



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

Case Reference : **OT/LON/OOAZ/OAF/2015/0029**

Property : **27 Allerford Road, London SE6
3DG**

Applicant : **Phoenix Community Homes
(Bellingham & Downham)**

Representative : **Cook & Partners**

Respondent : **Anthony Mark Lucas**

Representative : **None**

Type of Application : **Determination of premium payable
under Schedule 9(1) of the
Leasehold Reform Act 1967**

Tribunal Members : **Mrs Sonya O'Sullivan – Tribunal
Judge
Mrs Sarah Redmond MRICS –
Valuer Member**

**Date and venue of
Paper Determination** : **15 October 2015
10 Alfred Place, London WC1E 7LR**

Date of Decision : **15 October 2015**

DECISION

Decisions of the tribunal

The tribunal determines that the appropriate sum to be paid into Court for the purchase of the freehold interest by the Applicant for 27 Allerford Road, London SE6 3DG (“the Property”), pursuant to schedule 9(1) of the Leasehold Reform Act 1967 (“the 1967 Act”), is £50,340.

The application

1. The Applicant who is the qualifying tenant of Property seeks the tribunal’s determination of the price to be paid for and the terms of the transfer of the freehold interest in the Property.
2. The landlord is missing and on or around 15 August 2014 the Applicant issued a Part 8 Claim in the Bromley County Court under claim number 3BR02283. On 27 July 2015 an order was made by District Judge Hay under section 26 of the 1993 Act which confirmed that the Court was satisfied that the Applicant was entitled pursuant to the provisions of section 27 of the Leasehold Reform Act 1967 (the “1967 Act”) to have the freehold of the premises known as 27 Allerford Road Catford London SE6 3DG being the premises in the Applicant’s leasehold interest registered at HM Land Registry under Title No LN25484; freehold title TGL8140.
3. It was further ordered that that the appropriate sum to be paid into court by the Applicant pursuant to section 27(5) of the 1967 Act shall be determined by the Leasehold Valuation Tribunal and shall be so determined as if the Applicant had on 15 August 2014 (the date of issue of the proceedings) duly given notice of his desire to have the freehold pursuant to section 8 of the 1967 Act.
4. Further it was ordered that on the Applicant then paying into court such sum as determined by the tribunal Mr Christopher Cook, a partner in Cook & Partners shall be entitled to execute a form of transfer to vest the said freehold in the Applicant, such conveyance to be in a form approved by the Court and to include such rights as may be appropriate to include pursuant to the provisions of section 10 of the 1967 Act.
5. This determination is made on the basis of written representations in accordance with the procedure set out in regulation 13 of the Leasehold Tribunals (Procedure) (England) Regulations 2003. Directions were issued on 6th August 2015. The paper determination took place on 15 October 2015.
6. The Applicant’s solicitors supplied the tribunal with a hearing bundle that contained copies of the existing lease, Land Registry searches for

the freehold and leasehold titles, relevant documents from the County Court proceedings and a valuation.

7. The tribunal did not consider that an inspection of the property was necessary given that we had been provided with a photograph of the property and full details of the comparables relied upon and the information provided in the report of Mr Robson (see below).
8. The relevant legal provisions are set out in the Appendix to this decision.

Tenure

9. The lease is for a term of 99 years from 24 June 1937 expiring on 23 June 2036. The ground rent set in shillings equates to £5.75 per annum.
10. The tenants rely on a valuation prepared on their behalf by Richard G Robson BSc MRICS of Michael Rogers LLP, chartered surveyors. Mr Robson has inspected the Property and has provided a photograph, description and a list of comparable transactions and a valuation rationale.
11. He describes the Property as a three bedroom semi-detached house constructed circa 1932. It is set out over two floors comprising 3 bedrooms and a bathroom and separate WC on the first floor and entrance hall, lounge, dining room and kitchen on the ground floor.

The tenants' valuation

12. The county court claim was issued on 15 August 2014 and that is the valuation date which has been correctly adopted by Mr Robson.
13. Mr Robson goes on to review 7 local comparables and a number of settlements and adopt a value of £375,000 for the long lease value.
14. He adopts a capitalisation rate of 7% for the ground rental income as he has in many local settlements as he says there is no reason to depart from this figure.
15. Mr Robson suggests a site value of 35% and a Modern Ground Rent of 5.25% to be appropriate taking into account recent tribunal decisions in 2 Cameron Road (reference ME/LON/OOAZ/OAF/2011/0015), 47 and 48 Victoria Road Southampton (reference CHI/24/UD/OAF/2014/0002 and 003), 112 High Street, Tenterten (CHI/29/EUB/OAF/2013/0009), 8 The lawns (CHI/29/EUQ/OAF/2008/002) and 71 Brondesbury Park London

NW6 (LON/OOAE/OAF/2012/0061). He considers that the most relevant evidence relates to 2 Cameron Road as it is in close proximity to the Property. He also takes into account the negotiated settlement evidence.

16. Mr Robson suggests a deduction of 20% for the reduction in the reversionary value to reflect the tenant's entitlement to remain in occupation. He considers this reasonable based on the relatively short unexpired term in relation to the Property of 22.8 years and referred to the Clarise case in the Upper Tribunal. LRA/170/2010.
17. Mr Robson submits that a decapitilisation rate of 5.25% is appropriate having regard to settlements agreed in Allerford Road.
18. Mr Robson suggests a final deferment rate of 5% on the basis of negotiated settlements in which he was directly involved.

The tribunal's decision

19. The premium payable under Schedule 9(1) of the 1967 Act is £50,340

Reasons for the tribunal's decision

20. The tribunal carefully considered the contents of Mr Robson's comprehensive report. The tribunal notes that his firm is long established in providing valuations in relation to the area in which the subject property is situate.
21. We accept the long lease value of £375,000 for the Property.
22. We agree that there is no reason to depart from 7% for the capitalisation rate.
23. We consider the site value of 35% and the Modern Ground Rent at 5.25% to be appropriate for the reasons set out in Mr Robson's report.
24. We accept Mr Robson's deduction of 20% for the reduction in the reversionary value to reflect the tenant's entitlement to remain in occupation as appropriate. Likewise we consider Mr Robson's yield and decapitilisation rate of 5.25% to be appropriate having regard to the settlement evidence.
25. As far as the final deferment rate is concerned we consider that a rate of 4.75% rather than the 5% contended by Mr Robson should be applied as we see no basis upon which to depart from the *Sportelli* rate.

26. Accordingly we conclude that the price to be paid into court for the freehold of the property is £50,340.
27. We are satisfied with the terms of the transfer as set out in the transfer submitted to us save for the following
- i. The transfer must contain a statement that it is executed for the purposes of Chapter 1 of the 1993 Act as required by section 34(5) as follows “*This conveyance (or transfer) is executed for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993*”.
 - ii. The transferor may only transfer with limited title guarantee.

Name: S O’Sullivan

Date: 15 October 2015

Appendix of relevant legislation

Leasehold Reform, Housing and Urban Development Act 1993 (as amended)

Section 26

26 Applications where relevant landlord cannot be found.

(1) Where not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises but—

(a) (in a case to which section 9(1) applies) the person who owns the freehold of the premises cannot be found or his identity cannot be ascertained, or

(b) (in a case to which section 9(2) or (2A) applies) each of the relevant landlords is someone who cannot be found or whose identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make a vesting order under this subsection—

(i)with respect to any interests of that person (whether in those premises or in any other property) which are liable to acquisition on behalf of those tenants by virtue of section 1(1) or (2)(a) or section 2(1), or

(ii)with respect to any interests of those landlords which are so liable to acquisition by virtue of any of those provisions,

as the case may be.

(2)Where in a case to which section 9(2) applies—

(a)not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and

(b)paragraph (b) of subsection (1) does not apply, but

(c)a notice of that claim or (as the case may be) a copy of such a notice cannot be given in accordance with section 13 or Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give such a notice or (as the case may be) a copy of such a notice to that person.

(3)If, in a case to which section 9(2) applies, that person is the person who owns the freehold of the premises, then on the application of those tenants, the court may, in connection with an order under subsection (2), make an order appointing any other relevant landlord to be the reversioner in respect of the premises in place of that person; and if it does so references in this Chapter to the reversioner shall apply accordingly.

(3A)Where in a case to which section 9(2A) applies—

(a)not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and

(b)paragraph (b) of subsection (1) does not apply, but

(c)a copy of a notice of that claim cannot be given in accordance with Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give a copy of such a notice to that person.

(4)The court shall not make an order on any application under subsection (1) (2) or (3A) unless it is satisfied—

(a)that on the date of the making of the application the premises to which the application relates were premises to which this Chapter applies; and

(b)that on that date the applicants would not have been precluded by any provision of this Chapter from giving a valid notice under section 13 with respect to those premises.

(5)Before making any such order the court may require the applicants to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person or persons in question; and if, after an application is made for a vesting order under subsection (1) and before any interest is vested in pursuance of the application, the person or (as the case may be) any of the persons referred to in paragraph (a) or (b) of that subsection is traced, then no further proceedings shall be taken with a view to any interest being so vested, but (subject to subsection (6))—

(a)the rights and obligations of all parties shall be determined as if the applicants had, at the date of the application, duly given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises to which the application relates; and

(b)the court may give such directions as the court thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Chapter or of regulations made under this Part.

(6)An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a conveyance under section 27(3) and, after it is withdrawn, subsection (5)(a) above shall not apply; but where any step is taken (whether by the applicants or otherwise) for the purpose of giving effect to subsection (5)(a) in the case of any application, the application shall not afterwards be withdrawn except—

(a)with the consent of every person who is the owner of any interest the vesting of which is sought by the applicants, or

(b)by leave of the court,

and the court shall not give leave unless it appears to the court just to do so by reason of matters coming to the knowledge of the applicants in consequence of the tracing of any such person.

(7) Where an order has been made under subsection (2) or (3A) dispensing with the need to give a notice under section 13, or a copy of such a notice, to a particular person with respect to any particular premises, then if—

(a) a notice is subsequently given under that section with respect to those premises, and

(b) in reliance on the order, the notice or a copy of the notice is not to be given to that person,

the notice must contain a statement of the effect of the order.

(8) Where a notice under section 13 contains such a statement in accordance with subsection (7) above, then in determining for the purposes of any provision of this Chapter whether the requirements of section 13 or Part II of Schedule 3 have been complied with in relation to the notice, those requirements shall be deemed to have been complied with so far as relating to the giving of the notice or a copy of it to the person referred to in subsection (7) above.

(9) Rules of court shall make provision—

(a) for requiring notice of any application under subsection (3) to be served by the persons making the application on any person who the applicants know or have reason to believe is a relevant landlord; and

(b) for enabling persons served with any such notice to be joined as parties to the proceedings.

**LEASEHOLD REFORM ACT 1967 S 9(1)
VALUATION FOR ENFRANCHISEMENT**

27 Allerford Road, London SE6 3DG

Facts and matters determined:

Lease term	99 years from 25th June 1937
Valuation date	15/08/2014
Term unexpired approximately	21.87
Ground Rent	£5.75
Capitalisation rate	7%
Deferment rate	5.25%
Entirety value	£375,000
Deduction to reflect tenant	20%
Site Value	35%
S 15 Rent	5.25%

	£	£	£
Term:			
Current Ground Rent		5.75	
YP for 21.87 years @ 6%		<u>11.0328</u>	64

Value of Modern Ground Rent:

Entirety Value	375000		
Site value @ 33%	131250		
MGR @ 5.25%	<u>5.25%</u>	6,891	
YP for 50 years @ 5.25%	17.573		
deferred 21.87 years @ 5.25%	<u>0.327</u>	<u>5.7464</u>	39,596

Reversion:

Entirety value adjusted for tenancy risk	300,000		
deferred 71.87 years at 4.75%	<u>0.0356</u>	<u>10,680</u>	

Enfranchisement price payable £50,340