



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

Case reference : **CHI/OOMW/OLR/2024/0010**

Property : **6 Shaplands Mews, 35 Union Road,
Ryde, Isle of Wight, PO33 2DA**

Applicant : **Matthew Barry Egerton & Jane Catherine
Dobson**

Representative : **Glanvilles Damant Ltd**

Respondent : **Tudor Smith Estates Limited**

Representative : **In Person**

Type of application : **Freehold Enfranchisement under
Leasehold Reform Act 1967 (Houses)
Determination of Premium**

Tribunal members : **R Waterhouse FRICS**

Venue : **Remote determination on papers**

Date of decision : **12 December 2024**

DECISION

REASONS

Decision of the Tribunal

The Tribunal determines that the appropriate sum to be paid into court for the Freehold of 6 Shaplands Mews, on statutory terms is £1925.00

Background

1. The Tribunal has received an application under sections 21(1)(cza), 21(2) and 27(5) of the Leasehold Reform Act 1967 (“the Act”).

The application arises following an application made to the County Court for a Vesting Order in the case of a missing Freeholder. On the 22 December 2023 Deputy Judge Guppy sitting at the County Court at Newport, 1 Quay Street, Newport, Isle of Wight, PO30 5YT issued a General Form of Judgement or Order for the Claimant (Applicant) under Claim number KOON116.

2. By an Order made by District Judge Hay sitting in the County Court at Newport, 1 Quay Street, Newport, Isle of Wight, PO30 5YT on 24 January 2024 the Court issued a vesting Order of the freehold of the property known as Shaplands Mews, 35 Union Road, Ryde, Isle of Wight, PO33 2DA in the Applicants and transferred the claim to the First-tier Tribunal for determination of the purchase price payable up to the date of the Vesting Order.

3. On the 30 July 2024, Regional Surveyor Coupe of this Tribunal, gave directions to the Applicants to provide a bundle of documents in support of their application. The Directions note the Bundle must contain;

Court Documents

The relevant documents in the Court proceedings

Valuers Reports

- a. A memorandum of agreed facts signed by both Valuers.
- b. Each parties’ valuation reports which will as a minimum:
- c. Give the Valuer’s qualifications and contain a signed expert witness declaration, including a declaration that the amount of the fee is not conditional on the outcome of the decision
- d. Provide a full description of the property with a photograph of its exterior
- e. Include a plan identifying the property, any communal areas and any comparable properties relied on
- f. Confirmation that the Valuation is at the correct valuation date
- g. Give full details of all comparable market, settlement and relativity evidence relied on

- h. Identify the capitalisation and deferment rates and justify any departure from Cadogan v Sportelli
- i. Identify any relevant improvements and the dates upon which they were completed
- j. Include a worked valuation for the property that is consistent with the 1967 Act and identifies the correct basis of valuation.

Documents of Title

- a) Up to date office copies of the entries at Land Registry of the freehold title, any intermediate leasehold titles and the property leasehold title, with plans
- b) Any intermediate leases

Other Information

- a. These directions
 - b. The date upon which the tenants bought the property
 - c. Details of any other amounts that may be payable to the landlord(s)
 - d. Any authorities in support of either party's case
4. The Tribunal considers it appropriate for the matter to be determined by way of a paper determination and, as no submissions have been received for an oral hearing, the application has been determined on the papers.

The Lease

5. The site is identified on the HM Land Registry plan edged red under title number IW46383 and is held by way of a an Underlease dated 1 January 1999 between Wich Way Estates Limited and Tudor Smith Investments Limited for 99 years and a Supplemental Lease was entered into on 11 July 2017 expiring on 31 December 2141. Mr Egerton & Miss Dobson have been the legal owners of the leasehold interest in the property for at least two years. The lease of 6 Shaplands Mews, Union Road, Ryde, Isle of Wight PO33 2DA provides for a ground rent of £50.00 payable yearly up to 31 December 2041 and then doubling every 25 years until the expiry which is 31 December 2141.

The Law

6. Section 27(5) of the Act provides: The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:
- a. Such amount as may be determined by (or on appeal from) the appropriate Tribunal to be the price payable in accordance with Section 9 above; and
 - b. The amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the Conveyance which remains unpaid.

7. Section 9 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation. The effect of 4 Section 27(1) is that the valuation date is the date on which the application was made to the Court.

8. Neither the Applicant, or Respondent have made enquiries as to the house and premise's Rateable Value. The historic Rateable Value is required to determine the valuation basis (original or special) in accordance with Section 9 of the Act, however, given the long unexpired lease term, the Tribunal notes that the premium would remain the same regardless of the valuation basis adopted and therefore accepts the basis as being the original basis under section 9(1).

The Premises

9. The property comprises a house, it is not described by either party to the issue.

Evidence and Decision

10. The Tribunal is required to determine the premium payable for the Freehold Interest, calculated in accordance with section 9 of the Act. Section 9 sets out the premium to be paid to enfranchise and the valuation basis to be adopted. The valuation date adopted is the **21 August 2023** being the date of the application to the County Court, therefore the term remaining as at the valuation date is circa 118 years.

11. To support the application the Tribunal is provided with a letter dated 8 June 2023 from S Woolford of Martin Ralph GP Surveyors who act for the applicant.

12. The letter identifies the property as 6 Shapland Mews Union Road, Ryde, Isle of Wight PO33 2DA. There is no reference to a valuation date within the letter, nor details of the calculation other than the output figure of £2040. There is no valuation. There is no statement that explains that the Valuation Expert understands their role to the tribunal as set out in Rule 19 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

13. The Respondent William Smith of William Tudor Smith copied an email to the Tribunal that was sent to Gemma Cook and Andrea Scovell. The email noted that a value placed on the Freehold of £3000, this being calculated with reference to a discount rate of 4.75% with reference to "Sportelli". There is no valuation. There is no statement that explains that the Valuation Expert understands their role to the tribunal as set out in Rule 19 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber Rules 2013).

14. There is very little compliance by either party with the Directions with large elements including the following missing;

Each parties' valuation reports which will as a minimum:

c. Give the Valuer's qualifications and contain a signed expert witness declaration, including a declaration that the amount of the fee is not conditional on the outcome of the decision

- d. Provide a full description of the property with a photograph of its exterior
- e. Include a plan identifying the property, any communal areas and any comparable properties relied on
- f. Confirmation that the Valuation is at the correct valuation date
- g. Give full details of all comparable market, settlement and relativity evidence relied on
- h. Identify the capitalisation and deferment rates and justify any departure from Cadogan v Sportelli
- i. Identify any relevant improvements and the dates upon which they were completed
- j. Include a worked valuation for the property that is consistent with the 1967 Act and identifies the correct basis of valuation.

The Tribunal therefore has made the best of the information available, and its wider expertise determined the following elements to the valuation.

Nature of property

- 15. Terrace house no outside grounds noted.

Valuation Date

- 16. This is taken as the date of claim 21 August 2023.

Capitalisation Rate of the ground rent

- 17. In accordance with the guidance offered in Nicholson and Goff (2007) 1 EGLR 83 “*the factors relevant to the capitalisation rate: (i) the length of the lease term; (ii) the security of recovery; (iii), the size of the ground rent (a larger ground rent being more attractive); (iv) whether there was provision for review of the ground rent; and (v) if there were such provision, the nature of it.*”

The Tribunal determines 7% is utilised.

Deferment Rate

- 18. Sportelli (L Cadogan and The Cadogan Estates Limited v Sportelli [2007] 1EGLL153) set a deferment rate of 4.75% for houses and 5% for flats.

- 19. The First-tier Tribunal will follow this unless compelling evidence to the contrary is adduced. The Respondent makes reference to Sportelli and a discount rate of 4.75%.

- 20. The Tribunal accepts the Respondents use of 4.75%.

Unencumbered Freehold value with vacant possession

21. Neither party submits a figure for this element of the valuation. The Tribunal making the best of publicly available data determines this is to be £160,000, this being informed by the last sale of 6 Shaplands Mews at £125,000 at April 2021 described as a three-bedroom mews house.

22. The second stage of the valuation, creation of a modern ground rent includes the necessity to estimate the portion of Entirety Value, that is the value of the house and land, which is taken up by the land.

Freehold Entirety Value

23. 'Entirety Value' is the notional market value of the best house that could reasonably be expected to have been built on the plot at the valuation date, assuming the plot were fully developed. The Tribunal determines £160,000.

Site as a percentage of Entirety Value

24. The Upper Tribunal decision, Sabah El-Gadhy, Zara El-Gadhy v Liverpool City Council (LRA/78/2015) provides guidance on the matters to consider in determination of the appropriate percentage of the entirety value attributable to the site. In accordance with this guidance and previous Upper Tribunal decisions this tribunal has deemed 40% of the Entirety Value should be adopted as the apportioned site value in the premium valuation.

Freehold standing house value

25. The 'standing house value' is the market value of the house built on the site, excluding the value of tenant improvements, assuming the Freehold is sold with vacant possession. The Tribunal determines that in this case the Entirety Value and Standing House Value should be treated as the same, which the Tribunal determines at £160,000

'Clarise reduction'

26. Under Clarise Properties Limited [2012] UKUT 4 (LC), [2012] 1 EGLR 83, Valuers sometimes make allowance for the prospect of occupiers remaining in occupation on expiry of the term which in this case would be in 118 years' time. The Tribunal makes no reduction to reflect the Clarise principle of the prospect of a lessee remaining in occupation on expiry of the lease under Schedule 10 to the Local Government and Housing Act 1989. The lease expires in 118 years' time which the Tribunal considers too remote to require a Clarise reduction. Each case is considered on its merits but in this instance, it is too far in the future and disregarded.

Tribunal Valuation

Term	124 years from 11 July 2017
Valuation date	21 August 2023
Unexpired term at valuation date	118 years
Capitalisation rate	7%
Deferment rate	4.75%

Freehold vacant possession value (FHVP)	£160,000
Entirety value	£160,000
Site value	40%

27. Lease pattern 99 years from 1 January 1999 for 99 years but subject to supplemental lease from 11 July 2017 expiring 31 December 2141. Ground rent, the first 25 years at £50 ground rent, and then doubling each 25 years.

28. Summary of rental income derived from the lease description.

From	To	Amount
2-8-2023 (valuation date)	31-12-2023	£0
1-1-2024	31-12-2048	£100.00
1-1-2049	31-12-2073	£200.00
1-1-2074	31-12-2099	£400.00
1-1-2100	31-12-2124	£800.00
1-1-2125	31-12-2141	£1600.00

Current value of term

Term 1	PV @ 7%	YP @7%	total
1-1-24 to 31-12-48 25 years at £100.00	1.00	12.1591	£1215.91
1-1-49 to 31-12-73 25 years at £200.00	PV 25yrs at 7% 0.1842492	12.1591	£448.06
1-1-74 to 31-12-2099 25 years at £400.00	PV 50 years at 7% 0.0339478	12.1591	£165.11
1-1-2100 to 31-12-2124 25 years at £800.00	PV 75 years at 7% 0.0062548	12.1591	£60.84
1-1-2125 to 31-12-2147 22 years at £1600.00	PV 100 years at 7% 0.0011525	YP 22 years at 7% 11.0612	£20.39
			£1910.31

The 50- year extension at a modern ground rent

Term 2		
Entirety value	£160,000	
X plot ratio	0.40	
Plot value	£64,000	
Section 15 rent pa @ 4.75%		£3040.00
YP 50 years rent pa @ 7%		13.8007
PV £1 def 118 years at 4.75%		0.00042
		£17.62

Reversion		
Standing House Value	£160,000	
PV deferred 168 years at 4.75%		£1

Totals		
Term 1 Ground rent	£1910.31	
Term 2	£17.62	
Reversion	£1.00	
Total		£1928.83 say £1925.00

29. The Tribunal determines that the amount of unpaid pecuniary rent (if any) payable for the property up to the date of the proposed conveyance is nil because the ground rent demanded up to the valuation date of 21 August 2023 was under the lease demanded on 1 January 2023, and no rent has been demanded since, and rent cannot fall due until it is demanded.

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).