



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

Case reference	:	BG/LON/00AC/OLR/020/0327
HMCTS code (paper, video, audio)	:	P: PAPER REMOTE
Property	:	16 Oakleigh Close, Whetstone, London, N20 0RT
Applicants	:	Shanti Makani (1) Bhavi Makani (2)
Representative	:	YVA Solicitors LLP
Respondent	:	Duncan Dlomo
Representative	:	Not applicable (missing landlord)
Type of application	:	Application under sections 50 and 51 of the Leasehold Reform Housing and Urban Development Act 1993
Tribunal members	:	Judge N Hawkes Mr L Jarero BSc. FRICS
Venue	:	10 Alfred Place, London WC1E 7LR
Date of paper determination	:	27 October 2020

DECISION

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which has not been objected to by the Applicants. The form of remote determination was P: PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on paper. The documents that the Tribunal was referred to are in a bundle of 76 pages, the contents of which we have noted, together with the original lease, the revised expert's report dated 15 September 2020, and the correspondence passing between the Tribunal and the Applicants' solicitor. The order made is described below.

Decisions of the Tribunal

- (1) The Tribunal determines that the price to be paid by the Applicants for the freehold interest is £28,518.
- (2) As regards the terms of the draft transfer, further directions are given at paragraph 10 below.

The Background

1. This is an application pursuant to a vesting order which was made under section 50 of the Leasehold Reform Housing and Urban Development Act 1993 ("the 1993 Act") by His Honour Judge Johns QC, sitting at the County Court at Central London
2. On 28 January 2019, the Applicants issued a Part 8 Claim for a vesting order pursuant to section 50(1) of the 1993 Act.
3. By order dated 21 November 2019, His Honour Judge Johns QC ordered that:

"... Upon the Court being satisfied that the Claimants, being the tenants of 16 Oakleigh Close, Whetstone, London N20 0RT ("the Flat") are qualifying tenants in accordance with section 5 of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act") and who accordingly have a right to acquire a new lease of the Flat and that the Defendant who is the registered freeholder of the Flat cannot be found and that there are no further provisions of the Act which would preclude the Claimants from giving a valid notice under section 42 with respect to the Flat

IT IS ORDERED THAT:-

- 1. There shall be a vesting order under section 50(1) of the Act*

2. The Claimants may make an application to the First Tier Tribunal (Property Chamber) for determination of the lease terms together with the sums payable under section 51(5) of the Act ...”

4. In support of the application, the Applicants initially sought to rely upon a valuation report dated 22 January 2020. By letter dated 14 August 2020, the Tribunal noted that the valuation date of 22 January 2020 used in this valuation report was incorrect and that the correct valuation date was the date of issue of the Claim in the County Court. The Tribunal gave directions for evidence of the date of issue of the County Court Claim to be filed together with an amended valuation report.
5. In response, the Applicants have filed evidence that the County Court Claim was issued on 28 January 2019 and a valuation report prepared by Andrew Cohen MRICS dated 15 September 2020 in which the valuation date is correctly stated to be 28 January 2019.
6. Section 51 of the 1993 Act provides:

(1) A vesting order under section 50(1) is an order providing for the surrender of the tenant's lease of his flat and for the granting to him of a new lease of it on such terms as may be determined by the appropriate tribunal to be appropriate with a view to the lease being granted to him in like manner (so far as the circumstances permit) as if he had, at the date of his application, given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat.

(3) Where any lease is to be granted to a tenant by virtue of a vesting order under section 50(1), then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a lease which—

(a) is in a form approved by the appropriate tribunal, and

(b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to section 56(1) and section 57 (as that section applies in accordance with subsections (7) and (8) below);

and that lease shall be effective to vest in the person to whom it is granted the property expressed to be demised by it, subject to and in accordance with the terms of the lease.

(4) In connection with the determination by the appropriate tribunal of any question as to the property to be demised by any such lease, or as to the rights with or subject to which it is to be demised, it shall be assumed (unless the contrary is shown) that the landlord has no

interest in property other than the property to be demised and, for the purpose of excepting them from the lease, any minerals underlying that property.

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

(a) such amount as may be determined by the appropriate tribunal to be the premium which is payable under Schedule 13 in respect of the grant of the new lease;

(b) such other amount or amounts (if any) as may be determined by such a tribunal to be payable by virtue of that Schedule in connection with the grant of that lease; and

(c) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of that lease, due to the landlord from the tenant (whether due under or in respect of the tenant's lease of his flat or under or in respect of any agreement collateral thereto).

...

7. Schedule 13 to the 1993 Act makes provision for the determination of the premium to be paid by the tenant for the grant of a new lease.

The Determination

8. The Tribunal accepts the opinions expressed by Mr Cohen in his report save that:
 - (i) At paragraph 3.44 of the report the lease length should read 69.26 years (it is assumed that this is typing mistake because the figures of 84.01% and 84.46% which follow are correct).
 - (ii) As regards paragraph 3.48, it is noted that a relatively of 84.67% has not been applied in the valuation. However, the Tribunal does not take issue with the valuation.
9. The matters noted by the Tribunal above do not affect the valuation. The Tribunal accepts Mr Cohen's valuation and finds that the premium payable by the Applicants is £28,518.
10. As regards the proposed draft transfer, the Applicants are directed to within 14 days of the date of this decision write to the Tribunal

explaining why there is no declaration of trust (see LR 14) and why reference is made to 147 and 149 Gloucester Place (see the definitions and interpretation), following which the Tribunal will consider the proposed draft transfer further.

Judge N Hawkes

27 October 2020