



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

Case Reference : **LON/00AG/OCE/2018/0277**

Property : **16 & 16a Credenhill Street
London SW16 6PR**

Applicants : **(1) Sarah Elizabeth Sparrow
(2) Frank Tropea
(3) Maria Tropea**

Representative : **Nick Plotnek Associates**

Respondent : **Luciane Helena Soares Bell**

Type of Application : **Determination of price of freehold
by leasehold enfranchisement
(missing landlord)**

Tribunal Members : **N Martindale FRICS**

Date of Decision : **13 February 2019**

DECISION

Decisions of the Tribunal

1. The premium to be paid by the applicants for the freehold interest in 16 and 16a Credenhill street London SW16 6PR, registered at HM Land registry under title number LN10488 the “Property”) is **£48,220**. This sum to be apportioned £19,880 for No.16, and £28,340 for No.16a.
2. The Tribunal was not required to consider and approve, or otherwise, the terms of any transfer in Form TR1.

Introduction

3. This is an application made under Section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid and the terms of acquisition of the freehold interest in the Property. The relevant legal provisions are set out in the Appendix to this decision.
4. The Property is a two level plus attic, mid-terrace late Victorian building, formerly a house, which has been converted into two self contained flats, ground floor No.16 and first and second floor No.16a.
5. The first applicant is the leaseholder of No.16a and holds their interest under the terms of a lease dated 25 May 1990 registered under title number TGL57393. That lease was granted by Anthony J.L. Harris, to the original leaseholders Stephen R. Hill and Julie E. Westcott for a term of 99 years from 29 September 1989. The lease reserves a fixed ground rent of £50 pa for the first 33 years, then £100 pa for the next 33 years and finally £150 pa for the remainder of the term. The residual term of the lease is now vested in the first applicant.
6. The second and third applicants are the leaseholders of No.16 and hold their interest under the terms of a lease dated 16 January 1991, registered under title number TGL45616. That lease was granted by Anthony J.L. Green, to Richard T. Harris and Lisa J. Shiels for a term of 99 years from 29 September 1989. The lease reserves a fixed ground rent of £50 pa for the first 33 years, then £100 pa for the next 33 years and finally £150 pa for the remainder of the term. The residual term of the lease is now vested in the second and third applicants.
7. The registered freehold proprietor of the Property is the respondent, who was registered as such under title number LN10488 on 6 October 1997.
8. By order made by District Judge Bloom on 17 September 2018 and on the court being satisfied that the respondent could not be found, the respondent’s interest in the subject Property was vested in the applicants in accordance with section 26 of the Act.
9. It was further ordered that service by the applicants of a notice under section 13 of the Act was dispensed with and that the proceedings were to be transferred to this Tribunal for a determination of the price of the transfer of the respondents’ interest to the applicants. The Tribunal’s jurisdiction is derived from this vesting order.

10. The Tribunal considered the issue on the papers submitted by the applicants, without a hearing, in accordance with directions issued on 13 November 2018, but delayed to the week commencing 11 February 2019. A valuation report was received from Nick Plotnek dated 7 December 2018. However it contained a number of errors and omissions. On 11 January 2019 the Tribunal requested the submission of a revised and supplemented report to be provided by 1 February 2019. This was received on 4 February 2019.

Statutory Basis of Valuation

11. Schedule 6 to the Act provides that the price to be paid by the nominee purchasers, in this case the applicants, for the freehold interest shall be the aggregate of the value of the freeholder's interest, the freeholder's share of the marriage value, and compensation for any other loss.
12. The value of the freehold interest is the amount which, at the valuation date, that interest might be expected to realise if sold in the open market subject to the tenancy by a willing seller (with the nominee purchaser, or a tenant of premises within the specified premises or an owner of an interest in the premises, not buying or seeking to buy) on the assumption that the tenant has no rights under the Act either to acquire the freehold interest or to acquire a new lease.
13. Paragraph 4 of the Schedule, as amended, provides that the freeholder's share of the marriage value is to be 50%, and that any marriage value is to be ignored where the unexpired term of the lease exceeds eighty years at the valuation date.
14. Paragraph 5 of the Schedule provides for the payment of compensation for other loss resulting from the enfranchisement.

Evidence

15. The applicants provided a revised valuation report dated 31 January 2019. The Tribunal is content that the final premium valuation for the freehold, set out therein, is acceptable.
16. Having considered the contents of the Valuation Report and the opinions expressed in that report the Tribunal is satisfied that the method adopted is appropriate to determine the enfranchisement price for the Property. The Tribunal accepts the description of the Property and its location as stated.
17. The Tribunal did not consider it necessary or proportionate to carry out an inspection of the Property.

Valuation

18. The Property was originally a terraced house which appears to have been sub-divided into two self-contained flats in the late 1980's. No.16 is a ground floor flat which comprises a shared ground floor entrance hall, main reception, bedroom, bathroom, kitchen and has the entire enclosed rear garden. The GIA was said to be 559 ft². No.16a is a large first and second floor flat which is accessed from the same shared front ground floor hallway as the ground floor flat and comprises 2 bedrooms, sitting room, kitchen, bathroom. The GIA was said to be 805 ft². The second floor accommodation was present at the time of conversion.
19. It is stated that there are no tenants improvements, the existence and value of which should be ignored for the purpose of these valuations for both flats.
20. The valuation date prescribed by section 27(1) of the Act is the date of the applicants' application to the court namely 9 March 2018. The unexpired residue of the leases for both flats is therefore 70.56 years.
21. From this material the valuer draws the conclusion that as at the valuation date, the long lease value, of Flat 16 was £333,200 and Flat 16a £479,800. The Tribunal is satisfied with the relevance and details of the twelve comparable property sales as evidence of long leasehold values provided. The Tribunal accepts the valuer's devaluations, adjustments, analysis and application to the property.
22. The Tribunal notes and accepts the 1% adjustment made by the value in uplifting each of the long lease values to their notional freehold value.
23. The valuer having considered all of the RICS published graphs of relativity for areas outside of PCL, has taken a broad brush approach and adopts 92.84% for the unexpired lease period for each lease. The valuer's adoption of this figure is accepted by the Tribunal. The valuer adjusts this figure downwards by 1.85% to reflect the 'No Act' world to reach a final relativity to be applied of 91.12%. The valuer duly applies this percentage relativity to each of the virtual freehold values for the respective flats.
24. The diminution in the value of the landlord's interest in the tenants' flats is represented first by the capitalised value of the grounds rent receivable under their leases. That income stream is capitalised by the valuer at 7%, which the tribunal accepts is appropriate in this case owing to the low albeit slightly rising rents.
25. Next, the effect of enfranchisement will deprive the landlord of the freehold reversion of the Property. The present value of the reversion is

determined by applying a deferment rate to the freehold value of both flats. The deferment rate appropriate for leasehold flats in Central London was authoritatively determined to be 5% in the case of *Earl Cadogan v Sportelli* (2006) LRA/50/2005. The valuer also adopts the Sportelli deferment rate of 5% which the Tribunal accepts.

26. The marriage value arising to both parties from the extension of the lease is to be shared equally between the parties, as required by the Act.
27. The valuer considers that there is no development potential for expansion of living space into what is commonly a simple loft space at second floor level, as this was already living accommodation when the flats were created and already forms a significant part of the upper flat.
28. The Tribunal accepts the valuation for each part of the property, as produced by the valuer and in particular his final opinion of value of £48,220, for the whole, as expressed in his report. The Tribunal has therefore not produced its own valuation.
29. The premium to be paid by the applicants for the freehold interest in the Property is therefore **£48,220 (Forty-Eight Thousand Two Hundred and Twenty Pounds)**.

Name: Neil Martindale FRICS Date: 13 February 2019

Appendix

Leasehold Reform, Housing and Urban Development Act 1993

26 Applications where relevant landlord cannot be found

(1) Where not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises [a RTE company which satisfies the requirement in section 13(2)(b) wishes to make a claim to exercise the right to collective enfranchisement] but--

(a) (in a case to which section 9(1) applies) the person who owns the freehold of the premises cannot be found or his identity cannot be ascertained, or

(b) (in a case to which section 9(2) [or (2A)] applies) each of the relevant landlords is someone who cannot be found or whose identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question [RTE company], make a vesting order under this subsection--

(i) with respect to any interests of that person (whether in those premises or in any other property) which are liable to acquisition on behalf of those tenants [by the RTE company] by virtue of section 1(1) or (2)(a) or section 2(1), or

(ii) with respect to any interests of those landlords which are so liable to acquisition by virtue of any of those provisions,

as the case may be.

(2) Where in a case to which section 9(2) applies--

(a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises [a RTE company which satisfies the requirement in section 13(2)(b) wishes to make a claim to exercise the right to collective enfranchisement], and

(b) paragraph (b) of subsection (1) does not apply, but

(c) a notice of that claim or (as the case may be) a copy of such a notice cannot be given in accordance with section 13 or Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question [RTE company], make an order dispensing with the need to give such a notice or (as the case may be) a copy of such a notice to that person.

(3) If[, in a case to which section 9(2) applies,] that person is the person who owns the freehold of the premises, then on the application of those tenants [the RTE company], the court may, in connection with an order under subsection (2), make an order appointing any other relevant landlord to be the reversioner in respect of the premises in place of that person; and if it does so references in this Chapter to the reversioner shall apply accordingly.

[(3A) Where in a case to which section 9(2A) applies--

(a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises [a RTE company which satisfies the requirement in section 13(2)(b) wishes to make a claim to exercise the right to collective enfranchisement], and

(b) paragraph (b) of subsection (1) does not apply, but

(c) a copy of a notice of that claim cannot be given in accordance with Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question [RTE company], make an order dispensing with the need to give a copy of such a notice to that person.]

(4) The court shall not make an order on any application under subsection (1)[, (2) or (3A)] unless it is satisfied--

(a) that on the date of the making of the application the premises to which the application relates were premises to which this Chapter applies; and

(b) that on that date the applicants [RTE company] would not have been precluded by any provision of this Chapter from giving a valid notice under section 13 with respect to those premises[a

nd that the RTE company has given notice of the application to each person who is the qualifying tenant of a flat contained in those premises].

(5) Before making any such order the court may require the applicants [RTE company] to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person or persons in question; and if, after an application is made for a vesting order under subsection (1) and before any interest is vested in pursuance of the application, the person or (as the case may be) any of the persons referred to in paragraph (a) or (b) of that subsection is traced, then no further proceedings shall be taken with a view to any interest being so vested, but (subject to subsection (6))--

(a) the rights and obligations of all parties shall be determined as if the applicants [RTE company] had, at the date of the application, duly given notice under section 13 of their [its] claim to exercise the right to

collective enfranchisement in relation to the premises to which the application relates; and

(b) the court may give such directions as the court thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Chapter or of regulations made under this Part.

(6) An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a conveyance under section 27(3) and, after it is withdrawn, subsection (5)(a) above shall not apply; but where any step is taken (whether by the applicants [RTE company] or otherwise) for the purpose of giving effect to subsection (5)(a) in the case of any application, the application shall not afterwards be withdrawn except--

(a) with the consent of every person who is the owner of any interest the vesting of which is sought by the applicants [RTE company], or

(b) by leave of the court,

and the court shall not give leave unless it appears to the court just to do so by reason of matters coming to the knowledge of the applicants [RTE company] in consequence of the tracing of any such person.

(7) Where an order has been made under subsection (2) [or (3A)] dispensing with the need to give a notice under section 13, or a copy of such a notice, to a particular person with respect to any particular premises, then if--

(a) a notice is subsequently given under that section with respect to those premises, and

(b) in reliance on the order, the notice or a copy of the notice is not to be given to that person,

the notice must contain a statement of the effect of the order.

(8) Where a notice under section 13 contains such a statement in accordance with subsection (7) above, then in determining for the purposes of any provision of this Chapter whether the requirements of section 13 or Part II of Schedule 3 have been complied with in relation to the notice, those requirements shall be deemed to have been complied with so far as relating to the giving of the notice or a copy of it to the person referred to in subsection (7) above.

(9) Rules of court shall make provision--

(a) for requiring notice of any application under subsection (3) to be served by the persons making the application on any person who the applicants know or have [RTE company on any person who it knows or has] reason to believe is a relevant landlord; and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.