



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

Case Reference : **LON/OOAK/OCE/2019/0206**

Property : **389 High Street, Ponders End
Enfield EN3 4DH**

Applicants : **Emma Gina Smart (1)
Lucky Star Investors Limited (2)**

Representative : **Ronald Fletcher Baker LLP**

Respondent : **Deborah Hoad**

Representative : **None**

Type of Application : **Missing landlord
S26 of the Leasehold Reform,
Housing and Urban Development
Act 1993**

Tribunal Members : **Evelyn Flint DMS FRICS**

**Decided upon the
papers at** : **10 Alfred Place, London WC1E 7LR**

Date of Decision : **27 November 2019**

DECISION

Decision

1. The premium payable for the freehold interest is £7,750 (seven thousand seven hundred and fifty pounds).

Background

2. On 20 June 2019 the Applicants made an application to the Edmonton County Court under Chapter I of Part I of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) seeking a vesting order under Section 26 and 27 of the Act providing for the transfer of the freehold interest in the property as the landlord cannot be found.
3. District Judge Cohen sitting at Edmonton County Court on 30 August 2019 made a vesting order under claim No. FO1ED324 allowing the applicants to make an application to the Tribunal for determination of the terms of the conveyance and the appropriate sum payable under s27(5) of the Act.
4. The Tribunal issued Directions on 18 October 2019 providing for the case to be determined based on the documents alone and without an oral hearing.
5. Both flats are held under leases for 125 years from 25 March 1988 at £75 pa for the first 25 years, £100 pa for the next 25 years, £150 pa for the next 25 years, £200 pa for the next 25 years and £250 per annum for the remainder of the term.

Expert Evidence

6. The Tribunal considered an expert report dated 10 October 2019 of Andrew Cohen MRICS of Talbot Surveying Services Limited.
7. The property is situated in Ponders End High Street, a busy mixed use main road, near the junction with The Ryde and is conveniently situated for local shops on both the High Street and Hertford Road. No on street parking is available in this section of the High Street.
8. The property is a terraced house built c1900 and converted into two flats. Access to the flats is via a communal entrance hall. Both flats comprise two rooms, kitchen and bathroom/wc. The rear garden and one parking space is demised with the ground floor flat, the second parking space is demised with the first floor flat.
9. The schedule of comparable evidence referred to sales between February and July 2019 of five one bedroom flats in the locality.
10. **8 Stonehouse Road Ponders End**, a similar sized first floor flat within a 1980’s development in very good order having just been

refurbished with access to communal gardens and a parking space was sold in February 2019 at £207,000 with an extended lease.

11. **Flat 12 451 Southbury Road Enfield**, a larger third floor flat in a modern four storey block with the benefit of a large roof terrace included within the demise, sold July 2019 for £243,500 with an unexpired term of 115 years. Mr Cohen adjusted the price by 5% for size and by a further 5% for the roof terrace giving an adjusted value of £219,150 say £220,000.
12. **34 Tennyson Close Scotland Green Road Enfield**, a similar sized second floor flat within a modern four storey block with access to communal gardens and car park, sold in February 2019 for £190,000.
13. **7 Cherry Road Enfield**, a similar sized flat within a modern block with access to communal gardens, sold April 2019 for £190,000.
14. **Flat 13 24 Scotland Green Road Enfield**, a similar sized top floor flat in a modern four storey block with access to communal gardens and a car park, sold in July 2019 at £190,000. Mr Cohen adjusted the sale price by 5% as the flat is on the third floor and there is no lift, giving an adjusted value of £200,000.
15. Using the comparable evidence Mr Cohen valued the freehold interest in the ground flat at £210,000 and in the first floor flat at £190,000.
16. The capitalisation rate used was 7% based on the guidance of the Upper Tribunal in *Robert v Fernandez LRA/14/2014*. He took into account the length of the unexpired term, security of the income and the rent review provisions. The deferment rate adopted was 5% in line with the decision of the Lands Tribunal in *Earl Cadogan and Cadogan Estates Ltd and others v Sportelli*.
17. No marriage value is payable as there is more than 80 years unexpired at the relevant date.
18. A valuation was attached to the report indicating a value for the freehold of £7,739 as at 10 October 2019.

Decision

14. **Valuation date.** The valuation date is 20 June 2019, being the date of the application to the County Court.
15. **Capitalisation and Deferment Rate.** The Tribunal agrees that 7% is the appropriate capitalisation rate for the ground rent and that there is no reason to depart from the generic deferment rate for flats of 5%.

16. **Enfranchisement Price.** The Tribunal determines the premium at £7,750 in accordance with the report provided by Mr Cohen but adjusted for the time difference.
17. **Terms of the Transfer.** The TR1 is approved subject to Box 8 being amended and a note put in Box 11 to show that the premium has been paid into court and Box 9 amended to limited title guarantee.

Evelyn Flint
Chairman

27 November 2019

ANNEX 1 - 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.

