

2844



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

Case Reference : **LON/OOAY/OCE/2014/0081**

Property : **95 Barcombe Avenue, London SW2
3BQ**

Applicant : **Gemma Louise Shaw (1)
Christopher Mark Robert Shaw (2)
and Heather Anne Ferguson (nee
Allan) (3)**

Representative : **Housing and Property Law
Partnership**

Respondent : **Thomas Roger Austin**

Representative : **None**

Type of Application : **Missing landlord
S26 of the Leasehold Reform and
Housing Development Act 1993**

Tribunal Members : **Evelyn Flint DMS FRICS**

**Date and venue of
Hearing** : **14 May 2014
10 Alfred Place, London WC1E 7LR**

Date of Decision : **14 May 2014**

DECISION

Decision

1. The premium payable for the freehold interest is £14,138 (fourteen thousand one hundred and thirty eight pounds) the terms of the draft transfer submitted to the Tribunal are approved subject to the amendments at paragraph 19 of the decision.

Background

2. On 20 June 2013 the Applicants made an application to the County Court under Chapter I of Part I of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act") seeking a vesting order under Section 26 of the Act providing for the transfer of the freehold interest in the property to the Nominee Purchaser as if a valid notice under section 13 of the Act had been served on the Defendant.
3. Deputy District Judge Cridge sitting at Lambeth County Court made a vesting order, dated 13 February 2014, in the terms requested (Claim No.3LBO1309). The matter was transferred by the Order on 20 February 2014 to the Tribunal to determine the price and terms of acquisition of the freehold premises.
4. The Tribunal issued Directions on 3 April 2014 providing for the case to be determined on the basis of documents alone and without a hearing.
5. The first and second applicants hold a lease of the first and second floors dated 31 March 1995 between Thomas Roger Austin and Barratt London Limited and the third applicant holds a lease dated 31 March 1995 between T R Austin and H Z Tiero. Both leases are in identical format for 99 years from 24 June 1994 at a ground rent of £50 per annum without review and subject to the terms and conditions therein.

Expert Evidence

6. The Tribunal considered an expert report dated 29 April 2014 of David Goldstone BSc. MRICS of Capital Leasehold. The property is a two storey terraced house converted into two self contained flats situated in a quiet road within walking distance of Streatham Hill overground station. Alternative transport, shopping and local facilities are located within walking distance on Streatham Hill and Streatham High Road. The ground floor flat comprises two rooms, kitchen and bathroom/wc; the rear garden is demised with this flat. The upper flat has 3 rooms kitchen and bathroom/wc; the second bedroom is within the converted loft space.
7. The unexpired term at the date of the notice is 80.01 years.
8. The report referred to 5 sales of flats within Barcombe Avenue:

184A Barcombe Avenue: A one bedroom ground floor flat with garden sold on a long lease in August 2013 for £282,500 equating to £517 per

square foot. Adopting the same price gives a maximum figure for the ground floor flat at the subject premises of £257,466.

154 Barcombe Avenue: A one bedroom ground floor flat with garden sold on a long lease in November 2013 for £292,500 equating to £508 per square foot. Using the same price gives a maximum value for the ground floor flat at the subject premises of £252,984.

160 Barcombe Avenue: A three bedroom flat on the upper floors sold 25 July 2013 on a long lease for £383,000 equating to £351 per square foot. Adopting the same price gives a maximum value for the upper flat at the subject premises of £344,868.

246 Barcombe Avenue: A three bedroom flat on the upper floors sold on a long lease on 3 May 2013 for £337,000 equating to £348 per square foot. Adopting the same price gives a value of £344,868 for the upper flat at the subject premises.

254 Barcombe Avenue: A three bedroom flat on the upper floors sold on a long lease in September 2013 for £340,000 equating to £304 per square foot. Adopting the same price gives a maximum value for the upper flat at the subject premises of £301,264.

9. Based on the comparable evidence in respect of No.s 160 and 254 the valuation proposed for the unimproved long lease value of the ground floor flat was £255,225.
10. Mr Goldstone adopted a similar approach in valuing the upper flat. He has averaged the price per square foot achieved for each of the 3 bedroom flats and applied that figure to the floor area of the subject premises to arrive at a value for the unimproved long lease of £331,324.
11. An uplift of 1% was applied to the long lease values to obtain the value of the freehold in the sum of £592,474.
12. The capitalisation rate used was 8% which was stated to be in line with negotiated settlements and to reflect that the ground rent is fixed for the remainder of the term. No evidence of any settlements was produced. The deferment rate adopted was 5% in line with the decision of the Lands Tribunal in *Earl Cadogan and Cadogan Estates Ltd and others v Sportelli*.
13. The sum of £500 has been apportioned to the appurtenant property of the front and rear garden areas based on settlements on similar properties in this location. It was stated that since the lessees have the right to use the garden for the remainder of the term the value is nominal.
14. A valuation was attached to the report indicating a value for the freehold of £13,200 to which the value of the garden was added to arrive at a premium for the freehold interest of £13,700.

Decision

14. The Tribunal is critical of the lack of both an annotated floor plan and any photographs of the subject premises; the very limited information regarding the comparables with no information on the degree of modernisation etc and that there was no information regarding the settlements used to support the capitalisation rate of 8%.
15. **Valuation date.** The valuation date has been correctly identified as the date of the application to the court 20 June 2012.
16. **Valuation of the unimproved long leases.** The Tribunal is of the opinion that the two sales of ground floor flats represent good evidence of the value of the lower flat and accepts the value proposed of £255,225. However the sales evidence used to arrive at the value of the 2 bedroom upper flat relates to 3 bedroom flats, ranging in size from 969 to 1119 square feet. The larger flat devalues to significantly less than the other two which are also closer in size to the subject premises. Doing the best it can with the limited information available and giving greater weight to the prices achieved in respect of 160 and 246 Barcombe Avenue the Tribunal assesses the value of the upper flat at £346,50. The Tribunal accepts the addition of 1% to the long lease values to obtain the value of the freehold interest: total long lease value £601,725, freehold value £607,740.
17. **Capitalisation and Deferment Rate.** The Tribunal is of the opinion, based on its own experience, that 7% is the appropriate capitalisation rate for the ground rent and accepts the deferment rate of 5%; there is no reason to depart from the decision of the Upper Tribunal in Sportelli.
18. **Enfranchisement Price.** The Tribunal determines the premium at £14,138, the valuation is attached to this decision.
19. **Terms of the transfer.** Paragraph 8 of TR1 should read £10,807.28, being the premium less costs of £3,330.72, as directed by Deputy District Judge Cridge and Para 9 should read limited title guarantee, the remaining terms are approved.

Evelyn Flint
Chairman

14 May 2014

95 and 95A Barcombe Avenue Streatham Hill London SW2 3BQ

Valuation date 20 June 2013

Lease 99 years from 24 June 1984 at £50 pa for each flat

Capitalisation rate 7%

deferment rate 5%

Landlord's present interest

Ground rent 100

YP 80.01 years at 7% 14.22 £1,422

Reversion to freehold 607,740

Deferred 80.01 years at 5% 0.0201 £12,216 £13,638

add appurtenant land £500

Premium payable £14,138