



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

Case Reference : **VG/LON/OOAE/OCE/2017/0059**

Property : **7 Rucklidge Avenue, London NW10
4QA**

Applicants : **Emma Day and Ana O'Connell
(leaseholders)**

Representatives : **Tolhurst Fisher LLP (solicitors) with
valuation advice from Mike Stapleton
& Co (chartered surveyors)**

Respondent : **Dennis Matthews (landlord)**

Representative : **Not applicable as the landlord is
missing**

Type of Application : **To seek a determination of the
premium payable for the acquisition
of the freehold and a determination of
the terms of the transfer of the
freehold made under sections 26 and
27 of the Leasehold Reform, Housing
and Urban Development Act 1993
(‘the Act’)**

Tribunal Members : **Judge James Driscoll and Mrs Evelyn
Flint FRICS (Valuer Member)**

Date of Hearing : **The Tribunal considered the
application on the basis of the papers
filed and without a hearing on 19
April, 2017.**

Date of Decision : **19 April, 2017**

DECISION

Summary of the decision

1. The premium to be paid for the grant for the acquisition of the freehold is the sum of £72,225.00 (seventy-two thousand, two hundred and twenty-five pounds).
2. The draft transfer of the freehold to the applicants is approved.
3. On payment of the sum of £69,664.27 (the premium less assessed costs) into the Willesden County Court (under claim number C02W1433) a District Judge of the Court will execute the transfer in accordance with the order of the Court dated 2 February, 2017 on behalf of the landlord who cannot be traced.

The claim

4. The applicants are each leaseholders of flats in the subject premises which is a block of four flats all held on long leases.
5. They wish to acquire the freehold in accordance with the provisions in the Act.
6. As they cannot trace the landlord they obtained a vesting order from the Willesden County Court dated 2 February, 2017. This order vested the freehold into their joint names and directed that they apply to this tribunal for a determination of the premium and the determination of the terms of the transfer of the freehold title. It was also directed that from the premium should be deducted the sum of £2,584.73 representing the applicant's assessed costs in applying to the Court.
7. An application was made to this tribunal on 7 March, 2017. Directions were given 9 March 2017. Solicitors acting for the applicant leaseholders produced a bundle of documents as directed. This bundle which included documents relating to the Court proceedings, statements, a valuation report, a draft transfer and other relevant documents were considered by the tribunal on 19 April, 2017.
8. According to a statement of Mr Thomas Holdcroft a solicitor acting for the applicant leaseholders dated 16 September 2016, the subject premises consists of four flats. The first claimant (Ms Day) owns the lease of the top floor flat whilst the second claimant (Ms O'Connell) owns the first floor flat.
9. The other two leaseholders have not participated in the enfranchisement claim. All of the leases have terms of less than 80 years. It follows that 50% of any 'marriage value' is payable by the claimant leaseholders and in principle they must pay 'hope value' in respect of the non-participating leaseholders.

Reasons for our decision

10. We considered the report of the claimant leaseholder's valuer dated 31 March, 2017. This was undertaken by Mr Mike Stapleton FRICS who carried out an inspection of the subject premises on 18 February, 2016. He describes the condition of the premises as 'basic but fair repair' (page 2 of his report). The inspection also revealed that there are no 'tenant improvements' to consider.
11. Mr Stapleton also notes the details of the four leases and that the claimant leaseholders held terms of 60.28 years at the date on which the Court application was made. He adds, correctly in our opinion, that this date, 19 September 2016, is to be treated as the valuation date.
12. We also agree with him that the appropriate deferment rate for determining the current value of the freehold is 5% and that the appropriate rate for valuing the lost rental income for the duration of the leases should be at a capitalisation rate of 7%.
13. His analysis of 'marriage value' and 'hope value' appears on page 5 of this report. He is correct in his conclusion that the marriage value payable by the claimants is 50% (as provided for in the Act). We also accept his analysis of hope value where he cites a decision of the Lands Tribunal where it was determined that where there were non-participating leaseholders (as in this case) the applicable hope value should be 10% payable on behalf of the non-participants (see: *Culley v Daejan Properties* (2009)).
14. As to 'relativity' he has analysed a number of graphs in the RICS 2009 research report which leads him to the conclusion that the appropriate relativity in this case should be 92%.
15. As to the freehold value of the flats, Mr Stapleton has considered the sales of four flats which in his view amounts to comparable evidence of this aspect of value. Of these four sales he places most reliance on the sale of Flat C, 14 Rucklidge Avenue London NW10 as this is similar in size to the other flats. We note that it also good evidence of the value of the subject flats given its proximity to them Using that evidence as his 'base value' of £X.
16. His valuations appear on pages 8 and 9 of the report. Having agreed with the various elements of his analysis we agree that the premium to be paid for the freehold is the sum of £72,225.00 (seventy-two thousand, two hundred and twenty-five pounds). From this sum is to be deducted the assessed costs leaving the net sum of £69,664.27 to be paid into Court as noted above.
17. We turn to the draft Transfer which starts at page 57 of the bundle. Subject to completing the insertion of the net premium the draft is approved.

Rights of appeal

18. Under 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.
19. 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.
20. 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 it not being within the time limit.
21. The application for permission to appeal must identify the decision of the tribunal to which it relates (that is to 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.
22. If this tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

James Driscoll and Evelyn Flint
19 April, 2017