



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

Case reference : **MM/LON/00BF/OCE/2024/0091**

Property : **10 Bourne Way, Sutton, SM1 2EN**

Applicants : **10 Bourne Way Freehold Company Ltd**

Representative : **Ringleys**

Respondent : **The Estate of the Late Kathleen Major and George Major**

Representative : **A K Gulati & Co Solicitors**

Type of application : **Application under sections 26 and 27 of the Leasehold Reform Housing and Urban Development Act 1993**

Tribunal members : **Mr I Holdsworth FRICS MICarb
RICS Registered valuer**

Venue of paper determination : **Remote**

Date of decision : **7th August 2024**

DECISION

Decision of the Tribunal

The Tribunal determines that the price to be paid by the applicants for the freehold interest is **£9,334**.

The background

1. This is an application pursuant to a vesting order made by District Judge Le Bas at the County Court at Central London on 1 May 2024 under section 26 of the Leasehold Reform Housing and Urban Development Act 1993 (“**the 1993 Act**”).
2. Section 26(1) of the 1993 Act concerns claims for collective enfranchisement where the relevant landlord cannot be found or fails to engage with the enfranchisement process. 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 of the 1993 Act, the role of the Tribunal is to determine the appropriate sum to be paid into court in respect of the landlord’s interests.
4. The applicant in this matter is the nominee freehold company 10 Bourne Way Freehold Company Ltd. The shareholders of the company are the qualifying tenants of the ground floor **flat 10a**, Manil D Fernando and Daisy Maria Rosaria De Rosa and the qualifying tenants of first floor **flat 10b**, Sarah L Wood and Adam A Tagg. The two flats together with appurtenant land constitute 10 Bourne Way, Sutton, SM1 2EN (“**the Property**”).
5. By virtue of the order of District Judge La Bas they became the nominee purchasers of the freehold interest in the Property for the purposes of the 1993 Act. The respondent freehold owners are The Estate of the Late Kathleen Major and George Major .
6. On 19 April 2023, the applicants issued a Part 8 Claim in the County Court at Central London for an order pursuant to section 26(1) of the 1993 Act vesting the freehold interest in the Property in the applicants. The applicants are told the respondent freeholders do not intend to engage with the statutory procedure to acquire the freehold of the property.
7. The court order of 1 May 2024 includes provision that:

“1. The case is to be referred to the First tier Tribunal (Property Chamber) for the premium and other terms to be determined by the First Tier Tribunal.

2. The costs of the claim to be deducted from the premium”

8. In support of the application, the applicants rely upon the written valuation evidence of Mr Keith Fraser BSc (Hons) MRICS dated 17 July 2024 Mr Fraser is of the view that the premium to be paid is £8,060. The valuer does apportion the premium payable between the participating tenants as follows: flat 10a to pay a premium of £4,208 and flat 10b the sum of £3,852.

The Determination

9. The Tribunal accepts the opinions expressed by Mr Fraser in his valuation report dated 17 July 2024 save that:
- (i) The Tribunal considers that there is no justification for the deductions of £15,000 made by Mr Fraser to each flat value for improvements to the properties. No material changes to the property are evident from the submitted information. The Tribunal make no deduction.
 - (ii) The Tribunal is not persuaded purchasers deduct sums from value to reflect a missing Landlord. No evidence is submitted to support this assertion and the Tribunal make no deduction for the failure of the freeholder to participate in the enfranchisement.
 - (iii) The reversion foregone by the freeholder at enfranchisement is the freehold. A long leasehold value is not therefore required to calculate the premium payable. in the premium calculation. The 1% deduction to freehold value proposed by Mr Fraser to calculate the long leasehold is not applicable to this premium calculation.
 - (iv) The Tribunal values the appurtenant property at £1,000 for the Property rather than the £100 proposed by Mr Fraser. The Property includes the common areas plus car parking spaces, bin storage and rights of way across the front to service the car parking. The large garden that forms part of the ground floor flat demise is reflected in the freehold value. The Tribunal rely upon their knowledge and experience in valuation of these interests.

- (v) Taking these matters into account the Tribunal has assessed the freehold value of the Property as at the valuation date of 19 April 2023 as £735,000. The deductions from value made by the Expert to reflect improvements and lack of management are added back to give freehold values in vacant possession of £383,250 for flat 10a and £351,750 for flats 10b.
- (vi) The adjusted calculation has resulted in premium of £9,334. A copy of the Tribunal's valuation is attached to this decision as Annex A.

11. Accordingly, the Tribunal determines that the premium to be paid in respect of the collective enfranchisement of 10 Bourne Way, Sutton, SM1 2EN is **£9,334**. These monies to be paid into Court after deduction of the agreed costs associated with the claim. The apportionment of the premium is as follows:

(i) Flat 10a, a premium sum of £5,029 is payable; and

(ii) Flat 10b, a premium sum of £4,305 is due.

12. The Tribunal also approves the draft proposed HMLR TRI included in the bundle subject to the inclusion at paragraph 8 "**Consideration**", that the consideration (the total premium of £9,334 less any agreed costs for the claim) has been paid into court.

13. This matter should now be returned to the County Court at Central London under **Claim Number K01CL452** in order for the final procedures to take place.

Ian B Holdsworth

Valuer Chairman

7 August 2024

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.

Annex A: Tribunal Valuation

MM/LON/00BF/OCE/2024/0091+A1:E54			
Property: 10a and 10b Bourne Way, Sutton, SM1 2EN			
Lease and Valuation Data			
Lease Term:	01/01/2004		
Lease Expiry date:	31/12/2128		
Unexpired term as at valuation date:	105.70	years	
Date of Valuation	19/04/2023		
Rent receivable by landlord:			
Payable from valuation date for 13.71 years	£	200	
Payable from review date for 33 years	£	400	
Payable from review date for 58.99 years	£	600	
Values			
FHVP	£	690,000	
Capitalisation rate (%)		7.00	
Deferment rate (%)		5.00	
Value of Freeholders present interest			
Term 1			
Ground rent payable	£	200	
YP @ 13.71 years @ 7%		8.63569	£ 1,727
Term 2			
Ground rent payable	£	400	
YP @ 33 years @ 7%		12.75379	
Deferred for 13.71 years @ 7%		0.3955	£ 2,018
Term 3			
Ground rent payable	£	600	
YP @ 58.99 years @ 7%		14.02175	
Deferred for 46.71 years @ 7%		0.0424	£ 357
Reversion			
Freehold value of flat	£	735,000	
PV of £1 in 105.7 years at 5%		0.00576	£ 4,232
Freeholders interest value			
			£ 8,334
Price payable to Freeholder			
Value of freeholders current interest			
			£ 8,334
Other compensation for loss incurred by freeholder			
Appurtenant property and common parts			
			£ 1,000
		Total	£ 9,334
		Say	£ 9,334