



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

Case reference : LON/00BJ/OCE/2018/0083

Property : 20 and 20a Kathleen Road, London SW11 2JS

Applicant : Rogan Stephen Taylor-Langton (Flat 20a) and Jillian Margaret Jean Naylor (Flat 20)

Representative : Courtyard Solicitors LLP and Mr Michael Tibbatts MRICS MEWI of Scrivener Tibbatts Chartered Surveyors

Respondent : John Tristram Carter (missing Landlord)

Representative : None

Type of application : Section 26 of the Leasehold Reform, Housing and Urban Development Act 1993

Tribunal members : Tribunal Judge Dutton
Mr L Jarero BSc FRICS

Date of determination and venue : 18th June 2018 at
10 Alfred Place, London WC1E 7LR

Date of decision : 18th June 2018

DECISION

Summary of the tribunal's decision

The appropriate sum payable for the freehold of the property 20 and 20A Kathleen Road, London SW11 2JS (the Property) is £7,200 as set out in the report of Michael Tibbatts MRICS MEWI (Mr Tibbatts) dated 21st May 2018.

Background

1. This is an application made by the applicant qualifying tenants pursuant to section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a Vesting Order in favour of the Applicants in respect of the freehold interest in the Property.
2. The Respondent Landlord could not be traced. Hence an application was issued in the County Court at Wandsworth on 30th August 2017. An order was made by District Judge Elliott on 7th March 2018 (the Order) under sections 26 and 27 of the Act requiring this Tribunal to determine the terms upon which the freehold title should be transferred to the Applicants, including the price to be paid for the freehold.
3. The matter came before us for consideration on 18th June 2018. We had before us a bundle of papers which included the application to the Court and the Order. We also had before us a report by Mr Tibbatts dated 23rd January 2017, which had been the subject of revision to satisfy the Tribunal that it complied with the CPR rules and to reflect the valuation date which is recorded as 25th August 2017. In fact it should be 30th August 2017 the date upon which the proceedings were issued. This updated report is dated 21st May 2018. The bundle contained other papers not strictly relevant to us in the determination of the price to be paid for the freehold.
4. We have considered the updated report and reviewed that in the light of the earlier report. The later report puts more flesh to the bone in respect of the valuation of the basement and the roof space, neither of which falls within the demise of the existing leases for the two flats. It is noted that the leases are for terms of 999 years from 1980 and there is accordingly no reversionary value. The ground rent is £5 per annum but appears never to have been collected. However, Mr Tibbatt has made an allowance of £100 for the capitalisation of the ground rent for each flat.

The tribunal’s determination

5. The tribunal determines that the basis upon which Mr Tibbatts has valued the basement area, at £2,000 and the roof space at £5,000 is we find reasonable. It appears that the basement would have storage value only. As to the roof space Mr Tibbatts has carried out a more detailed assessment based on a value of £125,000 for this space when converted to provide additional accommodation. When the costs of such conversion have been taken into account it gives a gross development value of £15,400. Relying on the Stokes v Cambridge principle of 33% share for the Landlord he arrived at a value of £5,000 for the roof space.

6. The ground rent capitalised at £100 for each flat is acceptable. As we have indicated we are content to accept the values attributable to the basement and roof space and determine that the price to be paid for the freehold should be £7,200, subject to the deduction of any costs, yet to be assessed.
7. As to the Transfer we approve same, save that the price will need to be inserted and we are of the view that the transfer should be with limited title guarantee

Name: Tribunal Judge Dutton **Date:** 18th June 2018

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).