



FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER (RESIDENTIAL  
PROPERTY)

Case reference : LON/00AJ/OCE/2016/0286

Property : Sutherland House, Sutherland Road,  
London W13 0DZ

Applicant  
(the freeholder) : Sutherland House (Ealing) RTM  
Company Limited

Representative : Richard Stacey, surveyor  
Buntings chartered surveyors

Respondent : Rylex Properties Limited

Representative : Wilson Dunsin, surveyor  
Dunsin surveyors

Type of application : Application to determine the premium  
payable on a collective enfranchisement  
under section 24 of the Leasehold  
Reform Housing and Urban  
Development Act 1993 (the "Act")

Tribunal member(s) : Judge Pittaway  
Miss Krisko FRICS

Date and venue of hearing : 14 February 2017 at 10 Alfred Place,  
London WC1E 7LR

Date of decision : 2 May 2017

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DECISION

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### Decisions of the tribunal

1.1	The freehold value of Flat 1 (excluding garage 5)	£430,000
1.2	The premium attributable to Flat 1(excluding garage 5)	£ 8,781
1.3	The freehold value of each of Flats 3-6	£460,000
1.4	The premium attributable to each of Flats 3-6	£ 9,342
1.5	The value to be attributed to the appurtenant property, namely the communal gardens.	£1,000

The tribunal has attached a copy of Mr Stacey's amended valuation to this decision, for ease of reference, as his figures have been accepted except for

1. the freehold value of and therefore premium attributable to Flat 1 (excluding garage 5) ; and
2. the value of the communal gardens which it determines is £1000 rather than Mr Stacey's valuation of £100.

It points out that its decision does not extend to those figures in that valuation as to the proportion of the premium attributable to Flats 2, 7 and 8 as these were sums agreed by the parties and therefore outside the tribunal's jurisdiction.

### The Application

3. By an initial notice dated 7 March 2016 six out of the eight qualifying tenants of Sutherland House served initial notice of intention of the Applicant to acquire the freehold of the property. Subsequent to the service of the initial notice two further qualifying tenants (of Flats 7 and 8) requested to join in the acquisition.
4. By a counter-notice dated 20 April 2016 the freeholder admitted the claim.
5. The Applicant applied to the tribunal to determine the purchase price on 22 September 2016.
6. The tribunal issued directions on 21 October 2016.

### Background

7. Sutherland House is a four storey purpose-built block of eight flats set in a plot of overall size approximately 0.08 hectares (0.2 acres). The original building comprised 6 flats, with Flats 7 and 8 constructed during 2013/2014 and sold off-market in 2015 to purchasers related to the freeholder. Flats 1-6 are all 2 bedroom flats. Flats 5 and 6 have smaller second bedrooms and a balcony. The planning permission granted for Flats 7 and 8 was for two one bedroom flats, each with a study. Flats 2-6 have a garage demised as part of the flat lease. Flat 1 has a separate lease of garage 5. Flats 7 and 8 each have demised car parking spaces.

8. In addition to the premises described above there is a lease at Sutherland House of garage 7, which is demised to a person who is not a qualifying tenant. At the start of the hearing the tribunal drew the valuers' attention to section 1 of the Act, which provides, at section 1(2)(a), that qualifying tenants have the right to acquire the freehold of property not comprised in the relevant premises but to which the subsection applies by virtue of subsection (3). Subsection 1(3) states that the right applies to any property if, at the relevant date, it is appurtenant property which is demised by the lease held by the qualifying tenant of a flat contained in the relevant premises.

The lease of garage 7 is not held by a qualifying tenant and therefore its valuation is not a matter for the tribunal, although the parties might reach their own agreement as to its value.

**Details of the relevant qualifying tenants' interests**

**Note:** we have not included the details for Flats 2, 7 and 8 in the table below as the premiums for these flats were agreed between the parties immediately before the start of the hearing.

Flat (and garage)	Floor	Agreed unexpired lease term	Ground rent	Note
Flat 1	ground	81.55 years	£20 pa for first 30 years £40 pa for next 30 years £60 pa for next 30 years £90 for residue of term.	Garage not included in demise; held by tenant under a separate lease.
Garage 5 (held by the tenant of Flat 1)		99 years from 29 March 1977	Peppercorn	Market value of garage agreed before start of hearing at £32,500.00
Flat 3 and garage 1	1 <sup>st</sup> floor	81.55 years	As for Flat 1	
Flat 4 and garage 4	1 <sup>st</sup> floor	81.55 years	As for Flat 1	
Flat 5 and garage 2	2 <sup>nd</sup> floor	81.55 years	As for flat 1	
Flat 6 and garage 6	2 <sup>nd</sup> floor	81.55 years	As for flat 1	

### Matters agreed

9. The following matters were agreed before the date of the hearing
  - 9.1 Valuation date: 8 March 2016
  - 9.2 Unexpired lease terms for Flats 1 and 3-6 81.55 years
  - 9.3 Capitalisation rate: 6.5%
  - 9.4 Deferment rate: 5%
  
10. At the start of the hearing the tribunal invited the parties' valuers to
  - 10.1 agree the capitalised ground rents for all the flats, including Flats 2, 7 and 8;
  - 10.2 agree the freehold value attributable to flats 7 and 8; given that the value of the reversion to vacant possession was nothing given the unexpired residue of the leases of these flats of 996.07 years; and
  - 10.3 see whether they could reach agreement on the value attributable to Flat 2, as there was very little difference between them on their suggested value.
  
11. after a short adjournment the valuers advised the tribunal that they had agreed
  - 11.1 a market value for garages 7 and 5 of £32,500.00 each.
  - 11.2 The following capitalised ground rents
    - (a) Flats 1-6(excluding 2) £740 each;
    - (b) Flat 2 £754; and
    - (c) Flats 7 and 8 £755 each
  - 11.3 A final value for Flat 2 of £1959 and final values of Flats 7 and 8 of £755 each.
  
12. During the hearing Mr Dunsin accepted Mr Stacey's proposed relativity of 84.2% as appropriate to garage 5 given the length of its lease. Accordingly the valuers were in agreement as to a reversion value of £1,736 and a marriage value of £1,699 for garage 5.

### Matters in dispute

13.
  - 13.1 the freehold value of Flats 1 and Flats 3-6
  - 13.2 the value to be attributed to the appurtenant property, namely the communal gardens.

### Evidence

14.
  - 14.1 The tribunal had before it a valuation prepared by Mr Richard Stacey on behalf of the applicant and a valuation report prepared by Mr Dunsin on behalf of the respondent.
  - 14.2 Both Mr Stacey and Mr Dunsin gave evidence at the hearing and each were cross-examined.
  - 14.3 As both valuers revised figures contained in their valuations the tribunal requested that each provide a revised version of their respective valuations to the tribunal to assist them in reaching their decision. This they both did.

- 14.4 At the end of the hearing the tribunal indicated that it did not consider an inspection necessary and the parties' valuers agreed that inspection was unnecessary.
15. In reaching its decision the tribunal has had regard to
- 15.1 The valuers' valuations;
- 15.2 The evidence, cross-examination and other papers before it;
- 15.3 The decision in *Sloan Stanley v Mundy*
- 15.4 The tribunal decision in *Stratheden Court* referred to below
- The tribunal comments on specific aspects of such evidence in their reasons below.

### Reasons for the tribunal's decisions

#### 16. Freehold value

- 16.1 Mr Stacey provided details of six comparables but focused on three;
- (a) Flat 9 Apex Court, 22 Sunderland Road which sold with a 93 year lease in March 2016 for £457,500;
- (b) 72 Cavendish Avenue W13 OJQ which sold with a 933 year lease in March 2016 for £475,000; and
- (c) 13a Rosemount Road W13 OHJ which sold with a 152 year lease in July 2016 for £480,000; which he time adjusted by reference to the Land Registry House price Index for the London Borough of Ealing (flats and maisonettes) to 459,644.

Of these comparables, all of which have two bedrooms, he considered Flat 9 Apex Court to be the best comparable as it is a two bedroom flat in the adjacent purpose built block to Sutherland House; it has a garage and enjoys the use of a communal garden. He considered 72 Cavendish Avenue and 13a Rosemount Road to be more valuable properties. 72 Cavendish Road has a very long lease, a dining area which can be converted into an extra bedroom and a private garden. 13a Rosemount Road has its own entrance, period features and a private garden

- 16.2 Having agreed the value for the garages Mr Stacey revised his freehold value of Flat 1 (excluding its garage) at £430,000 and Flats 3-6 at £460,000 each. In his revised valuation Mr Stacey adopted a freehold value of £417,500 but as this is not substantiated by the evidence he gave to the tribunal at the hearing.
- 16.3 Mr Dunsin also used Flat 9 Apex Court and 72 Cavendish Avenue as comparables to support his valuation of each of the subject flats in question at £480,000. In addition he used 3 College Court W13, a two bedroom ground floor flat on a "long lease" in a converted house with a private garden and off-street car parking for two cars, which sold in August 2016 for £520,000. Mr Dunsin did not adjust this sale price to reflect the difference between the date it sold and the valuation date. On cross examination he stated that he did not consider it necessary to make a time adjustment nor to adjust the value of his comparables where they were in period conversions or had private gardens. Mr Dunsin did not believe it necessary to adjust the value of the flats on the ground floor of Sutherland House.

16.4 The tribunal accept that Mr Dunsin's less analysed approach to valuing the flats might be the correct approach when acting for a prospective buyer but consider that Mr Stacey's more analytical approach more appropriate when the value is being considered under the valuation regime required by the Act. They agree with the adjustments that he has made to his comparables and accept his valuations of £430,000 for Flat 1 (not £417, 500 as stated in his revised valuation) and £460,000 for each of Flats 3-6. The comparables indicate a value of £460,000 is appropriate for Flats 3-6. Apex Court, which is a similar property nearby with a term of 93 years sold for £457,500; Rosemount Road, with a long lease and time adjusted sold for £480,000. This was a larger period conversion with a private garage but without parking. Both 72 Cavendish and 3 College Court were sold on long leases but were larger more valuable properties.

#### 17. Garage 5

As the valuers had agreed a market value of £32,500 for garage 5 the only issue to be considered was the impact on this value of the length of the lease. Mr Stacey explained that it was difficult to obtain any evidence as to the market value of a garage lease of 60.06 years as against a longer lease and that he had therefore adopted a relativity of 84.2% based on the flat relativity graphs of Nesbitt, Pridell and Moss Kaye. Mr Dunsin accepted this proposed relativity.

#### 18. Communal Gardens

18.1 Mr Stacey attributed a notional value of £100 to the communal gardens. Mr Dunsin invited the tribunal to attribute a value of £10,000 based on an earlier first-tier tribunal decision to which he referred, *Stratheden Court LON/00BF/OCE/2012/0062*, where a value of £2,000 was placed on communal gardens in 2012 which he invited the tribunal to increase to £10,000 to take into account the increase in land values since 2012. The tribunal was not provided with any evidence as to the basis upon which Mr Dunsin proposed this increase.

18.2 Neither valuer suggested that there was any development value to be attributed to the communal gardens.

18.3 The tribunal is not bound by previous first tier tribunal decisions and was not satisfied that it had enough information to decide whether the communal gardens at Sutherland House were equivalent to those at Strathden Court. From the information available to it, it appeared to the tribunal that the grounds at Strathden Court were larger and more attractive than those at Sutherland House and of more benefit to the lessees. There were areas of communal garden at both the front and rear of the property. Sutherland House communal external areas are mainly used for pedestrian and vehicular access with no amenity space at the rear. Only a small amount of grass at the front; part of which has been allocated as car spaces for Flats 7 and 8. The tribunal therefore have found that a value of £1000 is appropriate to attribute to these communal gardens.

## Costs

19. At the end of the hearing one of the tenants present raised the issue of the respondents' costs with the tribunal. The tribunal therefore note that these have not yet been agreed between the parties.

Name:

Judge Pittaway

Date: 2 May 2017

## Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Sutherland House, Sutherland Road, West Ealing, W13 0DZ

Assessment of the price to be paid for the freehold interest in accordance with Schedule 6 of the Leasehold Reform, Housing and Urban Development Act, 1993, as amended by the Housing Act, 1998 and the Commonhold and Leasehold Reform Act, 2002.

A. VALUE OF FREEHOLDER'S INTEREST

A1 Ground Rents Receivable:

Participating Flat(s):

Flat 1 (excluding garage)			
16.55 years @ £40 X 1	£40	9.9590	£398
YP 16.55yrs @ 6.5%			
30 years @ £60 X 1	£60	4.6054	£276
YP 30yrs, deferred 16.55yrs @ 6.5%			
35 years @ £90 X 1	£90	0.7298	£66
YP 35yrs, deferred 16.55yrs @ 6.5%			
			£740
Flat 2 & Garage			
AGREED @ £754			£754
Flat 3 & Garage			
16.55 years @ £40 X 1	£40	9.9590	£398
YP 16.55yrs @ 6.5%			
30 years @ £60 X 1	£60	4.6054	£276
YP 30yrs, deferred 16.55yrs @ 6.5%			
35 years @ £90 X 1	£90	0.7298	£66
YP 35yrs, deferred 16.55yrs @ 6.5%			
			£740
Flat 4 & Garage			
16.55 years @ £40 X 1	£40	9.9590	£398
YP 16.55yrs @ 6.5%			
30 years @ £60 X 1	£60	4.6054	£276
YP 30yrs, deferred 16.55yrs @ 6.5%			
35 years @ £90 X 1	£90	0.7298	£66
YP 35yrs, deferred 16.55yrs @ 6.5%			



				£740
Flat 5 & Garage				
16.55 years @ £40 X 1	£40	9.9590	£398	
YP 16.55yrs @ 6.5%				
30 years @ £60 X 1	£60	4.6054	£276	
YP 30yrs, deferred 16.55yrs @ 6.5%				
35 years @ £90 X 1	£90	0.7298	£66	
YP 35yrs, deferred 46.55yrs @ 6.5%				
				£740
Flat 6 & Garage				
16.55 years @ £40 X 1	£40	9.9590	£398	
YP 16.55yrs @ 6.5%				
30 years @ £60 X 1	£60	4.6054	£276	
YP 30yrs, deferred 16.55yrs @ 6.5%				
35 years @ £90 X 1	£90	0.7298	£66	
YP 35yrs, deferred 46.55yrs @ 6.5%				
				£740
Flat 7 & parking space				
AGREED @ £755				£755
Flat 8 & parking space				
AGREED @ £755				£755
Garage 5 (flat 1)				
50.06 years @ £0 X 1	£0	15.0343	£0	£0
YP 50.06yrs @ 6.5%				
Total for Participators:				£5,966
Garage 7				
81.56 years @ £0 X 1	£0	15.2942	£0	£0
YP 81.56yrs @ 6.5%				

A2 Reversion to vacant possession:  
 Unimproved value with 999 year leases/  
 share of virtual freehold.

Participating flats:				
Flat 1 (excluding garage): £417,500 x 1:	£417,500			
PV of £1 in 81.55years @ 5%		0.0187	£7,811	
Flat 2 & Garage:				

AGREED @ £1205

			£1,205
Flat 3 & Garage: £460,000 x 1:	£460,000		
PV of £1 in 81.55years @ 5%		0.0187	
			£8,607
Flat 4 & Garage: £460,000 x 1:	£460,000		
PV of £1 in 81.55years @ 5%		0.0187	
			£8,607
Flat 5 & Garage: £460,000 x 1:	£460,000		
PV of £1 in 81.55years @ 5%		0.0187	
			£8,607
Flat 6 & Garage: £460,000 x 1:	£460,000		
PV of £1 in 81.55years @ 5%		0.0187	
			£8,607
Flat 7 & parking space: £400,000 x 1:	£400,000		
PV of £1 in 996.06years @ 5%		0.0000	
			£0
Flat 8 & parking space: £400,000 x 1:	£400,000		
PV of £1 in 996.06years @ 5%		0.0000	
			£0
Garage 5 (flat 1): £32,500 x 1:	£32,500		
PV of £1 in 80.05years @ 5%		0.0534	
			£1,736
Non-participating flats:			
Garage 7: £32,500 x 1:	£32,500		
PV of £1 in 81.55years @ 5%		0.0187	
AGREED BETWEEN THE VALUERS			£608

Value of freehold thus:

Flat 1 (excluding garage)	£8,552		
Flat 2 & Garage	£1,859 ✓		
Flat 3 & Garage	£9,347 ✓		
Flat 4 & Garage	£9,347 ✓		
Flat 5 & Garage	£9,347 ✓		
Flat 6 & Garage	£9,347 ✓		
Flat 7 & parking space	£755 ✓		
Flat 8 & parking space	£755 ✓		
Garage 5 (flat 1)	£1,736 ✓		
Garage 7	£608		
			£51,753

B. CALCULATION OF MARRIAGE VALUE

(9 participating flats):

Unimproved value of proposed Interests with 999 year leases/share of freehold (at 100% of freehold)	£32,500
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LESS

Freehold interest in Flats	
Garage 5 (flat 1)	£1,736



	£1,736	
Current Leasehold		
Garage 5 (flat 1) (84.2% X £32500)	£27,366	
		£29,101
Marriage Value thus:	£3,399	
50% attributable to Freeholder:		£1,699
<b>C. OTHER COMPENSATION/LOSS</b>		<u>£100</u>
<b>PAYABLE TO FREEHOLDER</b>		
<b>TOTAL:</b>		<b>£53,593</b>

**ASSESSMENT OF PRICE FOR THE FREEHOLD INTEREST, say £53,593**  
*(plus statutory recoverable costs)*