



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

Case reference : **LON/00BC/OLR/2021/0187**
County Court Claim No. : **F00RM764**

Code : **P:PAPERREMOTE**

Property : **63A Norfolk Road, Seven Kings,
Ilford, Essex IG3 8LH**

Applicant : **Karnail Singh & Cucki Singh**

Representative : **Foskett Marr Gasby & Head LLP**

Respondent : **(1)Michelle Bessex
(2)Earl Wilkes
(3)Patrick O'Dwyer**

Representative : **N/A**

Type of application : **Section 50 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal members : **Judge Tagliavini
Mr Mark Taylor MRICS**

**Date of determination
and venue** : **24 August 2021 at
10 Alfred Place, London WC1E 7LR**

Date of decision : **24 August 2021**

DECISION

Summary of the tribunal's decision

- (1) The appropriate premium payable for the new lease is £25,000
- (2) The terms of the new lease are as set out in the TR1 included in the hearing bundle before the tribunal.

Background

1. This is an application made by the applicant leaseholder pursuant to section 50 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for the grant of a vesting order and the determination of the premium to be paid for the grant of a new lease of the subject property situated at 63A Norfolk Road, Seven Kings, Ilford, Essex IG3 8LH (‘the premises’).
2. This application was initiated as a ‘missing landlord’ claim but after extensive enquiries Michelle Bessex was located who confirmed she acted as the Executor for the estate of her husband’s Martin Bessex, a joint freeholder of the premises. From communication received from Ms Bessex’s solicitors by the tribunal it appeared that there was no competent landlord able to execute a new lease and therefore this could only be done by way of a vesting order made by the court under section 51(3) of the Leasehold Reform, Housing & Urban Development Act 1993.
3. Further enquiries resulted in contact being made with Patrick O’Dwyer who was added to the Claim as the third defendant. In an email dated 4 June 2021 from Oliver James Topping of Pinney Talfourd Solicitors, Mr O’Dwyer indicated his agreement to the matter proceeding as a missing landlord case with the issues of the new lease terms and the premium payable being decided by the tribunal on the papers.
4. Mr Wilkes was not able to be located by the applicants.
5. In a letter dated 17 March 2021 the applicants’ representatives submitted that although two of the three ‘missing’ landlords had been located, the application should nevertheless proceed to determine matters under section 51(1) of the 1993 Act and not under s48 as if valid notices and counter-notices had been served as this would give effect to the intention behind the making of the Order of 1 September 2020.
6. By an order of Deputy District Judge Greenidge sitting at the County Court at Romford, dated 1 September 2020, the court ordered:

Pursuant to section 50(1#0 of the Act, the Claimants shall surrender their lease of 63A Norfolk Road, Seven Kings, Ilford, Essex, IG3 8LH (“the property”) dated 17 May 2988 (sic) and a new lease of the Property shall be granted on such terms as may be determined by the First Tier Tribunal, Property Chamber (Residential Property) (“the Tribunal”) (a vesting order)

And

The matter of valuation and determination of the terms of such new lease be transferred to the Tribunal pursuant to s176A of the Commonhold and Leasehold Reform Act 2002.

The hearing

7. The hearing took place on the papers on 24 August 2021. In light of the parties' respective positions and the order of 1 September 2020 the tribunal determined this matter as if it were a 'missing landlord' claim.
8. Neither party asked the tribunal to inspect the property and the tribunal did not consider it necessary to carry out a physical inspection to make its determination particularly with consideration of the COVID-19 restrictions.
9. The applicants relied upon a witness statement of Andrea Jane Reilly, a Licensed Conveyancer employed by the applicants' representatives dated 17 May 2019. This set out in detail the steps taken to locate the freeholders of the premises with varying success in order to serve the relevant Notices upon them.
10. The applicants also relied upon the valuation report of Mark Dooley BSc MRICS of RONA Ilford dated 30 July 2021. Mr Dooley took the date of valuation as 21 May 2021 being the date the claim for a vesting order was made in the county court. The premises were described as a converted ground floor flat in a linked detached double fronted Edwardian house comprising of four flats. Although originally a one-bedroom flat, the premises had subsequently been converted into two bedrooms with the kitchen area being moved into the living area. Mr Dooley concluded that the appropriate premium payable is £23,875.
11. None of the defendants provided any valuation or other representations objecting to the applicants' valuation evidence.

The tribunal's determination

12. The tribunal determines that the terms of the new lease are set out in the form TR1 exhibited in the applicants' hearing bundle are appropriate.
13. The tribunal determines that the premium payable is £25,00. A copy of the valuation is attached as an appendix to this decision.

Reasons for the tribunal's determination

14. The valuation report dated 30th July 2021 of Mr Mark Dooley BSc MRICS (pages 233-246 of the bundle) helpfully sets out his analysis and

calculation of the premium of £23,875 for the new lease at the valuation date of 21st May 2019. The report accurately applies the accepted methodology for this statutory valuation and in the main is accepted by the tribunal, apart from that of relativity.

15. Mr Dooley refers the tribunal a previous tribunal decision on this point concerning 137 Field Road Forest Gate London [LON/00BB/OLR/2018/1613] and explains that he has utilised a rate of 81.1% from the Savills unenfranchisable graph figure of 80.1% and added 1% as a reflection of the approach taken in the earlier tribunal. However, the position in this area of relativity, has developed in terms of guidance from the Upper tribunal in *Deritend Investments (Birkdale) Ltd v Treskonova* [2020] UKUT 164 (LC) which has recognised the applicability, in the absence of direct comparable market evidence, of the Savills and Gerald Eve graphs to areas outside Prime Central London.
16. On this basis with an unexpired term of 62.84 years, the rate from Savills is 80.1% and that from Gerald Eve is 79.71% giving an average of 79.91%. By adopting this figure, it produces a premium of £25130.16 (say £25,000, twenty-five thousand pounds) which the tribunal finds is the premium payable by the applicants for the grant of a new lease.
17. The tribunal now remits this matter to the county court for any final orders that may be required (including any orders for costs).

Name: Judge Tagliavini **Date:** 24 August 2021

Appendix: Valuation setting out the tribunal's calculations

63A Norfolk Road Seven Ilford IG3 8LH											
Valuation Date 21/05/2019		Unexpired term 62.84 years									
Long lease value £207,000		Freehold value £209,070									
Capitalised Ground Rent		£50									
YP 62.84 years @ 7.0%		14.08228			£704.11						
Freehold Reversion		£209,070									
PV of £1 @5.0% 62.84 years		0.04660843			£9,744.42		£10,446.53				
Proposed Freehold											
PV of £1 152.84 @5.0%		0.00057734					£120.70		£10,328		
Marriage Value											
Proposed											
Freeholder					£207,000						
Leaseholder					£120.70		£207,120.70				
Existing											
Freeholder					£10,488.54						
Leaseholder		£209070 @ 79.91 %			£167,067.84		£177,556.38				
							£29,564.32		50% share	£14,782.16	£25,110.16
									But say	Premium	£25,000

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).