



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

Case reference : **NAT/LON/OOAZ/OLE/2019/0001**

Property : **54 Dacres Road, Forest Hill,
London SE23 2NR**

Applicants : **Loretta Gordon**

Representative : **Anthony Gould**

Respondent : **Christopher Michael Swan**

Representative : **Not applicable (missing landlord)**

Type of application : **Application under section 26 and
27 of the Leasehold Reform Act
1967**

Tribunal members : **Mr Ian B Holdsworth MSc FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of determination : **4th June 2019**

DECISION

(1) The Tribunal determines that price to be paid into court in respect of purchase of the freehold of **£40,300** less the already court assessed costs of **£3,855** equivalent to a sum of **£36,445**.

(2) The Tribunal approves the draft proposed transfer in form TR1 which has been submitted by the Applicant. Please see section 14 below.

(3) This matter should have been determined on the submitted papers. It was not possible for the Tribunal to do so because of the inadequate expert report

filed by the Applicants. The Tribunal directs that no costs incurred as a result of this deficiency should be set-off against the premium payable to the missing landlords.

The Background

1. This is an application under section 27 of the Leasehold Reform Act 1967 (“the 1967 Act”) pursuant to an order made by Employment Judge Elliot Judge , sitting at the County Court at Wandsworth on 28^h March 2019.
2. Section 27(1) of the 1967 Act concerns claims for enfranchisement where the relevant landlord cannot be found. It enables the court to make a vesting order in respect of any interests of the landlord which are liable to acquisition.
3. Under section 27 of the 1993 Act, the role of the Tribunal is to determine the appropriate sum to be paid into court in respect of the landlord’s interests and also to approve the form and terms of the proposed transfer.
4. The applicant in this matter is Loretta Gordon. She is the qualifying tenant of the house, namely, 54 Dacres Road, Forest Hill, London SE23 2NR (“the Property”). The respondent freehold owner is Christopher Michael Hill.
5. On 26th October 2018, the applicant issued a Part 8 Claim at the County Court at Wandsworth for an order pursuant to section 27 of the 1967 Act vesting the freehold interest in the Property in the applicant. The applicant has been unable to ascertain the whereabouts of the respondent and was therefore unable to serve a notice on him pursuant to Part I of the 1967 Act.
6. The applicant has provided the Tribunal with a valuation report prepared by Mr David Nesbit BA MRICS dated April 2019.
7. Mr Nesbit is of the view that the premium to be paid for the freehold interest is £30,000. He confirms at section 3.3 of his report that “ *The basis of the valuation has been deemed as 9(1). No rateable value has been evidenced but one {sic} considers the property passes the low rent test*”
8. The Tribunal is not content with the evidence submitted in the written submission and the valuation prepared by Mr Nesbitt. In the opinion of the Tribunal the approach adopted in the valuation fails to satisfy the relevant guidance on undertaking section 9(1) valuations.

9. The leading authority on valuation of the freehold interest under the section 9(1) provisions of the 1967 Act is the appeal decision given by the Upper Tribunal in *Clarisse Properties LRA/170/2010 UT citation {2012} UKUT 4LC*. There is no reference made by the expert to the guidance offered by UT in this decision. Chapter 9 of Hague, *Leasehold Enfranchisement* provides further valuation advice and guidance on undertaking section 9(1) valuations that accords with the UT decision.

The Determination

10. The Tribunal has prepared an alternative valuation that follows the relevant valuation guidance and this is appended as appendix A.
11. The Tribunal accepts the opinions expressed by Mr Nesbit in his valuation report dated April 2019 included in the bundle at pages P14-P112 save that:
 - (i) A three stage valuation method is adopted. This includes a current freeholder interest value, the capitalised value to freeholder of the S15 rent to be paid after statutory lease extension and the reversionary interest value.
 - (ii) The Tribunal relies in their valuation upon the entirety value proposed by the Expert at £460,000. It also accepts the proposed site apportionment submitted by the expert at section 7.1.1 of his report at a rounded figure of 44%. This is evidenced in the report and is corroborated by guidance provided in Hague (see paragraph 8.10 6th Ed) based upon previous Lands Tribunal decisions. The capitalisation rate of 6% proposed by the expert is accepted.
 - (iii) The Tribunal adopt a decapitalisation rate of 6% to avoid the problem of “adverse differential” addressed in *Goldridge v Official Custodians for Charities (1973)* 26 P & C R 113.
 - (iv) The Tribunal follows the guidance provided in *Clarisse Properties Ltd* regards assessment of the value of the tenants residuary rights at the end of the term. A discount of 20% to the standing house value is made to reflect the value of these rights at the expiration of the statutorily extended term.

- (v) Due to the type, age and style of the property the Tribunal has determined a Haresign addition is not applicable.
12. The adjusted calculation has resulted in a premium of £40,300. A copy of the Tribunal's valuation is attached to this decision.
 13. Accordingly, the Tribunal determines that the premium to be paid in respect of the freehold of the property as shown on HMLR copy plan title no TGL 146738 is £40,300 less the already court assessed costs of £3,855 equivalent to a sum of **£36,445**. These monies to be paid into Court.
 14. The Tribunal also approves the draft proposed HMLR TRI included in the bundle at pages P144- P147 subject to the inclusion at paragraph 8 "**Consideration**", that the consideration (the premium of £36,445) has been paid into court.
 15. This matter should now be returned to the County Court sitting at Wandsworth under Claim Number EO1WT649 in order for the final procedures to take place.

Ian B Holdsworth

Valuer Chairman

4th June 2019

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.

Annex A			
Property:		54 Dacres Road London SE23 2NR	
Lease Data			
Lease Term:	23/05/1961		
Lease Expiry date:	29/09/2059		
Length of Term:	98	Years	
Valuation date	26/10/2018		
Unexpired term as at valuation date:	40.93	Years	
Rent receivable by landlord :			
Payable from valuation date for 40.925 years	£	20	
Rates:			
Capitalisation rate (%)	6.00		
Deferment rate (%)	4.75		
Decapitalisation rate (%)	6.00		
Values			
Current value of standing house with vacant possession and "developed to its best advantages"	£	460,000	
Value of Freeholders present interest with statutory (S15) ground rent at lease extension			
Term 1			
Ground rent payable	£	20	
YP @ 40.925 years @ 6%	15.13132	£	303
Total term value			£ 303
First Reversion			
Section 15 Ground Rent			
Entirety value		£	460,000
Site apportionment at 44% of Entirety value	44.0%	£	202,400
Decapitalisation rate at 6%	6.00%	£	12,144
YP @ 50 years capitalised @ 6%	18.98437		
Deferred @ 40.925 years @ 4.75%	0.14969	£	34,511
Second Reversion			
Current value of standing house with deduction for uncertainty in accordance with Clarise			
Deferred, '90.93 years @ 4.75%		£	368,000
	0.01491		
		£	5,486.41
Overall Total Payable for lease enfranchisement			£ 40,300
			say £ 40,300
Notes:			
1. The price for lease extension is calculated in accordance with the Leasehold Reform Act 1967 as amended.			
Section 9(1) valuation basis in accordance with RV less than £1000 as at March 1990.			
Finalrev1			