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

Case Reference : **LON/OOBB/OLR/2016/1127**

Property : **68A Stratford Road London E13
oJN**

Applicants : **Mr Tariq Nazir and Mr Humayoun
Zaman**

Representative : **S J Solicitors LLP**

Respondent : **Mr Clinton Peter Jordan**

Representative : **None**

Type of Application : **Missing landlord
S50 and 51 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal Members : **Evelyn Flint DMS FRICS
Alan Ring**

**Date and venue of
Hearing** : **19 September 2016
10 Alfred Place, London WC1E 7LR
Determination without an oral
hearing in accordance with the
procedure in regulation 13 of the
Leasehold Valuation Tribunals
(Procedure)
(England) Regulations 2003**

Date of Decision : **19 September 2016**

DECISION

Decision

1. The premium payable is £12,622. The lease is approved subject to the amendment below. The case is remitted to the Bow County Court to give effect to the Vesting Order (Claim No B03RM317).

Background

2. This case relates to an application made under section 50 of the Leasehold Reform, Housing and Urban Development Act 1993 (as amended) for a determination of the price to be paid for a statutory lease extension of a flat, where the landlord is missing. The application was made in the Bow County Court on 14 December 2015. The case was transferred to this Tribunal to determine the price and terms of the lease pursuant to a Vesting Order of District Judge Pigram dated 18 May 2016 under section 50(1) of the Act providing for the surrender of the Claimant's lease and the granting of a new lease as if a valid notice under Section 42 of the Act had been served.
3. The Tribunal issued Directions on 18 July 2016 and considered the matter on 19 September 2016.
4. Andrew Carter MRICS of McDowalls Surveyors Limited was instructed to prepare a report and valuation relating to the lease extension. He confirmed that his evidence complied with the Code of Practice for Experts and that he recognised that he owed his primary duty to the Tribunal.

Evidence

5. The Tribunal considered the valuation report and covering letter of Mr Carter dated 12 August 2016 and the supplementary report dated 7 September 2016. It contained the necessary statement of truth and declaration of independence as required by his professional body and in accordance with CPR Practice Direction 35 relating to Experts and Assessors.
6. The subject property is a ground floor flat in a two storey converted Victorian house of traditional construction with a pitched roof. A communal entrance lobby leads to the flat which comprises a reception room, bedroom, kitchen/diner and bathroom/wc, the flat has the benefit of a rear yard. The flat is said to be in tenable condition and from the photograph attached to the report appears to have double glazed windows. There are no tenant's improvements.

8. The flat is subject to a lease dated 30 June 1988 for a term of 99 years from the same date at £50 pa for the first 33 years, £75 pa for the next 33 years and £210 pa for the remainder of the term; the unexpired term at the valuation date is 71.54 years.
9. Mr Carter adopted a capitalisation rate of 7% and a deferment rate of 5% based on the Sportelli decision.
10. Mr Carter relied on sales of flats nearby to arrive at the value of the extended lease. The comparables comprised a print out of sold prices for 21 properties within the same postcode. There was very little information supplied in respect of any of the comparables.
11. The sales took place between October 2014 and July 2015. Mr Carter did not attempt to adjust the sale prices for time or difference in accommodation within the body of the report or provide any explanation of his methodology in his covering letter. The closest comparable was 68 Stopford Road E13 0LZ which sold for £249,999 on 7 April 2015. He adopted £250,000 as the value of the extended lease value and virtual freehold.
12. As there was no evidence of short leasehold values Mr Carter derived the value by taking into account the RICS research "Leasehold reform: Graphs of Relativity", which he stated supported a relativity of 93.43%; the 2009 RICS prime Central London graph showing an average of 87.72%; published research with an average of 90.92% and 2015 data showing an average of 87.97%. Having considered these sets of data he adopted a relativity of 93.33%.
13. His valuations were appended to the report and produced premiums of £11,234, £12,622 and £14,572 depending upon the relativity actually adopted: £12,622, being based on his preferred relativity.

Decision

14. The Tribunal is critical of the lack of a proper description of the subject premises including whether it was centrally heated; the limited information regarding the comparables and that there was no information regarding the evidence used to support the capitalisation rate of 7% or indeed any narrative within the actual report explaining the approach adopted in the valuation.
15. **Valuation date.** The valuation date has been correctly identified in the supplementary report as the date of the application to the court 14 December 2015.
16. **Valuation of the extended lease.** The best comparables are those located closest to the subject premises, all are within a short distance. The tribunal accepts the value proposed of £250,000.

17. **Valuation of existing lease.** It is regrettable that Mr Carter did not provide a fuller explanation of his use of the various graphs since graphs relating to prime central London are not the best evidence for a modest property located in E13. Based on the evidence and the tribunal's knowledge and experience it accepts the relativity of 93.33% as proposed.
18. **Capitalisation and Deferment Rate.** The Tribunal accepts both the capitalisation rate of 7% and deferment rate of 5%.
19. **Enfranchisement Price.** The Tribunal determines the premium to be paid at £12,622 and the valuation is as per that set out in Mr Carter's valuation report.
20. **Terms of the lease.** Para 2.1 of the proposed lease should substitute limited title guarantee in place of full title guarantee, the remaining terms are approved.

Evelyn Flint
Chairman

19 September 2016

ANNEX 1 - 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.