



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

Case reference : **LON/00AB/OCE/2020/0127**

HMCTS Code : **P:Paper remote**

Property : **18 Thorpe Road, Barking IG11 9XJ**

Applicants : **1 Shekhar Mahabir
2 Vahli Tamara Mahabir
3 Timothy James Morgan
4 Heide Corona Classen**

Representative : **Keystone Law**

Respondent : **Heorhiy Iuriev**

Type of application : **To determine the terms on which
the freehold is to be acquired
where the landlord is missing**

Tribunal members : **Judge Angus Andrew
Luis Jarero BSc, FRICS**

Hearing venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **24 November 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has been consented to by the applicants and not objected to by the respondents. The form of remote hearing was P: PAPER REMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same.

The application

1. This is an application under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) to determine the price to be paid for and other terms of acquisition of the freehold of 18 Thorpe Road, Barking IG11 9XJ.
2. The landlord could not be found and on 13 December 2019 the applicants issued proceedings in the County Court at Romford under section 26 of the Act for an order dispensing with service of the claim notice. By an order made on 10 June 2020 Deputy District Judge Byrne dispensed with service and transferred the claim to this tribunal for a determination of the premium. We assume that the Court intended that the tribunal should also determine the form of transfer although that is not provided for in the order.
3. Directions were issued on 3 October 2020 requiring the applicants to lodge a bundle in Adobe PDF format. In making our determination we have had regard to the bundle of 142 PDF pages lodged by the applicants. We have also received a statement of costs for summary assessment that is supported by a number of invoices. The costs were however reserved to the County Court and they are properly a matter for the court and not the tribunal.

Determination

4. The property was a two storey Victorian House. In about 2007 the loft was converted to form a bedroom with ensuite shower room and the ground floor was extended into the rear garden. The property was divided into a ground floor flat and upper maisonette. Leases of the ground floor flat and upper maisonette were granted in the same year.
5. The basement cellar and rear garden are included in the demise of the ground floor flat. Both the ground floor flat and the upper maisonette share a small front garden and a communal entrance.
6. Both leases are for terms of 99 years from 1 December 2006 and reserve a yearly ground rent of £100 rising to £200. The landlord is responsible for insuring, maintaining and repairing the common parts, exterior and main

structure of the property and recovers the cost through payment of a service charge that is reserved as rent.

7. The applicants rely on an expert valuation report prepared by David Goldstone BSc. MRICS. The valuation date is 13 December 2019, being the issue date of the County Court proceedings. He correctly points out that there is no marriage value because the unexpired term of both leases exceeds 80 years.
8. Mr Goldstone has adopted a capitalisation rate of 7% that is within generally accepted parameters having regard to the small reserved ground rents.
9. Mr Goldstone relies on the opinion of a local agent in valuing the long lease of the ground floor flat at £237,500. Mr Morgan and Ms Classen have agreed a sale price of £268,000 for the upper maisonette and Mr Goldstone adopts that long lease value. Although we rather share Mr Goldstone's reservations about the lack of comparable evidence we accept that the negotiated sale price for the upper maisonette is compelling. Furthermore the negotiated sale price substantiates the valuation of the smaller one-bedroom ground floor flat. Consequently we accept his long lease valuations and his upward adjustment of 1% to reflect the advantage of a freehold interest.
10. We also accept that the site was fully developed in 2007 and that development value is not payable. Finally we accept Mr Goldstone's deferment rate of 5% which is consistent with *Earl Cadogan v Sportelli* [2007].
11. Consequently, we approve and adopt Mr Goldstone's valuation and we determine the price to be paid for the freehold interest in the property at £11,454.
12. The form of transfer is at PDF pages 139 to 141 of the document bundle. It is with limited title guarantee as required by paragraph 2(2)(b) of Schedule 7 to the Act. It includes a statement that it is executed for the purposes of Chapter 1 of Part 1 of the Act, as required by section 34(10) of the Act. It also includes an indemnity covenant in favour of the respondent as envisaged by paragraph 5 of Schedule 7 to the Act. Consequently we approve the draft transfer as drawn.

Name: Judge Angus Andrew

Date: 24 November 2020

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).