



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

**Case Reference** : **LON/OOAY/OCE/2023/0062**

**Property** : **5 Hitherfield Road, London, SW16 2LW**

**HMCTS Code** : **P: PAPER REMOTE**

**Applicants** : **1. Michelle Yvonne Nixon  
2. Hannah Elizabeth James and  
Richard Jonathan Moores**

**Representative** : **Streathers Solicitors LLP**

**Respondent** : **Haya Tal and Fayza Tal  
(missing landlords)**

**Representative** : **None**

**Type of Application** : **Enfranchisement**

**Tribunal Members:** **Judge Robert Latham  
Marina Krisko FRICS**

**Date and venue of  
Hearing** : **Paper determination on 27 July 2021  
Alfred Place, London WC1E 7LR**

**Date of Decision** : **1 August 2023**

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**DECISION**

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**Description of Hearing**

This has been a hearing on the papers ("P"). The Directions provided for a paper determination and neither party has requested an oral hearing. This is a missing landlord case. There has therefore been no appearance by the Respondent. The Applicant has provided the Tribunal a Bundle of Documents extending to 532 pages. On 16 June 2023, the Tribunal required a revised expert's report from Mr Grove, as his report, dated 22 May 2023, was premised on the wrong valuation date. His revised report, dated 19 July 2023, extends to 145 pages. This is not paginated, and the Tribunal therefore uses electronic numbering.

## **Summary of Decision**

(1) The Tribunal determines that price to be paid into court in respect of purchase of the freehold of 5 Hitherfield Road, London, S16 2LW is £16,047.

(2) The Tribunal approves the draft proposed transfer in form TR1 which has been submitted by the Applicants, subject to an amendment to Panel 9.

## **Background**

1. On 15 March 2023, District Judge Beecham, sitting in the County Court at Clerkenwell and Shoreditch, made an order pursuant to Section 13 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") dispensing with the requirement to serve an initial claim notice under section 13 to acquire the freehold in 5 Hitherfield Road, London, S16 2LW (the "Property"). He further ordered that by virtue of section 27, the freehold of the Property shall vest in the Applicants on such terms as shall be determined by this Tribunal.

## **Evidence**

2. We have been provided with a valuation report by Mr Daniel Grove, MRICS, dated 19 July 2023. He computes the premium to be £15,947.

## **Lease details**

3. The Respondent missing landlord is the lessor of the Property which is semi-detached two storey building which has two flats:

(i) Flat 1 was subject to a single storey side and rear infill extension, together with the installation of side window in 2019. It now comprises 2 bedrooms, open plan living room/kitchen, bathroom/WC. We are required to disregard the tenant's improvements and value the property in accordance with the original lease plan, which details the property as 1 bedroom, living room, kitchen/diner and bathroom. It is 56 sqm (603 sq ft).

(ii) Flat 2 comprises a 3 bedroom split level flat, reception room, kitchen/diner and bathroom WC. It is 82 sqm (880 sq ft).

A communal entrance is located at the front of the building providing access to both flats.

4. Both flats were granted 125 year leases commencing on 29 July 1986 and ceasing on 28 July 2111. The unexpired terms are therefore 89.39 on the valuation date.

## **Valuation date**

5. The valuation date is 7 March 2022, namely the date of the application to the Court (s.27 (1) (b)).

### **Hypothetical Unimproved Freehold Value of the Flats**

6. Mr Grove has computed the long leasehold value of the flats. He has provided a table summarising the comparables at p.119 and details of the comparables at p.121-143. He has adjusted the comparable for time and condition.
7. Mr Grove has first computed the long leasehold value of Flat 1. He has regard to three comparables: (i) 15 Lydhurst Avenue was sold subject to contract at the date of valuation and later completed at £442,000 on 20 May 2022; (ii) 11a Hailsham Avenue was sold subject to contract at the date of valuation and later completed at £450,000 on 12 August 2022; (iii) 162 Barcombe Avenue was sold subject to contract at the date of valuation and later completed on 5 August 2022 at £410,000. He has taken a broad view of the whole body of evidence which provides him with a valuation range of £400,000 - £450,000. Assuming a lease maintained condition, the property's location to amenities and the layout and size, his opinion of value sits mid-range at £425,000.
8. Mr Grove has then computed the long leasehold value of Flat 2. He has had regard to a further three comparables (i) 61 Lydhurst Avenue completed in March 2022 at £560,000; (ii) 136 Barcombe Avenue was sold subject to contract at the date of valuation and later completed on 4 August 2022 at £525,000; (iii) 59 Mount Nod Road was sold subject to contract at the date of valuation and later completed on 19 August 2022 at £575,000. As well as analysing the individual properties, he has taken a broad view of the whole body of evidence which provides me with a valuation range of £525,000 - £575,000. Assuming a lease maintained condition, the property's location to amenities and the layout and size, his opinion of value sits towards the upper end of his range at £560,000.
9. Mr Grove notes that at the expiry of the lease, the flats will revert to the freeholder. Accordingly, the freeholders' reversion is to a share of freehold/999 years' interest. He has calculated this by adjusting upwards by 1% to reflect the freehold vacant possession value of the flats. He therefore arrives at a freehold vacant possession value of £994,800 (namely £425,000 + £560,000 + 1%). We approve this.

### **Capitalisation Rate**

10. Mr Grove has adopted a capitalisation rate of the ground rent of 6.5%. We approve this. At [5.1] of his amended valuation report, he incorrectly refers to a deferment rate of 6%. But, as in his original report, he has used 6.5% in his valuation. This is well within the normal yields for this type of investment.

### **Deferment Rate**

11. We approve the "Sportelli" rate of 5% for deferment which Mr Grove has adopted.

### **Relativity Rate**

12. As the unexpired term for both leases is more than 80 years, no compensation for marriage value is payable.

### **Appurtenant Land**

13. This element relates to the 'common use areas', which is communal garden at the front of the building and the side access leading to the rear section of garden demised to Flat 2. Both leaseholders enjoy rights of access over these areas. In Mr Grove's opinion, they hold little value. He proposes a nominal figure of £100.

### **Calculation of the Premium**

14. Mr Grove computes the premium for the Property to be £15,947. His calculation is at p.145 of his revised report. It is apparent that he has not added the notional figure of £100 for the appurtenant land. We therefore approve a premium of £16,047.
15. Mr Grove has not considered how this should be apportioned between the two Applicants. Apportioning this on the respective values of their flats (43% for Flat 1 and 57% for Flat 2), we compute their respective contributions to be £6,900 (Flat 1) and £9,147 (Flat 2),
16. The Tribunal approves the draft proposed transfer in form TR1 which has been submitted by the Applicants at pp.526-529 of the Bundle, subject to one amendment. The wrong box is ticked in Panel 9. The transfer must be made with limited title guarantee (see paragraph 2(2) of Schedule 7 to the Act).

**Judge Robert Latham**  
**1 August 2022**

### **RIGHTS OF APPEAL**

1. 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.
2. 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.
3. 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.

4. 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.