



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

Case reference : **CAM/26UD/OAF/2019/0004**

Property : **13 Stringers Lane, Aston,
Stevenage, Herts, SG2 7EF**

Applicants : **John Plain (Leaseholder)
Sheila Plain (Leaseholder)**

Representative : **Foreman Laws LLP (Solicitors)**

Respondent : **Persons Unknown (Freeholder)**

Representative : **None**

Type of application : **To determine the premium payable
under S.9 as compensation to the
landlord, arising from an
application to enfranchise the
freehold made under S.27
Leasehold Reform Act 1967 (“the
Act”)**

Tribunal : **Mr N. Martindale BSc MSc FRICS**

Venue : **HMCTS, Cambridge County Court,
197 East St. Cambridge C1 1BA**

Date of decision : **30 August 2019**

DECISION

Decision

1. The premium to be paid by the applicants for the freehold interest in 13 Stringers Lane, Aston, Stevenage, Herts, SG2 7EF is **£11,610 (eleven thousand six hundred and ten pounds)**.

Introduction

2. This concerns an application made under Section 27 of the Leasehold Reform Act 1967 (“the Act”) for a transfer of the freehold of the Property. This determination is of the premium to be paid by the applicant leaseholders to the freeholder of the Property. The relevant legal provisions are set out in the Appendix to this decision.
3. The First and Second Applicants, John Plain and Sheila Plain are the long leaseholders of the Property, held under the terms of a lease dated 15 October 1563. The lease for 500 years will end on 19 October 2063.
4. The Property forms part of the much larger original demise. This part was transferred to the applicants from Hertford RDC by way of an assignment dated 5 February 1973. The original 1563 lease is acknowledged by all to be lost and the rent due under the applicants’ current lease of its Property is nil. Leasehold title to the Property is unregistered at HM Land Registry. There is no known registered or unregistered freehold proprietor of the Property and so no respondent.
5. By order made of Deputy District Judge Falvey, issued 25 April 2019 in the County Court at Bedford, 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 27 of the Act.
6. The Tribunal considered the issue on the papers submitted by the applicants, without a hearing. A copy of the Tribunal’s Directions was not provided in the bundle by the applicants’ representative although it is a standard requirement of same.
7. The Tribunal’s jurisdiction is derived from the vesting order issued by the court on 25 April 2019. The Court approved the form of transfer, but asked the Tribunal to determine the premium.

Statutory basis of valuation

8. Section 9 to the Act provides that the price to be paid by the purchaser for of the freehold interest shall be the aggregate of the value of the freeholder's interest and compensation for any other loss. No payment

is made for the freeholder's share of any marriage value arising where the enfranchisement arose from one of the exceptions set out under S.1A of the Act. In this case it is represented by the valuer at the bottom of the valuation sheet. It is taken that the transfer qualifies as an enfranchisement made under Section 9(1A) of the Act because the rateable value of the Property as at April 1990 was not more than £500. Therefore the provisions of Section 9A which take account of compensation by the tenant for the landlord's loss of marriage value, do not apply to this transfer.

9. 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.

Applicants' Case

10. The applicants have provided a valuation report dated 19 August 2019 by Stuart King of Davies King Chartered Surveyors (the "Valuation Report"). The report contains a formal Statement of Truth confirming that in so far as the facts stated in the report are within his own knowledge, that he believes them to be true and includes a statement of compliance confirming that they understand their duty to this Tribunal.
11. This valuation report was said to be an update of their original report the main purpose being to value to the correct valuation date, being 31 July 2018, the date of the issue of the original claim.
12. Having considered the contents of the Valuation Report and the opinions expressed in that report the Tribunal is broadly 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 in the Valuation Report.
13. A photograph of the exterior of the Property was included in the Valuation Report. The Tribunal did not consider it necessary or proportionate to carry out an inspection of the Property.

Valuation

14. According to the Valuation Report, the Property is a two level post war semi detached house of traditional construction consisting of one half of a pair of such. Accommodation comprises; ground floor dining room, living room, kitchen, and first floor; bathroom WC and three bedrooms. There is a small outside store, a small front garden and a larger rear

one. There is on street, but no off-street parking. The Property is located in a small rural village in Hertfordshire.

15. At the valuation date of 31 July 2018 the unexpired residue of the 500 year lease from 20 October 1563, is approximately 45 years and 3 months.
16. The valuer's assessment of the market value is based on evidence of completed sales of six local, comparable houses: Three semi-detached, two terraced and one detached. The unadjusted sale prices ranged from £356,000 to £390,000; excepting the recent sale of the larger detached house at £480,000. The valuer briefly described the properties concerned, but made no explicit adjustments for time or differences in size or quality of accommodation or for any differences of location of these. However any tenants' improvements at the Property are not a relevant factor in an enfranchisement under this Act and none were made.
17. From this material the valuer draws the conclusion that as at the valuation date, the long lease value, of the Property was £380,000, freehold. The Tribunal is satisfied with the relevance and details of the six comparable property sales provided in the Valuation Report and their brief analysis and application to the Property by the valuer.
18. The value of the landlord's interest in the Property is represented first by the capitalised value of the ground rent receivable under their lease. That income stream is capitalised by the valuer at 6%, which the Tribunal accepts is robust and appropriate in a case where the rent is at a very low and fixed level. However in this case, in the complete absence of any ground rent due this element has no value for which the landlord should be compensated.
19. The second element of the landlord's interest is then represented by the hypothetical grant of a 50 year extension at the end of the existing 45 year term, but at a modern ground rent. The valuer adopts the conventional approach of taking the freehold VP value of the house at the £380,000 referred to above, and a site value at some 30% of this, producing a sum of £114,000 for the site without a building. A yield expected from such investment is taken at 6%, resulting in a modern ground rent of £6,840 pa. Applying this same yield for the second term of 50 years creates a deferred site value now of some £7,721.
20. The third element of the landlord's interest is the reversion to full vacant possession of the house £380,000 but deferred some 95 years. The valuer makes a 15% adjustment, it is assumed, for the right of the tenant to stay on at lease end, though this is not explicitly stated in the report. Deferred at 4.75% yield following Sportelli, again not explicitly stated in the report, produces a final sum of £3,886.

21. Although there are sometimes small amounts of unpaid rent added to the premium to be paid to the freeholder or their estate when found by the Court, as the rent is nil, there are no additional sums due.
22. The Tribunal accepts the valuation approach, the three elements to be calculated, and the individual and total sum stated by the valuer to be paid in his report. The premium to be paid by the applicants for the freehold interest in the property is therefore **£11,610 (eleven thousand, six hundred and ten pounds)**.

Name: Neil Martindale

Date: 30 August 2019

Appendix

Leasehold Reform Act 1967

Section 27 Enfranchisement where landlord cannot be found

(1) Where a tenant of a house having a right under this Part of this Act to acquire the freehold is prevented from giving notice of his desire to have the freehold because the person to be served with the notice cannot be found, or his identity cannot be ascertained, then on an application made by the tenant the court may, subject to and in accordance with the provisions of this section, make such order as the court thinks fit with a view to the house and premises being vested in him, his executors, administrators or assigns for the like estate and on the like terms (so far as the circumstances permit) as if he had at the date of his application to the court given notice of his desire to have the freehold.

(2) Before making any such order the court may require the applicant to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the landlord; and if after an application is made to the court and before the house and premises are vested in pursuance of the application the landlord is traced, then no further proceedings shall be taken with a view to the house and premises being so vested, but subject to subsection (7) below—

(a) the rights and obligations of all parties shall be determined as if the applicant had, at the date of the application, duly given notice of his desire to have the freehold; 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 Act or of regulations made under this Act.

(3) Where a house and premises are to be vested in a person in pursuance of an application under this section, then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a conveyance in a form approved by the court and containing such provisions as may be so approved for the purpose of giving effect so far as possible to the requirements of section 10 above; and that conveyance shall be effective to vest in the person to whom the conveyance is made the property expressed to be conveyed, subject as and in the manner in which it is expressed to be conveyed.

(4) For the purpose of any conveyance to be executed in accordance with subsection (3) above, any question as to the property to be conveyed and the rights with or subject to which it is to be conveyed shall be determined by the court, but it shall be assumed (unless the contrary is shown) that the landlord has no interest in property other than the property to be conveyed and, for the purpose of excepting them from the conveyance, any underlying minerals.

(5) The appropriate sum which, in accordance with subsection (3) above, is to be paid into court is the aggregate of—

(a) such amount as may be determined by (or on appeal from) the appropriate tribunal to be the price payable in accordance with section 9 above; and

(b) the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.

(6) Where a house and premises are vested in a person in accordance with this section, the payment into court of the appropriate sum shall be taken to have satisfied any claims against the tenant, his executors, administrators or assigns in respect of the price payable under this Part of this Act for the acquisition of the freehold in the house and premises.

Section 9 Purchase price and costs of enfranchisement

(1) Subject to subsection (2) below, the price payable for a house and premises on a conveyance under section 8 above shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, (with the tenant and members of his family . . . not buying or seeking to buy) might be expected to realise on the following assumptions:—

(a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy but on the assumption that this Part of this Act conferred no right to acquire the freehold, and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's rights under section 17 below) it was to be so extended;

(b) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges . . . to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until

the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and

(c) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.