



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

Case reference : **LON/00BA/OCE/2021/0095**

Property : **33 A South Park Road London
SW19 8RR**

Applicants : **(1)Neskop Limited
(2) Sven Norbert Mayer and
Andrea Bayerer**

Representative : **Leaselaw**

Respondent : **Vincent Mary Rourke**

Type of application : **Section 27 (1)-(5) of the Leasehold
Reform, Housing and Urban
Development Act 1993-Application
for Premium to be paid, missing
landlord**

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

**Date of determination
and venue** : **7 September 2021 determined on
the papers.**

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 163 pages.

Summary of the tribunal's decision

- (1) The appropriate premium payable to the freeholder for the collective enfranchisement is **£12,426**.
- (2) The Tribunal confirms the form of the transfer document TRI for Title Number SY302250

Background

1. This is an application made by the Applicants (nominee purchaser/ qualifying tenants) on 1 June 2021, following an application to the county court for a vesting order in relation to the freehold interest in the premises known as 33A South Park Road London SW 19 8RR.
2. The Applicants in their application to the county court, set out, and produced documentary evidence confirming that they were qualifying tenants respectively of the Upper flat 33a South Park Road (Neskop Limited) and the Lower flat 33 a South Park Road (Norbert Mayer & Andrea Bayerer).
3. In their county court application the applicants stated that they were unable to make a claim in accordance with the Act as they were unable to serve an initial notice of claim on the respondent as the identity of the respondent could not be ascertained and the registered freeholder could not be found.
4. On 26 March 2021 District Judge Parker made the following order:- “The claimants are entitled to acquire the premises on such terms as may be determined by the First-tier (Property Chamber) as if they had, at the date of this claim given notice under section 13 of the 1993 Act to exercise the right to collective enfranchisement in relation to the premises. 2. Upon the payment into court by the Claimant of the Appropriate Sum...3. The Appropriate Sum means a. such amount as determined by the First -tier Tribunal... to be the price which would be payable in accordance with Schedule 6 of the 1993 Act...”
5. On 1.06.2021, the Applicants applied to the tribunal for a determination of the premium and terms of acquisition. Directions were given and the matter was set down for a paper determination.
6. The Applicants’ provided the Tribunal with a bundle of documents, and a valuation from Mr Stephen Jones MRICS, McDowall’s Surveyors comprising 21 pages, dated 23 August 2021. In his report he set out that his report complies with the requirements of RICS Royal Institution of Chartered Surveyors as set down in the RICS Practice Statement Surveyors acting as expert witnesses (2014, 4th Edition).

The issues

Matters agreed

7. The following matters were uncontentious:
 - (a) The subject property is situated in South Park Road, which is a long residential street situated in Wimbledon in South West London. The property is a converted two-storey ground to first floor, period terraced house which has been sub-divided into two flats. The lower and the upper flat. There is a garden/ off-street parking space to the front as well as a garden to the rear which has been demised to the lower flat.
 - (b) The lower flat which is situated on the ground floor comprised an entrance hall, two bedrooms, kitchen bathroom/WC, reception room and conservatory having a gross internal area of 72.32 square metres including the conservatory.
 - (c) The Upper Flat entrance for which is on the ground floor comprises a landing, reception room, two bedrooms, bathroom/WC and a kitchen with a GIA of approximately 76.68 square metres.
 - (d) The valuation date: 18 January 2021;
 - (e) Details of the tenants' leasehold interests:
 - (i) The lower ground flat is subject to a lease dated 14 January 2008 held for a term of 99 years from 1 January 2007. The lease expires on 31 December 2105. The unexpired lease is 84.95 years. The ground rent is £100.00pa with no provision for review.
 - (ii) The upper flat is subject to a lease dated 11 April 2019 held for a term of 204 years from 1 January 1967. The unexpired lease is 149.95 years. This lease provides for a peppercorn annual ground rent.

The Determination

8. The Paper Determination of this matter took place on 7 September 2021.
9. None of the parties asked the tribunal to inspect the property and the Tribunal did not consider it necessary to carry out a physical inspection to make its determination.
10. The Applicants relied upon the expert report produced by Mr Stephen Jones referred to above.
11. Mr Jones considered each of the flats in turn, He stated that the most recently recorded sale of a period conversion on this road was flat 33B South Road. The comparable flat which was in good condition with a reported GIA of 723 square feet and a private garden sold for £610,000. However, the lease term was 95 year, Mr Jones had adjusted this using the Land Registry Property Index for Merton the sale price was adjusted to £615,456 as at January 2021. He considered that although the comparable was in better condition it did not have a conservatory which meant that the subject flat was superior.

12. The two other comparables Flat A 127 Graham Road Wimbledon which sold in fair condition on 7 December for £613,000 with a reported square footage of 963, and a share of the freehold. Mr Jones applied the Land Registry adjustment to obtain a sales price of £618,483 as at January 2021, and Flat A 131 Alexandra Road Wimbledon with a GIA of 662 square feet and a private rear garden, it sold at £499,000 with a reported share of the freehold. Due to the smaller GIA this flat in his view was considered inferior to the lower and upper flats.
13. Having analysed the sales, Mr Jones stated that he had arrived at a share of the freehold value of £650,000 for the lower flat.
14. Mr Jones noted that there was a distinct lack of sales evidence of the first floor in the vicinity of park road. He noted that the upper floor flat, sold on 24 March 2018 for £395,000 whilst held on a lease of 62.77 years. According to the Land Registry index the sale price adjusted to £443,278 as at January 2021. Mr Jones stated that according to Savills Enfranchiseable Graph, a further uplift of 19.85% would produce a share of the freehold of £553,061.
15. Mr Jones adopted a share of the freehold value of £555,000 for the upper floor flat.
16. Mr Jones used the deferment rate of 5% and a standard capitalisation rate of 6%, for the ground floor interest of the lower ground floor. He also included a nominal sum of £100 for any other losses.
17. In his calculations which were set out in the appendix Mr Jones, arrived at a valuation for the Freeholder's interest in the lower flat £11,957, and £369 for the upper flat. In his opinion the total price payable for the collective enfranchisement was £12,425.00

The tribunal's determination The Tribunal determines that the appropriate premium payable to the freeholder for the collective enfranchisement is **£12, 426.****Reasons for the tribunal's determination**

18. The Tribunal in reaching its decision accepted Mr Jones' evidence as set out in his report. The Tribunal considered the valuation for the ground floor. The year's purchase was 84.95 years at 6% for the ground rent which produced the sum of £1,654.86. The value of the reversion was considered by the Tribunal, although the Tribunal used the same deferment rate as Mr Jones, it arrived at a slightly different figure for the valuation in the sum of £11,924.86.
19. The Tribunal next considered the capitalisation of the ground rent, given the extended lease at a peppercorn rent, this produced a nil value. The value of the reversion was considered by the Tribunal, although the Tribunal used the same deferment rate as Mr Jones, it arrived at a slightly different figure for the valuation in the sum of £388.50.
20. The Tribunal noted that the difference between its calculation and the valuer's final figure was £11.00. The Tribunal therefore adopted the valuer's valuation.

The premium

- The tribunal determines the appropriate premium to be **£12,426**

Name: Judge Daley

Date: 7 September 2021

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).

Tribunal's Valuation

Valuation Date (VD)	12/01/2021
Unexpired Term Lower Flat	84.95
Unexpired Term Upper Flat	149.95
Ground Rent at VD for Lower Flat	£100.00
Ground Rent at VD for Upper Flat	£0.00
Capitalisation Rate	6.00%
Deferment rate	5.00%
Freehold Value Lower Flat	£650,000.00
Freehold Value Upper Flat	£555,000.00

Calculations

Lower Flat

Ground Rent			£100.00	
Years Purchase	84.95 years @	6.00%	16.5486	£1,654.86

Reversion

Capital Value			£650,000.00	
PV of £1 in	84.95 years @	5.00%	0.0158	£10,270.00
				£11,924.86

Upper Flat

Ground Rent			£0.00	
Years Purchase	149.95 years @	6.00%	16.664	£0.00

Reversion

Capital Value			£555,000.00	
PV of £1 in	149.95 years @	5.00%	0.0007	£388.50
				£388.50

Total	£12,313.36
Other Property	£100.00
Grand Total	£12,413.36
Say	£12,415