



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

Case reference : **BIR/00CN/OAF/2023/0026**

Property : **4 Florence Road, Oldbury, West
Midlands, B69 2DN**

Applicant : **Joan Lillian Bennett**

Representative : **Adcocks Solicitors Limited**

Respondent : **Mohinder Kaur & Gurdev Singh**

Representative : **Not applicable (missing landlord)**

Type of application : **Application under sections 21(1) and
27(5) of the Leasehold Reform Act 1967
("the 1967 Act")**

Tribunal members : **Ian B Holdsworth FRICS
Vernon Ward FRICS**

Venue : **Remote**

**Date of paper
determination** : **5 January 2024**

DECISION

Decisions of the Tribunal

- (1) The tribunal determines that the price to be paid by the applicant for the purchase of the freehold on statutory terms is **£7,830**.

The Background

1. This is an application under section 21 (1) (a) of the 1967 Act pursuant to an order made by Deputy District Judge Edden sitting at the County Court at Dudley on 16 November 2023 (“**the order**”).
2. Sections 21(1) and 27(5) of the 1967 Act concerns claims for the purchase of the reversionary freehold interest 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.
3. Under section 27(5)(a) of the 1967 Act, the role of the tribunal is to determine the appropriate sum to be paid into court in respect of the landlord’s interests. This to be done in accordance with section 9 of the 1967 Act.
4. The applicant in this matter is Ms Joan Lillian Bennett. She is the qualifying tenant of 4 Florence Road, Oldbury, West Midlands, B69 2DN (“**the Property**”) with a long tenancy within the meaning of section 3(1) of the 1967 Act. The respondent freehold owners are Mr Mohinder Kaur and Mr Gurdev Singh.
5. On 28 September 2023 following an Application to Court on 19 September, a Part 8 Claim was issued at Dudley County Court for an order pursuant to section 21(1) of the 1967 Act seeking the freehold of the Property.
6. The applicant has been unable to ascertain the whereabouts of the respondent. The applicant subsequently applied for a vesting order under section 27(1) of the 1967 Act. The vesting order was granted subject to the determination of this tribunal.
7. The applicant has provided the tribunal with a valuation report prepared by Mr Geoffrey R Bates BA FRICS, a Consultant Chartered Surveyor acting on behalf of Adcocks Solicitors dated 23 November 2023.
8. Mr Bates is of the view that the premium to be paid for the freehold is £6,700 as at the valuation date adopted of 19 September 2023.

The Determination

9. After careful scrutiny the tribunal accepts the opinions expressed by Mr G R Bates in his valuation report dated 23 November 2023 save that:

- (i) The tribunal has adopted a Standing House Value in vacant possession of **£163,000**. The Expert provides no cogent evidence to support his assertion that the cost of carrying out the proposed upgrading to the property amounts to £30,000 and the value of the dwelling in current condition is £143,000. This is not validated by the submitted comparable evidence. The tribunal has reviewed the photographic evidence and based upon their knowledge and experience determined reduced detriment caused to the property value by the current obsolescence. It is the tribunal opinion that the diminution in value caused to the Standing House Value by the obsolescence illustrated in the submitted photographs amounts to £10,000.
 - (ii) The tribunal adopt a lower capitalisation rate of **6.5%** for the current rent passing than proposed by the Expert. This is in accordance with the guidance offered in the decision *Nicholson and others v Goff 2007 EGLR 83*.
 - (iii) The applicants Expert has allocated 30% of the Entirety Value to the site value. The tribunal has reviewed the site size, shape and location. It has had regard for the appurtenant space offered by the garage in the nearby block and the guidance offered in Upper Tribunal decision *Sabah El-Gadhy, Zara El-Gadhy v Liverpool City Council (LRA/78/2015)*. It has deemed **35%** of the property value should be adopted as the apportioned site value.
- 10. An adjusted calculation that adopts the revised parameters listed in (i)-(iii) results in a freehold purchase premium of **£7,830**. A copy of the tribunal's valuation is attached to this decision.
 - 11. Accordingly, the tribunal determines that the premium to be paid in respect of the purchase of the freehold of the property is **£7,830**.
 - 12. This matter should now be returned to the County Court sitting at Dudley under Claim Number **KoDD574** in order for the final procedures to take place.

Ian B Holdsworth Valuer Chairman

Appendix A : Premium Valuation

Annex A			
Property: 4 Florence Road, Oldbury, West Midlands, B69 2DN			
Lease Data			
Lease Term:	25/12/1967		
Lease Expiry date:	24/12/2066		
Length of Term:	99	Years	
Valuation date	19/09/2023		
Unexpired term as at valuation date:	43.30	Years	
Rent receivable by landlord :			
Payable from valuation date for 43.3 years	£	25.00	
Rates:			
Capitalisation rate (%)	6.50		
Deferment rate (%)	5.25		
Decapitalisation rate (%)	5.25		
Values			
Entirety Value	£	173,000	
Standing House Value	£	163,000	
Term 1			
Ground rent payable	£	25.00	
YP @ 43.3 years @ 6.5%	14.37803	£	359
Total term value			£ 359
First Reversion			
Section 15 Ground Rent			
Entirety value		£	173,000
Site apportionment at 35% of Entirety value	35.0%	£	60,550
Decapitalisation rate at 5.25%	5.25%	£	3,179
YP @ 50 years @ 5.25%	17.57281		
Deferred @ 43.3 years @ 5.25%	0.10909		
Years Purchase	1.9170		
First Reversion value			£ 6,094
Standing House Value in current condition			
Deferred @ 93.3 years @ 5.25%	0.00845	£	163,000
Second reversion value		£	1,377
		£	1,377
Freehold Purchase Premium			£ 7,830
Notes:			
1. The price for freehold is calculated in accordance with the Leasehold Reform Act 1967 S9 as amended.			
Section 9(1) valuation basis in accordance with RV less than £1000 as at March 1990.			

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 (ie, 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.