term he adopts the "Sportelli" deferment rate of 5%.
11. To calculate the marriage value and the landlord's entitlement to 50% thereof he has assessed the value of the existing lease terms in the two flats, disregarding the value of the rights conferred by the Act, by reference to what are generally referred to as graphs of relativity as he says there is no direct comparison sales' evidence for properties held on leases of such unexpired terms. He refers the five graphs relating to outer London/England which were published in an RICS report into relativity. Averaging the five suggests to him that in a "no Act world" the existing lease terms would have values of 89.12% of the freehold value. However he accepts a downward trend in relativities in Outer London in recent years and he adopts the three lowest graphs to give a relativity of 88.27%. Mr Padda acknowledges that one of his

comparables, 24 St Anselm's Road, sold with only 66.55 years unexpired on its lease. He says he has analysed this sale, but does not say how, and it shows 87% of free hold value.

12. His valuation attached to his report produces a purchase price of £32,600.

The decision

13. Mr Padda's adoption of a capitalization rate of 6% cannot in the present case be said to be wrong where there are relatively small fixed ground rents and again, in the absence of extensive evidence to the contrary, his adoption of the "Sportelli" deferment rate of 5% is accepted.
14. The comparable sales evidence provided show prices for flats on extended leases ranging from £230,000 - £285,000 and increasing with size. Two of the comparables have shorter lease terms: one with 66.58 years unexpired sold for £230,000 whilst the other with 79.62 years unexpired sold for £209,000. These raw figures suggest Mr Padda is a little low in his valuations possibly because of the unspecified adjustments for good/refurbished condition of the comparables against his "in repair but unmodernised" valuation assumption. What are often claimed as tenant's improvements are very often simply repair by replacement and unless very recent and of good quality such things as replacement kitchens and bathrooms have very little effect on value, and it is the increase in value attributable to tenant's improvements which falls to be ignored. In the tribunal's view a figure of £210,000 should apply to the extended lease value of the ground floor flat and the larger first floor flat should be valued at £230,000. The 1% uplift for the freehold values is accepted.
15. The sales evidence supplied by Mr Padda includes two sales of flats held on leases with unexpired terms of less than 90 years. Such limited evidence however does not provide a firm basis on which to value the existing leasehold interests in the flats at the property. It can though be used to cross check the graphs which all date back over 10 years to a pre-Sportelli era and much lower house prices when enfranchisement/lease extensions cost modest sums. Mr Padda has considered the sale with the closest unexpired term to the flats in the subject property, 66.58 years against 65.43 years, and says it shows a relativity of 87% which does cast doubt on the graphs. Doing the best that can be done with the available evidence the tribunal determines the value of the existing leases at a relativity to the freehold value of 87.5% giving a value for the ground floor flat of £185,600 and for the first floor flat £203,250.
16. The tribunal's valuation is attached. There is no need to add in unpaid ground rents as such are not payable unless demanded in writing in the appropriate form.

17. At pages C62-65 of the bundle is a draft of the proposed transfer terms on form TR1. This has been considered by and is approved by the tribunal.

Name: Patrick M J Casey

Date: 1st September 2017

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case. The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

**First Tier Tribunal
Property Chamber (Residential Property)**

S26 Leasehold Reform Housing and Urban Development Act 1993

Price payable for the Freehold Interest in 13 Tachbrook Road, Southall UB2 5JA

Valuation date: 26 April 2017

A Ground floor flat

Value of Freehold Interest

Capitalization of Ground Rent

Rent Receivable per annum

£50

YP for 65.43 years @ 6%

16.2985

£815

Reversion to F/H Vacant Possession Value

£212,100

Deferred 65.43 years @ 5%

0.0411

£8,717

£9,532

Marriage Value

Proposed Interest

£212,100

Less

Existing interest @ 87.5% relativity

£185,600

Plus freehold Interest

£9,532

£195,132

£16,968

Marriage Value to Freeholder @ 50%

£8,484

£18,016

Say £18,000

B First floor flat

Value of Freehold Interest

Capitalization of Ground Rent

Rent Receivable per annum

£50

YP for 65.43 years @ 6%

16.2985

£815

Reversion to F/H Possession Value

£232,300

Deferred 65.43 years @ 5%

0.0411

£9,547

£10,362

Marriage Value

Proposed Interest

£232,300

Less Existing interest @ 87.5% relativity

£203,250

Plus Freehold Interest

£10,362

£213,612

£18,688

Marriage Value to Freeholder @ 50%

£9,344

£19,706

Say £19,700

Ground floor £18,000

First floor flat £19,700

Total for Freehold Interest £37,700