



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

Case Reference : **CHI/45UC/OCE/2019/0039**

Property : **1-2 Cornwall House, Cornwall Road,
Littlehampton BN17 6EG**

Applicant : **Jasvinder Singh Gohler**

Represented by : **Green Wright Charlton and Annis**

Respondents : **Stanley Alfred Raymond (missing)**

Type of Application : **Collective Enfranchisement (Missing
Landlord) S.26 and 27 Leasehold Reform
Housing and Urban Development Act 1993**

Tribunal Member : **Mr. R. A. Wilkey FRICS**

Date of Decision : **Tuesday 14th January 2020**

DECISION

DECISION IN SUMMARY

1. The Tribunal has determined for the reasons set out below that the appropriate sum to be paid is £25 (Twenty five pounds)
2. The draft TR1 is approved, subject to the two amendments referred to below under item 24.

SUMMARY OF CIRCUMSTANCES

3. Cornwall House comprises two residential flats. Flat 1 includes the front and part of the rear garden together with one garage, the accessway and the ground floor accommodation of the property. Flat 2 includes the first floor accommodation together with one garage, a section of the rear garden and rights over the accessways
4. The applicant, Jasvinder Singh Gohler, is the leaseholder of each of the flats, and wishes to exercise his right to acquire the freehold of the property in accordance with the Leasehold reform, Housing and Urban Development Act 1993 (“the Act”)
5. The landlord is Stanley Alfred Raymond and, in spite of making all reasonable enquiries, it has not been possible to locate him.
6. The Act provides for these circumstances. Section 26(1) concerns claims for collective 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.
7. Accordingly, the applicant made an application to Worthing County Court for a vesting order under Section 26(1) of the Act
8. Under Section 32, schedule 6 of the Act the tribunal is to determine the appropriate sum to be paid into Court in respect of the landlord's interests.

BACKGROUND

9. On 8th October 2019, Deputy District Judge Melville-Walker, sitting at the County Court at Worthing, made an order directing that the First-tier Tribunal (Property Chamber) should determine the following matters:

- (i) The terms of the acquisition in accordance with section 27 of the Act
 - (ii) The form of Transfer (a draft of which is annexed hereto) to facilitate the acquisition
10. Directions for the conduct of the matter were issued by the Tribunal on 13th November 2019. Amongst other things, the directions indicated that the application would be dealt with on the papers unless an objection was received.
 11. No objection has been received and the matter is therefore determined on the basis of the information contained in the bundle provided by the applicant which includes an expert report dated 7th May 2019 from Julian Wilkins MRICS which values the premium to be paid at £26 (Twenty six pounds)
 12. The Tribunal has undertaken this task based upon the information placed before it, in conjunction with their knowledge and experience of the property market in this area of West Sussex.
 13. The Tribunal has not inspected the property

EVIDENCE

14. The bundle contains an expert report dated 7th May 2019 from Julian Wilkins MRICS. Mr. Wilkins is a chartered surveyor, an RICS Registered Valuer and an RICS Accredited Expert Witness. He is also a full member of the Association of Leasehold Enfranchisement Practitioners. The report outlines his experience in this sort of work and concludes with the appropriate declarations relating to his impartiality and duty to the Court.
15. The following information is extracted from the report:
 - (a) Each of the flats is held on a 999 year lease from 25th March 1967 at a fixed ground rent of £1 per annum
 - (b) Marriage Value is only payable where unexpired lease terms are less than 80 years and therefore in this instance no marriage value is payable.
 - (c) Capitalisation rate in respect of the ground rent income

In view of the fact that the lease contains no provision for increase or review of the ground rent of £1 per annum, it is “barely economical” to

collect the ground rent and this situation will become worse as inflation further reduces the value of £1 over time. The capitalisation rate of 8% is appropriate to reflect these circumstances.

(d) Deferment rate

A deferment rate of 5% is appropriate following the determination in the case of *Cadogan -v- Sportelli* [2007] 1 EGLR 153

(e) Valuation of the reversionary interest

The existing leases have 946.86 years unexpired and the value of any sum of money will be nil when deferred by this unexpired lease term. No valuation of the individual flats has been undertaken as regardless of the values determined the deferred sum will be nil.

(f) Valuation

In addition to the above, Paragraph 3 of Schedule 6 of the Act specifies that other sums can be payable to compensate the freeholder for any other losses such as a developable roof space. Mr. Wilkins is of the opinion that there are no other losses to compensate the freeholder for in this instance.

In addition to the purchase of the freehold of the buildings an additional sum has to be determined for any other land being purchased. In this instance, the grounds appear to be included within the individual flat leases or subject to rights of way. Mr. Wilkins is of the opinion that a sum of £1 is appropriate and this is added to the valuation.

The full valuation is set out at Appendix 1 of the bundle.

16. Applying all the above variables and information, he arrives at a premium of £26 (Twenty six pounds)

TERMS OF TRANSFER

17. A draft TR1 is in the bundle at pages 128-131
18. Attention is drawn to the two amendments mentioned below under item 24

DECISION

19. The tribunal was satisfied with the expert report and, in general terms, is content to rely on the contents both as to the facts and the opinions expressed.
20. The methodology and conclusions are agreed with the exception of the addition of £1 in respect of other land being purchased. It is not apparent why an addition has been made and it is excluded from the valuation.
21. The formal valuation under Appendix 1 is not in accordance with the body of the report prepared by Mr. Wilkins and contains information which is not relevant or applicable. The valuation date is stated to be 7th May 2019. However, the initial notice was dated 18th January 2019 and this should be the valuation date. In the circumstances, this makes no difference to the valuation.
22. The tribunal was unable to identify any other loss to the freeholder likely to result from the acquisition of any appurtenant property or foregone development rights as part of the enfranchisement.
23. Applying the findings set out above and using its own knowledge and experience the tribunal is satisfied that the appropriate figure for the premium payable to the absent landlord in this case should be £25 (twenty five pounds) A copy of the valuation is appended to this decision.
24. With regard to the form TR1, the following should be incorporated:
 - Panel 9 The transfer must be made with limited title guarantee, not full title guarantee
 - Panel 11 The following words should be inserted: *"This transfer is executed for the purposes of chapter 1 of part 1 of the Leasehold Reform Housing and Urban Development 1993"*.
25. Subject to the above, the tribunal approves the draft transfer
26. This matter should now be returned to the County Court sitting at Worthing under Claim Number FOOWG361 in order for the final procedures to take place.

Dated: Tuesday 14th January 2020

Roger A. Wilkey FRICS

Appeals

27. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
28. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
29. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend the time limit, or not to allow the application for permission to appeal to proceed.
30. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.
31. If the First-tier Tribunal refuses permission to appeal, in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission.