



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

Case Reference : **LON/OOBJ/OCE/2016/0003**

Property : **43 Burgoyne Road London N4 1AA**

Applicants : **Elaine Henderson
MovewithMe Limited**

Representative : **Boulter and Company**

Respondent : **Alibhai Hasham Mawani also
known as Alli Hassam Hirsi
Mawani**

Representative : **None**

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

Tribunal Members : **Evelyn Flint DMS FRICS**

**Date and venue of
Hearing** : **30 March 2016
10 Alfred Place, London WC1E 7LR**

Date of Decision : **30 March 2016**

DECISION

Decision

1. The premium payable for the freehold interest is £53,000 (fifty three thousand pounds).

Background

2. On 8 September 2014 the Applicants made an application to the Edmonton 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 25 of the Act providing for the transfer of the freehold interest in the property to the Nominee Purchaser as the landlord had not served a counter notice within the specified period. The application was subsequently amended with permission of the Court to an application under section 26(1) 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. District Judge Cohen sitting at Edmonton County Court made a vesting order, dated 20 July 2015, in the terms requested (Claim No.BA03Ed139). The matter was transferred by the Order on 27 July 2015 to the Tribunal to determine the appropriate terms of the transfer.
4. The Tribunal issued Directions on 5 January 2016 providing for the case to be determined on the basis of documents alone and without an oral hearing.
5. Each applicant holds a lease for a term of 99 years from 24 June 1983 at a ground rent of £75 per annum for the first 33 years, rising to £100 per annum for the next 33 years and £125 per annum for the remainder of the term. The unexpired term at the valuation date is 67.79 years.

Expert Evidence

6. The Tribunal considered an expert report dated 14 March 2016 of Simon Garfinkel MRICS of Currell Chartered Surveyors. Burgoyne Road is to the west of Green Lanes (A105) in the London Borough of Haringuey. The property is situated in a residential area of similar style houses with good access to shops, public transport and central London. There are no car parking restrictions in the immediate vicinity.
7. The property is a terraced house converted into two flats. The main house is arranged over two levels with a rear three storey back addition and a double bay window to the front. Access to the flats is via a communal entrance hall. The ground floor flat which comprises two rooms, kitchen/diner and bathroom/wc has exclusive use of the rear garden. The upper flat comprises four rooms, kitchen/diner and bathroom/wc. Both flats have independent gas fired central heating, fitted kitchens and fitted bathrooms and have been improved since the leases were granted in 1983.

8. The schedule of comparable evidence (copy attached to the decision) referred to the sales between February and October 2014 of ten flats in the locality including two in Burgoyne Road itself. Of these, six were one bedroom flats and four three or four bedroom flats. The one bedroom flats ranged from £449 per sq ft for a dated and larger unit to £639 per sq ft for a flat in good order. The average price, ignoring the dated, much larger flat, was £608 per sq ft. Adopting the average, the one bedroom flat was valued at £330,000. The comparables for the larger flat ranged from £461 per sq ft to £653 per sq ft, giving an average of £575 per sq ft. Adopting the average price gave a valuation of £470,000.
9. The relativity of 91% adopted in respect of the existing leases was based upon an average of the RICS Greater London and England table published in 2009 supported by a decision of the tribunal in respect of 1 Boothby Road N19 4AA which is approximately 2 miles from the subject property and comprises a similarly arranged semi detached house where the unexpired term of the existing leases was 70.95 years. The decision was based upon a capitalisation rate of 7% and a deferment rate of 5% with relativity at 93%.
10. The capitalisation rate used was 7%. 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.
11. Marriage value is payable as there is less than 80 years unexpired at the relevant date..
12. A valuation was attached to the report indicating a value for the freehold of £52,047.

Decision

14. **Valuation date.** The valuation date is 8 September 2014, being the date of the application to the County Court.
15. **Freehold values.** Doing the best it can with the very limited information available on the comparable sales evidence and taking into account that none of the transactions had been adjusted for time the Tribunal finds that there are four comparables of a similar size to the ground floor flat: 135 Beresford Road N8 0AG, 120 Chesterfield Gardens N4 1LR, 70 Hampden Road N8 0HT and 29a Burgoyne Road N4 1AA. The average sale price equates to £618 per sq ft; applying this to the ground floor gives a value of £337,500. Adopting the average of the £ per sq ft of the comparables at £575 per sq ft gives a value of £474,000.

16. **Relativity.** The Tribunal determines the relativity at 91%.
17. **Capitalisation Rate.** The Tribunal agrees that 7% is the appropriate capitalisation rate for the ground rents and that there is no reason to depart from the generic deferment rate for flats of 5%.
18. **Enfranchisement Price.** The Tribunal determines the premium at £53,000 the valuation is attached to this decision.
19. **Terms of the Transfer.** The TR1 is approved providing Box 8 is amended to show that the premium has been paid into court.

Evelyn Flint
Chairman

30 March 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.

43 Burgoyne Road London N4 1AA

Valuation date 8 September 2014

Leases 99 years from 24 June 1983 at £75 pa for 33 years,

£100 pa for next 33 years

£125 pa for remainder of term for each flat

Capitalisation rate 7%

Deferment rate 5%

Ground Floor Flat

Freeholder's interest

Initial ground rent	£	75		
YP 1.79 years at 7%		<u>1.63</u>		£122

Reviewed to	£	100		
YP 33 years at 7%		12.75		
PV 1.79 years at 7%		0.89	11.3475	£1,135

Reviewed to	£	125		
YP 33 years at 7%		12.75		
PV 34.79 years		0.095	1.21125	£ 151

Reversion to capital Value

Ground Floor	£	337,500		
PV 67.79 years at 5%		0.037	<u>£ 12,488</u>	£13,896

Marriage Value

Tenant's proposed interest	£	337,500		
landlord's proposed interest		0	£	337,500
less				
tenant's existing interest	£	307,000		
landlord's existing interest	£	13,896	£	320,896

Marriage Value £ 16,604

50% to landlord			£	8,302	
subtotal					£22,198