



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

**Case Reference** : **CHI/20UB/OCE/2024/0021**

**Property** : **34 Hardinge Road  
Ashford  
Kent  
TN24 8HA**

**Claimants/Applicants** : **(1) Mr David Anthony Connell  
(2) Mrs Kirsty Connell**

**Representative** : **None**

**Defendants/Respondents** : **(1) Mr Paul Brown  
(2) Mr Mark James Maguire  
(3) Ms Michelle James**

**Representative** : **None**

**Type of Application** : **Application under section 26 (1) of the  
Leasehold Reform, Housing and Urban  
Development Act 1993 (“the Act”)**

**Tribunal Members** : **Mr I R Perry FRICS**

**Date of Decision** : **20th December 2024**

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DECISION

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**Decision**

1. Tribunal determines that the premium to be paid for the freehold of the property is **£30,830**.

**Background**

2. This is an application under section 26 of the Act pursuant to an order made by Judge J Dobson sitting in the County Court at Canterbury on 17<sup>th</sup> June 2024 (“the Order”), concerning a claim to collectively enfranchise 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 sections 26 and 27 of the 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 property is a terraced house converted into two flats. Mr & Mrs Connell each own a long leasehold interest in one of the flats at the property, known as ground floor flat (Mr Connell) and first floor flat (Mrs Connell in her maiden name). The leases are both for 99 years from 25<sup>th</sup> March 1987. The ground rent for each flat is £5 per annum and the leases have 63.69 years unexpired.
5. An application for a vesting order for the freehold interest was made to the Court on 23<sup>rd</sup> August 2023.
6. On 16<sup>th</sup> July 2022 Mr and Mrs Connell had served the requisite notice which fixed the valuation date as 16<sup>th</sup> July 2022.
7. The Tribunal was provided with a letter from Mr Kris Foster MRICS of Motts Estates dated 7<sup>th</sup> April 2022 assessing the value of the freehold interest at £28,000, but with a caveat that if instructed to negotiate the price he would expect to achieve a settlement at a figure below £32,000.
8. Within his letter of 7<sup>th</sup> April 2022 Mr Foster suggests that the value of the property with a long lease has a fair value of £260,000, possibly as high as £280,000. He states that he has used a relativity of 82.6% in line with the 2015 relativity graph used in *Sloane v Mundy* but suggests he may have to concede a rate of 80.96% in line with the more recent case of *Zucconi*.
9. The Tribunal was also provided with a lengthier report from Mr Foster, also dated 7<sup>th</sup> April 2022, which includes a more detailed description of the property with 3 photographs. This longer report also states that the premium should be £28,000. Neither the report or the letter state what capitalisation rate or deferment rate have been used to calculate the premium and, despite it being requested within the original directions, no calculation sheet was provided.
10. The Tribunal decided that it could not reach a decision without additional and detailed information as to how the expert witness had calculated the price to be paid for the freehold, in particular a calculation sheet.

11. Further directions were issued on 9<sup>th</sup> December 2024 requiring the Applicants to provide the detailed valuation calculation.
12. On 18<sup>th</sup> December 2024 the additional information was provided to the Tribunal, including a calculation sheet which shows a premium of £28,391 based on a capitalisation rate of 5% and a deferment rate of 5%.

### **The Determination**

13. After careful scrutiny the Tribunal accepts the opinions expressed by Mr Kris Foster in his valuation report of 7<sup>th</sup> April 2022 save that the valuation date is 16<sup>th</sup> July 2022 and, based on the Gerald Eve graph used in *Sloane v Mundy*, a relativity rate of 80.81% is applied. The Tribunal also considers that a capitalisation rate of 5% for such a small ground rent is too low and, relying on its own expert knowledge, applies a rate of 7%.
14. The adjusted calculation adopts the revised parameters as above and results in a premium for the freehold interest of **£30,830**.
15. Accordingly, this Tribunal determines that the premium to be paid for the freehold of the property is **£30,830**.
16. This matter should now be returned to the County Court sitting at Canterbury **Claim Number KooCT 864** in order for the final procedures to take place.

### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

