



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

Case Reference : CHI/29UG/OCE/2016/0046

Property : Flats 1a and 1b, 1 Darnley Street,
Gravesend, Kent DA11 0PJ

Applicants : Jaskinder Singh Kandola & Harjot Singh
Kandola

Representative : Aletta Shaw Solicitors

Respondent : Deneice Smith

Representative : -

Type of Application : Collective Enfranchisement - Leasehold
Reform Housing and Urban Development
Act 1993 ("the Act") (Missing Landlord)

Tribunal Member(s) : Mr D Banfield FRICS

Date of Decision : 13 April 2017

DECISION

Summary of Decision

The Tribunal determines that the price payable by the Applicant for the freehold reversion of the property is to be the sum of £14,100 and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

No assessment of the Claimants' costs has been made.

Background

1. Following the application of Jaskinder Singh Kandola & Harjot Singh Kandola Deputy District Judge Ashley sitting at the County Court at Dartford made an order dated 7 September 2016 directing that;
 - a. The proceedings are transferred to the First-tier Property Chamber Tribunal for determination as to premium and terms.
 - b. The Defendant to pay the Claimant's costs of this application. The amount to be determined by the Tribunal.
 - c. Such costs to be set off against the premium.
2. The Tribunal made Directions on 4 January 2017 indicating that the matter would be determined on the papers without an oral hearing unless a party objected. No objection has been received.
3. It was also directed that a Valuer's Report be provided together with up to date official copies of the entries at HM Land Registry of the freehold and leasehold titles and a draft of the proposed Transfer.
4. A bundle of documents has now been received based upon which this determination is now made.
5. An inspection of the property has not been carried out.

The Law

6. Section 27(5) of the Act provides:
 - a. *The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:*
 - b. *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*
 - c. *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. Schedule 6 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 Section 27(1) is that the valuation date is the date on which the application was made to the Court.

Evidence

8. A valuation report dated "January 2017" signed by T N Davis FRICS who confirms that his evidence complies with Part 35 of the Civil Procedure Rules.

9. Mr Davis describes the tenure of each flat to be for 99 years from 30 May 1990 at ground rents of £50/£100/£200 for Flat 1a and £100/£200/£300 for Flat 1b rising at 33 year intervals.
10. The unexpired lease term at the valuation date of 14 April 2016 is 73.11 years.
11. Mr Davis describes the maisonettes as being converted from a former house. Flat 1a comprises an entrance lobby on the ground floor, a living room, kitchen and bathroom on the first floor and 2 bedrooms on the second floor. The floor area is 76.52 square metres. Flat 1b comprises an entrance hall and 2 bedrooms on the lower ground floor. Mr Davis makes no mention of a living room, bathroom or kitchen but it is presumed that this is an oversight on his part. The floor area is 65.52 square metres.
12. Outside there is said to be a rear garden, small patio and steps demised to Flat 1b.
13. Mr Davis assesses the price payable under the Act for the Freehold Enfranchisement of the property to be £14,100 based on a capitalization rate of 7%. A deferment rate of 5%, relativity at 94.4% and the long leasehold value of 1A at £135,800 and 1B at £125,800.
14. Mr Davis obtains his deferment rate from "Sportelli" and his relativity from the "Graph of LVT Decisions 1994-2007 (LVT Graph)".
15. Mr Davis bases his long leasehold values on the average of three transactions for each flat which he adjusts for time using the HMLR House Price Index for Dartford/flats, for relativity using the LVT Graph and further adjustments for size, parking and garden space.
16. Mr Davis does not appear to make an uplift for the freehold value.
17. Using the values referred to above Mr Wilkins calculates the price to be £7,003.55 for Flat 1A and £7,073.89 for Flat 1B. 13,443. The total price for both flats he rounds to £14,100.

Decision

18. With one exception the Tribunal accepts Mr Davis's valuation method and its component parts.
19. His adoption of the LVT graph (more usually known as the LEASE graph) for a valuation date in 2016 is considered incorrect following the decision in *Kosta v Carnwarth UT Neutral Citation No [2014] UKUT 0319(LC) UTLC Case Number LRA/108/2013* in which it was determined that in the absence of transaction evidence the average of the most relevant graphs included within the RICS 2009 report should be used.

20. The difference between the relativities so produced and Mr Davis's relativity is however marginal and the Tribunal is prepared to accept a relativity of 94.4% but not for the reasons Mr Davis provides.

21. The Tribunal therefore determines that the price to be paid for the freehold of 1 Darnley Street, Gravesend, Kent DA11 0PJ is £14,100 and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

Corrections to TR 1

22. The Tribunal approves the TR1 found at pages 120-122 of the bundle subject to the following alterations.

- Box 4; Correct the spelling of the Transferor's name to Deneice.
- Box 8; delete the receipt by the transferor and state that "the sum of £ 14,100 (Fourteen thousand one hundred pounds) premium- has been paid into Court."
- Box 10; Complete as appropriate
- Box 11; Add "This transfer is executed for the purposes of chapter 1 of part 1 of the Leasehold Reform Housing and Urban Development Act 1993".
- Box 12; Alter to "Signed as a Deed by the officer of the Court nominated to execute this deed on behalf of *name of transferor* in accordance with the Order of the Court dated"

Costs

23. Deputy District Judge Ashley's order directed the Tribunal to determine the amount of the Claimant's costs which should be deducted from the premium.

24. The claimant has not provided details of costs to the Tribunal and it is considered that it would be more appropriate for the County Court to make its own assessment.

25. The Tribunal has not therefore made any assessment as to costs and nothing has been deducted from the price shown at paragraph 21 above.

26. The case file and this determination will now be returned to the County Court at Dartford.

D Banfield FRICS

13 April 2017

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.