



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

Case reference : **LON/00AE/OCE/2023/0119**

Property : **26-29 Ecclestone Place, Wembley
HA9 8AB**

Applicant : **London Freehold Holdings Limited**

Representative : **Jason D Mellor AssocRICS of
Maunder Taylor**

Respondent : **Castleart Limited**

Representative : **John Crosbie FRICS of Brendons
Chartered Surveyors**

Type of application : **Section 24 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal members : **Judge Tagliavini
Mr K Ridgeway MRICS**

**Date of hearing and
venue** : **3 April 2024
10 Alfred Place, London WC1E 7LR**

Date of decision : **14 May 2024**

DECISION

Summary of the tribunal's decision

- (1) The appropriate premium payable to the freehold company for the collective enfranchisement is £32,500. The premium payable to the freehold company for the freehold of the additional property is £500.

Background

1. This is an application made by the applicant nominee purchaser pursuant to section 24 of the Leasehold Reform, Housing and Urban

Development Act 1993 (“the Act”) for a determination of the premium to be paid for the collective enfranchisement of 26-29 Ecclestone Place, Wembley HA9 8AB (“the property”).

2. By a notice of a claim dated 12 January 2023, served pursuant to section 13 of the Act, the applicant exercised the right for the acquisition of the freehold of the subject property and proposed to pay a premium of £23,600 for the freehold interest and £500 for the additional freehold specified in paragraph 2 of the said notice of claim.
3. On 20 March 2023, the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £265,910.00 for the freehold and £265,910.00 for the additional freehold shown shaded blue on the plan attached to the Initial Notice.
4. On 06/09/2023 the applicant applied to the tribunal for a determination of the premium and terms of acquisition.

The issues

Matters agreed

5. The following matters were agreed:
 - (a) The building is a two storey detached property with an uninspected flat roof (but potentially with water tank), communal garden to rear beyond which is a garage forecourt with four garages, block of 3 and single garage. The garages are accessed via a service road that runs to the north of the building. Immediately to the North of the service road is an area of land which adjoins the railway line. There is a communal entrance to the front of the building providing access to the internal common parts (including staircase) from which all four flats are accessed.
 - (a) The valuation date is 12 January 2023:
 - (b) Details of the tenants’ leasehold interests:

Flat 1 (and garage) : Title No AGL 345146 granted 4" June 2015 expiring 23" June 2141 paying £50 per annum fixed ground rent

Flat 2 (and garage) : Title NGL 386051 for 99 years from 24" June 1980 paying £50 per annum fixed ground rent

Flat 3 (and garage) : Title No AGL345148 granted 4" June 2015 expiring 23" June 20141 paying £50 per annum fixed ground rent

Flat 4 (and garage) : Title No AGL 345147 granted 4" June 2015 expiring 23" June 2141 paying £50 per annum fixed ground rent

The participants shown in the claim Notice are:

Flat 1 Wembley Estate Holdings Ltd Reg No 04781307
(incorporated 30th May 2003)

Flat 3 ---Faircrest Holdings Ltd Reg No 14201396
(incorporated 28th June 2022)

Flat 4 Wembley Estate Holdings Ltd Reg No 04781307
(incorporated 30th May 2003)

The flat types are as follows:

Flat 1: (also known as No 26) 8 453ft² 1-bed ground floor flat plus garage

Flat 2: (also known as No 27) a 657ft² 2-bed ground floor flat plus garage

Flat 3: (also known as No 28) a 499ft² 1-bed first floor flat plus garage

Flat 4: (also known as No 29) a 734ft² 2-bed first floor flat plus garage

Communal rear garden areas available to all flats

- (c) Capitalisation of ground rent: 61/2% per annum; and
- (d) Deferment rate: 5%
- (e) Uplift for freehold compared to long lease value at 1%
- (f) The terms of transfer

Matters not agreed

A. The Freehold Vacant Possession Values of the four flats (and garages).

B. Whether or not the owner of flat 2 is entitled to a lease expiring 23 June 2140 without payment of premium.

C. Whether or not the enfranchisement price should reflect the assumption of a lease in place for flat 2 which is for a term expiring 23 June 2140 paying £50 fixed ground rent.

D. The relative value of the lease for flat 2 (as in place at Land Registry at valuation date) for the purpose of calculating hope value.

This was agreed between the parties at the hearing as 7.5%

E. The development hope value (if any) of the freehold and its apportionment.

F. The freehold enfranchisement price.

The hearing

6. The video hearing in this matter took place on 3 April 2024. The applicant was represented by Mr Jason Mellor and the respondent by Mr J Crosbie.
7. 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.
8. The applicant relied upon the expert report and valuation of Mr J Mellor dated 25 March 2024 in which he gave the premium payable for the freehold as £31,300. The respondent relied upon the expert report and valuation of Mr J Crosbie dated 25 March 2023.
9. The parties relied upon an indexed digital bundle of documents comprising 460 pages.

The tribunal's determination

10. The tribunal determines that the premium payable for the freehold of the property is £32,500 and the premium payable for the additional freehold property is £500.

Reasons for the tribunal's determination

11. The tribunal doubted the independence of Mr Crosbie and his objectivity as an expert witness as he stated in his report that:

Ms | find myself in the peculiar position that | am engaged by Ms J Lunn as a Director of Castleart (the Respondent) to provide a response to the initiating Notice dated 12" January 2023 served by the Applicants, London Freehold Holdings Limited. | am also engaged separately by Lunn to provide guidance on her present and proposed situation within this document | have to a degree amalgamated that advice.

12. Mr Crosbie also stated:

| have provided two assessments:-

lease a) The first assumes that Ms Lunn will be granted a new term of the premises on

the same basis as the other existing share of freehold owners.

b) The second assessment is of the calculation on the basis of the leasehold interest as presently existing.

Both of these assessments include the 'development hope value.'

My valuations are set out at Appendix 10 and on the basis indicated above these are assessed as:-

a) £909,420 (Nine Hundred & Nine Thousand Four Hundred & Twenty Pounds

Hundred b) £936,100 (Nine Hundred & Thirty Six Thousand One Pounds)

13. The tribunal preferred the evidence of Mr Mellor to that of Mr Crosbie. The tribunal found that the lease for Flat 2 was required to be valued as at the valuation date as the issue of whether or not there had, at any time, been a 'promise' to Ms Lunn, the leaseholder of Flat 2 by the freeholder of a grant of a new lease (extension) at a nil premium, was not within the jurisdiction of the tribunal and therefore, not relevant for the purposes of this application.

14. Consequently, the tribunal concluded Mr Crosbie had compromised the value of his evidence as an independent expert witness on behalf of the freeholder, by also seeking to advance the case for Ms Lunn in her capacity as the non-participating leaseholder and who was of the stated view, she was entitled to the grant of a new lease at nil premium,

Freehold Vacant Possession of the four flats

15. On this issue the tribunal preferred Mr Mellor's approach to that of Mr Crosbie, who accepted during the course of the hearing that his FHVP was 'too high.' In his report Mr Crosbie stated he had calculated the premium payable for freehold enfranchisement in accordance with the provisions of Schedule 6 of the 1993 Act.

16. In calculating the FHVP value of the four flats, Mr Crosbie summarised the approach taken in his report as:

For 1-bed flats, the range of adjusted values is £232,400 to £288,320, the average of all is £262,299, and the average excluding the highest/lowest is £265,592.

For 2-bed flats, it can be seen that the range adjusted values is £300,000 to £402,975, the average of all is £353,548, and the average excluding the highest/lowest is £354,235.

17. Mr Crosbie concluded in his evidence that by taking account of these ranges and averages, and noting the small difference in size between the two subject 1-bed and two subject 2-bed flats, he arrived at the following FHVP values as:

Flat 1: £260,000

Flat 2: £350,000

Flat 3: £270,000

Flat 4: £360,000

Grant of new lease – Flat 2

18. The tribunal preferred the evidence of Mr Mellor to that of Mr Crosbie. The tribunal found that the lease for Flat 2 was required to be valued as at the valuation date as the issue of whether or not there had, at any time, been a 'promise' to Ms Lunn, the leaseholder of Flat 2 by the freeholder of a grant of a new lease (extension) at a nil premium, was not within the jurisdiction of the tribunal and therefore, not relevant for the purposes of this application.

Flat 2 – Hope Value

19. The parties agreed during the course of the hearing that this was properly reflected at 7.5%.

Development Hope Value

20. During the hearing, Mr Crosbie was extensively cross-examined by Mr Mellor, as to how he arrived at the figures he had used in calculating the DHV. At the end of this and in his submissions, Mr Crosbie conceded that on paper there was no DHV but nevertheless maintained he had a 'gut' feeling there remained a DHV.

21. Mr Crosbie stated in his valuation report that:

Wembley is identified within the Mayor's London Plan as an 'Opportunity Area' with potential for the construction of some 14,000 new homes.

The adopted Brent Local Plan for the period 2019-2041 confirms this and at Page 36 (BP1} confirms the policy for homes in this area as;-

(d) a minimum of 13,700 homes are to be constructed in the period to 2041 which will predominantly be achieved through a residential lead, mixed use development within the Wembley Growth Area and will deliver over 15,000 homes principally the Wembley Park Area.

(e) intensification and higher residential densities will be supported around Wembley Park where it can be demonstrated that the development would take advantage of the areas good access to public transport.

23. Mr Crosbie set out in his report details of the figures used for demolition and construction costs to calculate DHV having regard to RICS (Building Cost Information Service; the Community Infrastructure Levy for the London Borough of Brent; The requirement for parking; the requirements for a disability component in the communal floor space of any proposed new building; the developers risk and profit; the availability of loans through the Government offered Home Building Fund and recently sold or currently available flats on an assessment f gross development value.

22. The tribunal was satisfied that, on the balance of probabilities, Mr Mellor had demonstrated in his written and oral evidence there was no value to be attached to the DHV. The tribunal found this viewed was effectively shared by Mr Crosbie in his concession at the end of his cross-examination by Mr Mellor, that on paper there was no DHV.

The premium

23. Its valuation calculation is annexed to this decision (***Kevin – is there a valuation I can attach?***)

Name: Judge Tagliavini

Date: 14 May 2024

Appendix: Valuation setting out the tribunal's calculations

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).

