

4377



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

**Case reference** : LON/00BJ/OCE/2016/0297

**Property** : 59 and 59a Valnay Street, London  
SW17 8PS

**Applicant** : Helder Timoteo Ferreira Miguel  
and Wilfredo Guzman

**Representative** : Chubb Bulleid Solicitors and Tom  
Hobman BA PGDipSurv of Andrew  
Pridell Associates Limited  
Chartered Surveyors

**Respondent** : Seamus Murphy (Missing landlord)

**Representative** :

**Type of application** : Section 27 of the Leasehold  
Reform, Housing and Urban  
Development Act 1993  
Tribunal Judge Dutton

**Tribunal members** : Mrs S F Redmond BSc(Econ)  
MRICS

**Date of determination  
and venue** : 9<sup>th</sup> January 2017 at  
10 Alfred Place, London WC1E 7LR

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**Date of decision** : 9<sup>th</sup> January 2017

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**DECISION**

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## Summary of the tribunal's decision

The appropriate premium payable for the freehold under the provisions of the Leasehold Reform, Housing and Urban Development Act 1993 is £45,675.

### Background

1. On 13<sup>th</sup> May 2016 the Applicants commenced proceedings in the County Court at Wandsworth under claim number COOWT560 pursuant to section 26(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for a determination of the price to be paid for the freehold at 59 Valnay Street, London SW17 8PS (the "Property").
2. By an Order dated 9<sup>th</sup> September 2016, amongst other matters, the claim was transferred to this Tribunal for the purposes of determining the price payable for the freehold and to approve the form of the transfer.
3. In support of the application we were provided with a copy of a report from Tom Hobman BA PGDipSurv dated 25<sup>th</sup> October 2016. However this report was lacking certain details and as a result of further directions dated 23<sup>rd</sup> November 2016, a report dated 6<sup>th</sup> December 2016 was submitted seeking to support the valuation of £45,675, representing the price payable for the freehold of the Property.
4. We have considered this later report, which contains more details with regard to the value of the smaller first floor flat, more explanation as to the relativity applicable for the existing leases having a remaining term of 68.85 years at the valuation date and adjustments for time to the comparables he relied upon. Mr Hobman applied a capitalisation rate of 7% and a deferment rate of 5%.

### The tribunal's determination

5. We have considered the comparable evidence put forward as set out at appendix IV of the report. This listed 4 two bedroom properties which sold at or around the valuation date and which he had adjusted for time using the HM Land Registry price index for Wandsworth for April 2015 to November 2016. This gave an average of £679 per square foot which he applied to the ground floor flat. This flat had a GIA of 610 square feet and gave a value of £415,000, slightly rounded up.
6. In so far as the smaller first floor flat was concerned, having a size of only some 400 square feet, Mr Hobman concluded that just applying the square foot rate of £679 gave too low a figure, an issue raised by the first tribunal. He put forward 4 comparables which were actual sales

and four flats which were on the market at the time of his later report. These gave an average rate of £735 per square foot. However, he considered that such a method still gave a slightly too low a value. Standing back he concluded that the first floor flat would have a base value of £300,000 and applied this. We see no reason to disagree with these valuations. Mr Hobman has considered the passage of time in assessing the comparable evidence. They seem to sit quite comfortably within the range shown by the comparables relied upon for both flats to establish the virtual freehold value.

7. The other aspect for which clarification was sought related to the relativity to be applied. Mr Hobman had relied on five graphs being the Greater London and England Graphs, which formed part of the RICS study, although subject to some updating. On the face of it, utilising the graphs, a relativity rate of 91% does not seem unreasonable for a lease term of 68.85 years remaining. Accordingly for the purposes of this case alone we are prepared to accept that relativity percentage.
8. We are in agreement with the capitalisation rate of 7% and the deferment rate of 5% for the reasons set out in Mr Hobman's report.
9. Applying these elements to the calculation of the price payable for the freehold and agreeing, as we do, the calculation of the price as set out on the valuations attached to the report, we determine that the price payable for the freehold shall be £45,675. No explanation is provided for the sum of £25, which is in any event included in the total and has no impact on the price payable, which has been divided between the two flats.
10. The terms of the proposed transfer, the draft of which was included in the bundle before us is approved (see pages 259 to 261) save that the premium payable needs to be inserted, the transfer should be with limited title guarantee and should refer to it being made under the relevant provisions of the Act and finally that the signature clause should be amended to provide for execution by a District Judge of the County Court. Any application for additional costs should be made to the Court.

**Name:** Judge Dutton

**Date:** 9<sup>th</sup> January 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).