



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

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**
Case reference : **LON/00AY/OAF/2020/0011**

Property : **6 St. Michaels Road, London SW9 0SL**

Applicants : **Mr Br J Lewis and Ms C G Graham**

Representative :

Respondent : **Trustees of Mrs Margaret Lily Etheridge**

Representative :

Type of application : **Application for a determination under Section 21(1)a and 21(2) of the Leasehold Reform Act 1967- Missing Landlord**

Tribunal members : **Judge Daley
Ms S Phillips FRICS**

Date of determination and venue : **7 September 2021 at
10 Alfred Place, London WC1E 7LR-
Heard remotely as a paper determination**

Date of decision : **7 September 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing on the papers which has been not objected to by the parties. The form of remote hearing was P:PAPERREMOTE, A face-to-face hearing was not held because no-one requested the same, and all issues could be determined on paper. The documents that the Tribunal were referred to are in a bundle of 60 pages, together with a bundle originally filed by the previous applicants of 73 pages the contents of which have been noted.

Summary of the tribunal's decision

- (1) The appropriate premium payable for freehold is **£115.00**.

Background

1. This is an application originally brought by Andrew Edward Loftus and Linda Christina Loftus as Executors for James Christopher Holmes. On 10 August 2021, this Tribunal made an order under rule 10 of the Tribunal Procedure (“First-tier Tribunal) (Property Chamber) Rules 2013 substituting the Applicants for the previous Applicants. On the grounds that the Applicants had purchased the leasehold interest in the premises on 14 June 2021, and that the substitution was made by agreement.
2. The Application which was received on 5 June 2021, was for a determination of the premium to be paid under Section 9 of the Leasehold Reform Act 1967 (“the Act”) in respect of the Freehold.
3. The history of this matter was fully set out in the witness statement of Mr James Holmes. On 21 March 1898 Miss Agnes Causton granted a lease of the property known as Number 6, St Michaels Road London SW9 OSL for a period of 600 years. In his statement Mr James set out the history of transfers of both the freehold and leasehold interest as known to him up until 1984, when Mr Marten wrote to his mother (his predecessor in title) that he was the last surviving executor of the Causton Will. At that stage Mr Marten indicated that he was willing to see the freehold reversion, however he was unable to agree a price with Mrs Holmes. Following this all attempts to contact a representative of the freeholder were unsuccessful.
4. An application was made for a vesting order under Section 27 of the Leasehold Reform Act 1967. This came before District Judge Mauger, who was sitting in the Central London County Court on 13 June 2019. The Order provided that steps should be taken by way of advertisement to trace the landlord. The order further stated that if the landlord had not been traced within 28 days the claimant shall file a witness statement confirming that the steps had been taken and exhibiting copies of the advertisements and any responses. At paragraph 5 the order provided- The Claimant may apply to the First-tier Tribunal for the purpose of determining the price payable in accordance with Section 9 of the Act on the basis that the relevant time is the date of issue of this Claim . For the purposes of valuation the date of issue of these proceedings is 29 January 2019.

5. On 21 July 2020 the claimant Mr James Christopher Holmes died, and Ms Christina and Andrew Loftus wrote to the Tribunal on 14 April 2021 indicating that they wished to progress with this case in their capacity as Executors for James Christopher Holmes. The information concerning the substitution of the Applicants is set out above.
6. The Tribunal were provided with a bundle from the Applicants (by way of substitution) which included a valuation report from Scrivener Tibbatts Chartered Surveyors prepared by Mr Clive Scrivener, dated 17 August 2021. In his report Mr Scrivener set out that he understood his duty to the court, that he had no interest in the property and had undertaken the valuation “competently and professionally”.

The issues

Matters not in issue

- (a) The subject property which is a three storey with a lower/basement, mid terrace house constructed approximately 125 years ago comprises a five-bedroom. The property is located on the southern edge of St Michaels Road. The premises has steps up from the pavement which lead to the house entrance door and the entrance hallway. The property comprises a front and rear reception room at entry level. On the lower ground the property comprises a Hall way and kitchen reception room, and the fifth bedroom.
- (b) The first floor comprises two bedrooms and a shower room. The second floor comprises two bedrooms and a bathroom.
- (c) The property has a rear garden. In his report Mr Clive Scrivener MRICS, set out that the property has a rear garden of approximately 19.50 x 5.35 with private parking and a communal driveway to the rear. The gross internal floor area was approximately 192.6m² (2,073 square feet).
- (d) The Tribunal did not carry out an inspection of the premises however it was described in Mr Scrivener’s report to be in poor condition externally and internally.
- (e) The valuation date: 29 January 2021;
- (f) Unexpired term: 479.14 years;
- (g) Ground rent: The ground rent was £8.00 per annum for the whole term.

The Determination

7. The paper determination took place on 7.09.2021.
8. The Tribunal did not inspect the property as the tribunal did not consider it necessary to carry out a physical inspection to make its determination.

9. The applicant relied upon the expert report and valuation of Clive Scrivener dated 17 August 2021.
10. In his report Mr Scrivener stated that his starting point had been the sale of the property which had taken place on 14 June 2021 for £1,200,000 (£579.ft2)He referred in his report to 4 Comparables with sales dates between 22 October 2020 (5 Albert Square) to 19 March 2021 (4 Aldebert Terrace). The comparables were a mixture of 6 bedroomed (5 Albert Square). The properties were sold at £1,200,00 (11 Hargwyne Street) to £2,050,000 (5 Albert Square) with square footage values of between (£673.00 to £826.00).
11. Although Mr Scrivener did not comment on the condition of all of the comparables where he made comments, the property in question was described as being in good condition (4 Aldebert Terrace) to very good condition 99 Hargwyne Street. All properties were located in the SW 8/9 area. Approximately 1 mile from the subject property.
12. In his valuation of the long lease Mr Scrivener stated that he had taken the mean average of the Comparable sales which had equated to a per square foot average of £710.00 which equated to a long leasehold value for the property at £1,471,830. However he considered that this needed adjustment to reflect the value of the property which sold in June 2020 at £1,200,000. In order to value the property as if it were in a fair state of repair and condition, He added 15% to this value to reflect this, in his opinion the long lease value of the subject property is £1,375,000.

The Freehold Vacant Possession Value

13. At paragraph 14.01 he stated that he had applied a1% uplift to the long lease value to come to the FHVP value.

Capitalisation Rate

14. The ground rent in this lease was £8.00(eight pounds) he stated that from his experience with other surveyors he had agreed capitalisation rates of 6-8%. Given the modest increase he considered that the appropriate capitalisation rate was 7%.

Deferment rate

15. In his report he referred the Tribunal to the well-known case of Earl Cardogan -v- Sportelli (2006) Where the Upper Tribunal concluded (upheld in the Supreme Court) that the deferment rate for houses should be 4.75%. He stated that there was no reason to depart from this rate. In his calculations Mr Scrivener arrived at a valuation of £122.00. His full calculation was set out in the appendix to his report.

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).

CASE REFERENCE LON/00AY/OAF/2020/001

**First-tier Tribunal
Property Chamber (Residential Property)**

**Valuation under Schedule 13 of the Leasehold Reform Housing and
Urban Development Act 1993**

Premium payable for an extended leasehold Interest in [Property]

Valuation date: [Date]

Tribunal's Valuation

Valuation Date (VD)	29.01.2019
Unexpired Term	479.14
Ground Rent at VD	£8.00
Modern Cap Rent	£33,600.00
Modern Cap Rate	4.75%
Capitalisation Rate	7.00%
Deferment rate	4.75%
Freehold Value	£1,400,000.00
Freehold Value minus extension	£1,375,000.00
Site Value 40%	£560,000.00

Calculations

Ground Rent		£8.00	
Years Purchase	479.14 years @ 7.00%	14.2857	
			£114.29
Modern Ground Rent		£33,600.00	
Years Purchase	50 years @ 4.75%	18.9844	
PV of £1 in	479.14 years @ 4.75%	0	
			£0.00
Reversion			
Capital Value		£560,000.00	
PV of £1 in	529.14 years @ 4.75%	0	
			£0.00
			£114.29
Say			£115