



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

**Case reference** : **MAN/00EW/OAF/2019/0034**

**Property** : **5 Hunters Lane, Littledales Park,  
Hertford, Northwich, Cheshire, CW8  
2ZL**

**Applicant** : **Michelle Scutt**

**Representative** : **Orme Associates**

**Respondent** : **Adriatic Land 4 Limited**

**Representative** : **Knights PLC**

**Type of application** : **Section 21(a) of the Leasehold Reform  
Act 1967**

**Tribunal  
member(s)** : **Judge J White  
Ms S D Latham (valuer)**

**Venue** : **Northern Residential Property First-tier  
Tribunal, 1 floor, Piccadilly Exchange, 2  
Piccadilly Plaza, Manchester, M1 4AH**

**Date of decision** : **18 May 2020**

**Date of  
determination** : **22 June 2020**

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**DECISION**

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## **The Decision**

1. The Tribunal makes the following determination:
  - (i) The price payable by the Applicant to the Respondent for the freehold enfranchisement is £4573.
  - (ii) The costs payable by the Applicant to the Respondent are £1100 plus VAT (£600 profit costs and £500 disbursements for the valuation report).

## **The Application**

2. This case involves an application made for a determination of the price payable for the freehold of 5 Hunters Lane, Littledales Park, Hertford, Northwich, Cheshire, CW8 2ZL (“the Property”). The application is made under the Leasehold Reform Act 1967 (“the Act”).
3. The Applicant is Michelle Scutt who is represented by Orme Associates. The Respondent is Adriatic Land 4 Limited and is represented by Knights PLC solicitors.
4. On 13 January 2020 DRJ Holbrook issued Directions. In accordance with those directions Orme Associates sent a submission in relation to the price payable. No other submissions or evidence was sent until 30 April 2020, when the Respondents solicitors sent a submission, in relation to this and other similar cases common to both representatives.
5. The Tribunal convened on 18 May 2020 without the parties to determine the application. It decided that there was enough evidence to determine the application without the need for an inspection or hearing. It was in the interests of justice to do so in accordance with the Overriding Objective. The Directions stated that the Tribunal did not consider an inspection would be needed and it would be appropriate for the matter to be determined by way of a paper determination. Neither party had objected. The issues in dispute are now agreed.

## **The Issues**

6. The Applicant has given notice pursuant to s5 of the Leasehold Reform Act 1967 (the Act) to purchase the freehold estate and interest of the Property. The respondent served a Notice in Reply admitting the applicants claim to purchase the freehold estate in the Property.

7. An Application was made for the Tribunal pursuant to s21 of the Act to determine the following issues:
  - (i) The price payable for the freehold of the Property in accordance with s9 (1) of the Act.
  - (ii) The provisions which ought to be contained in the conveyance under s21 (2) of the Act.
  - (iii) What reasonable costs are payable under s9 (4) of the Act
8. Andrew Orme of Orme Associates is a commercial property surveyor and has represented a number of leaseholders at the Property Tribunal. He submitted a detailed submission setting out the basis for his valuation of the freehold.
9. On 30 April 2020 the Respondents solicitors sent a submission stating

*“It is understood that in respect of each matter .... the premium and terms of the transfer are agreed and that the only issues outstanding are the legal costs and costs of valuation payable by the applicants pursuant to section 9(4).”*

### **The Findings**

#### **Our Determination**

10. On 20 June 2018 The Applicant gave notice pursuant to s5 of the Leasehold Reform Act 1967 (the Act) to purchase the freehold estate and interest of the Property. On 22 August 2018 the Respondent served a Notice in Reply admitting the applicants claim to purchase the freehold estate in the Property.
11. The Applicant made the applications for the Tribunal to determine the 3 issues set out above.

#### **The Price Payable**

12. The Property was built in 2007. It is situated in a development on the edge of Hartford which is a suburb of Northwich with good transport links. It is described as a detached executive townhouse of traditional brick over two and a half storeys. It has a driveway and front and rear gardens.

13. On 28 January 2008 the Applicant entered into a Lease for 900 years (less 10 days) from 1 January 2007. The reversion at the date of the Notice therefore is 888.5 years. The rent payable was £200 per annum subject to a 5 yearly review and so was £263.53 at the valuation date.
14. Considering that the price is now agreed the Tribunal accepts the agreed valuation of £4573. The Tribunal has the benefit of a comprehensive submission by Orme Associates. This includes a legal analysis and expert evidence, including a number of market valuations. As of December 2016, the passing rent was £263.53. The next review date is January 2022. Adopting the appropriate RPI increase a rent of £276.85 per annum is then capitalised in perpetuity but deferred by the term of 3.5 years. Orme Associates have capitalised the ground rent using an Equated Yield Calculation rate of 6.0%.
15. The Respondent has not submitted any expert evidence, though it is noted that they have included valuers costs. It is assumed that the Respondents valuer concurred as to price has agreement has been reached. There is no basis to interfere with this agreement. Each party is represented and has the benefit of expert opinion.

#### Provisions in the Conveyance

16. The Tribunal does not make a determination of the provisions which ought to be contained in the conveyance as these have been agreed and are no longer at issue.

#### Costs

17. The Tribunal accepts the costs payable to be £1100 plus VAT. This consists of £600 profit costs and £500 disbursements for the valuation report.
18. On 30 April 2020 Knights solicitors submitted:-

*“In respect of each case, the respondent is seeking £600 plus VAT which amounts to just under 2.2 hours of time (at £275ph) dealing with each case. It is the respondent’s position that this is more than reasonable to consider and advise the respondents on the validity of a section 5 notice, serve a notice in reply, obtain and review the various documents and agree the form of transfer and thereafter complete the matter. These are reasonable costs even where the Properties are registered against the same title number or not. The respondent refers to the attached email from Orme Associates in which £600 plus VAT is accepted for the legal costs.*”

*In respect of valuers fees, the respondent seeks costs of £500 plus VAT per Property which the respondent considers reasonable in each case.”*

19. They further submit that legal costs are in fact 5 hours and 06 mins. Work was undertaken by Grade A fee earners (£275 per hour) together with paralegal support at £110 per hour. Apart from the statement above they have made no attempt to provide a break down of work, in a costs schedule or otherwise.
20. The Applicant’s liability for costs arises pursuant to s9(4) of the Act which provides:-

*“Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:—*

*(a) any investigation by the landlord of that person’s right to acquire the freehold;*

*(b) any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;*

*(c) deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;*

*(d) making out and furnishing such abstracts and copies as the person giving the notice may require;*

*(e) any valuation of the house and premises; but so that this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.”*

21. As work claimed in effect amounts to only 2 hours of Grade A fee earner work and has been agreed by the Applicant’s representative, the amount of £600 plus VAT claimed has been accepted as reasonable. They are costs payable in accordance with s9 (4) of the Act as described in the submission. In addition, the cost of £500 for a valuation report is payable and within the band acceptable for a valuation report of this nature.

## **Conclusion**

22. The determination of the Tribunal is that the price payable for the freehold in this case is £4573, in accordance with the valuation prepared by Orme Associates and agreed by the Respondent.

23. The Tribunal does not make a determination in relation to the conveyance provisions as these have been agreed by the parties without recourse to the Tribunal.
24. The determination of the Tribunal is that the costs payable are £1100 plus VAT. This consists of £600 profit costs and £500 disbursements for the valuation report.

**Judge J White**  
**22 June 2020**

### ***RIGHTS OF APPEAL***

1. 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.
2. 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.
3. 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.
4. 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.