



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

Case reference : **LON/00BC/OLR/2019/922**

Property : **7 Seymour Gardens Ilford Essex
IG1 3LN**

Applicant : **Graham Paul-Wilkinson and Eve
Trayler-Wilkinson (Leaseholders of
flats 7a, 7b, 7c)**

Representative : **Wiseman Lee LLP Solicitors**

Respondent : **Gerald Mahony (Missing Landlord)**

Representative : **None**

Type of application : **Section 24 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal members : **N Martindale BSc MSc FRICS**

**Date of determination
and venue** : **19 November 2019 at
10 Alfred Place, London WC1E 7LR**

Date of decision : **19 November 2019**

DECISION

Decision

The appropriate premium payable for the collective enfranchisement is **£12,100 (Twelve thousand one hundred pounds)**,

Background

This is an application made by the qualifying tenants pursuant to section 24 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a

determination of the premium to be paid for the collective enfranchisement of the property.

Background

1. This concerns an application made under Section 24 of the Leasehold Reform Housing and Urban Development Act 1993 (the "Act) for acquisition of the freehold of the Property. This determination is of the premium to be paid by the applicant leaseholders to a missing landlord respondent landlord. The basis is set out in the appendix to this decision.
2. The applicant leaseholders are, between them, the registered long leaseholders of the 3 leases, one each of the 3 flats (No.7a, 7b, 7c) at the Property. All 3 leases run for 125 years from 20 May 1983 at rising rents of £50 pax for the initial 40 years, £100 pax for the next 40 years and £150 pax for the last 45 years.
3. The freehold registered under HMLR title EGL 121081 is in the name of the respondent Gerald Mahony. The leases are registered: 7a under EGL 133508, 7b under EGL 146241 and 7c under EGL 133851.
4. The Property is a former double fronted late C19th terraced house of traditional construction, with brick walls and tiled roof, converted in the 1980's into two ground floor flats and one second floor flat.
5. By order of District Judge Revere issued on 26 July 2019 in the County Court at Clerkenwell and Shoreditch, on 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 S.26 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 Standard Directions in missing landlord cases under S.24, and dated 15 August 2019 were not provided in the bundle by the applicants' representative. From the file copy, they appeared to have been complied with after the revised valuation report was requested by the Tribunal on 19 September 2019.
7. The Tribunal's jurisdiction is derived from the vesting order is issued by the Court on 26 July 2019. The Court referred the question of determining 'those terms', the premium payable only, for the acquisition of the freehold interest.

Statutory basis of valuation

8. Schedule 6 to the Act provides the basis for which the premium by the applicants to the landlord shall be calculated. Such premium is to be made up

of several elements as set out in the Schedule to this decision. The diminution of the landlord's value of the existing rental stream and deferred vacant possession; the landlords share of any marriage value and the value of any compensation for remaining elements.

9. In this case as all three leases have more than 80 years to run, then the exercise is to value the landlords' current total income stream and the reversionary interest without the addition of marriage value.

Applicants' Case

10. The applicant provided a valuation report dated 24 October 2019. Prepared by D M Springer MRICS and RICS Registered Valuer, the report contains a formal Statement of Truth confirming that in so far as the facts stated in the report are within their own knowledge, that they believe them to be true. It includes a statement of compliance confirming that they understand their duty to this Tribunal.
11. 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 set out in the Valuation Report.

Valuation

12. The report describes the Property as situated in an established residential neighbourhood close to transport and other usual retail amenities in Gants Hill, Ilford. The original house was built around the late C19th of traditional brick construction with a double pitched clay tiled roof over, and a single storey flat roofed back addition. The house was double fronted with a central entrance porch.
13. The former house was converted in the 1980's into 3 flats. Accommodation is on 2 levels: Two ground floor, small 1 bed flats (41m² and 32m²) and a larger 2 bed flat (68m²) on the first floor. Each ground floor has bedroom, bath/wc (or shower/wc), living room and kitchen; the first floor flat the same but with an additional bedroom and a larger floor area.
14. At the valuation date the unexpired residue of the original 125 year lease from 20 May 1983 was about 90.5 years remaining.
15. The Valuer's assessment of the market value is based on evidence of completed sales of local comparable converted flats, 3 at one bedroom, 3 with two bedrooms, nearby. Although the number of sales was small their particularly local and similar aspects were accepted by Tribunal as sufficient to arrive at the long leasehold value of the Property as a whole. The comparable at Endsleigh Gardens was however rejected as the lease term was

well short of 80 years, being reportedly sold with a 99 years from 1984, though it has no material effect on the outcome.

16. The unexpired term of each of the 3 leases being well beyond 80 years the valuation there was no marriage value. The premium was therefore the total value of the right to receive on a capitalised basis, a rising ground rent from each of the three leases for the remainder of the 90 plus years, together with the value of each flat after that on a virtual freehold basis with vacant possession, but deferred for the same period of years.
17. The Valuer adopted 7% capitalisation rate reflecting a rising but still very modest ground rent and the costs of collection. The Valuer adopted the Sportelli rate of 5% deferment rate on the capital value for the reversion. The Tribunal accepts the reasoning set out and the rates adopted in the report and the valuation submitted within the report.
18. The premium to be paid by the applicants for the whole Property for the transfer of the freehold subject to these three leases is therefore **£12,100. (twelve thousand, one hundred pounds).**

Name **Neil Martindale** **FRICS** **Date: 19 November 2019**

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).

Leasehold Reform Housing and Urban Development Act 1993

SCHEDULE 6 PURCHASE PRICE PAYABLE BY NOMINEE PURCHASER

Part I GENERAL

Interpretation and operation of Schedule

1(1) In this Schedule—

“intermediate leasehold interest” means the interest of the tenant under a lease which is superior to the lease held by a qualifying tenant of a flat contained in the specified premises, to the extent that—

(a) any such interest is to be acquired by the nominee purchaser by virtue of section 2(1)(a), and (b) it is an interest in the specified premises;

“the valuation date” means—

(a) the date when it is determined, either by agreement or by a leasehold valuation tribunal under this Chapter, what freehold interest in the specified premises is to be acquired by the nominee purchaser, or

(b) if there are different determinations relating to different freehold interests in the specified premises, the date when determinations have been made in relation to all the freehold interests in the premises.

(2) Parts II to IV of this Schedule have effect subject to the provisions of Parts V and VI (which relate to interests with negative values).

Part II FREEHOLD OF SPECIFIED PREMISES

Price payable for freehold of specified premises

2(1) Subject to the provisions of this paragraph, where the freehold of the whole of the specified premises is owned by the same person the price payable by the nominee purchaser for the freehold of those premises shall be the aggregate of —

(a) the value of the freeholder’s interest in the premises as determined in accordance with paragraph 3,

(b) the freeholder’s share of the marriage value as determined in accordance with paragraph 4, and

(c) any amount of compensation payable to the freeholder under paragraph 5.

(2) Where the amount arrived at in accordance with sub-paragraph (1) is a negative amount, the price payable by the nominee purchaser for the freehold shall be nil.

Value of freeholder’s interest

3(1) Subject to the provisions of this paragraph, the value of the freeholder’s interest in the specified premises is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with no person who falls within sub-paragraph (1A)] buying or seeking to buy) on the following assumptions—

(a) on the assumption that the vendor is selling for an estate in fee simple—

(i) subject to any leases subject to which the freeholder’s interest in the premises is to be acquired by the nominee purchaser, but

(ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser;

(b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease (except that this shall not preclude the taking into account of a notice given under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);

(c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and

(d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the conveyance to the nominee purchaser of the freeholder's interest 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 Schedule 7.

(1A) A person falls within this sub-paragraph if he is—

(a) the nominee purchaser, or

(b) a tenant of premises contained in the specified premises, or

(ba) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or]

(c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).

(2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.

(3) In determining that amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of the interest on the open market might be expected to be allowed between a willing seller and a willing buyer.

(4) Where a lease of any flat or other unit contained in the specified premises is to be granted to the freeholder in accordance with section 36 and Schedule 9, the value of his interest in those premises at the valuation date so far as relating to that flat or other unit shall be taken to be the difference as at that date between—

(a) the value of his freehold interest in it, and

(b) the value of his interest in it under that lease, assuming it to have been granted to him at that date;

and each of those values shall, so far as is appropriate, be determined in like manner as the value of the freeholder's interest in the whole of the specified premises is determined for the purposes of paragraph 2(1)(a).

(5) The value of the freeholder's interest in the specified premises shall not be increased by reason of—

(a) any transaction which—

(i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and

(ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by a qualifying tenant of a flat contained in the specified premises; or

(b) any alteration on or after that date of the terms on which any such superior interest is held.

(6) Sub-paragraph (5) shall not have the effect of preventing an increase in value of the freeholder's interest in the specified premises in a case where the increase is

attributable to any such leasehold interest with a negative value as is mentioned in paragraph 14(2).

Freeholder's share of marriage value

4(1) The marriage value is the amount referred to in sub-paragraph (2), and the freeholder's share of the marriage value is 50 per cent. of that amount.

(2) Subject to sub-paragraph (2A),] the marriage value.