



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

**Case Reference** : LON/00AZ/0CE/2018/0087

**Property** : 31 Elswick Road, London SE13 7SP

**Applicants** :  
1. Isabelle Marie Anne Goaec  
2. Mathew James Livesey

**Representative** : Fletcher Day Limited

**Respondent** : Russell Hollman

**Type of application** : To determine the terms on which  
the freehold is to be acquired  
where the landlord is missing

**Tribunal members** :  
Angus Andrew  
Luis Jarero BSc, FRICS

**Date of determination** : 15 May 2018

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**DECISION**

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1. This is an application under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") to determine the price to be paid for and other terms of acquisition of the freehold of 31 Elswick Road, London SE13 7SP. The property comprises a basement flat and a two-storey maisonette on the ground and first floors. The rear garden is included in the demise of the basement flat. The leases are somewhat unusual in that they are both full repairing and insuring leases with minimal obligations being undertaken by the lessor.

2. Both flats are held on leases for terms of 99 years reserving yearly ground rents of £30 rising to £120. The term of the basement flat runs from 10 July 1984 whilst that of the upper maisonette runs from 13 August 1982.
3. The landlord could not be found and on 27 October 2017 the applicants issued proceedings in the County Court under section 26 of the Act for an order dispensing with service of the claim notice. By an order made on 18 January 2018 District Judge Prevatt transferred the claim to this tribunal for a determination of the premium and the form of the transfer.
4. The applicants rely on an expert valuation report prepared by Jason Delmar Mellor DipSurvPrac. The basement flat has a gross internal area of 393 square feet and the upper maisonette a gross internal area of 791 square feet. Mr Prevatt does not suggest that any relevant improvements have been completed by the applicants or their predecessors in title. He correctly identifies the valuation date as the date of issue of the claim notice.
5. Mr Prevatt values the unimproved freehold value in the basement flat at £250,000 and in the upper flat at £435,000. He bases those values on the sale of six local long leasehold flats that sold for between £250,000 and £460,000. He adjusts the sale prices for time by use of the Land Registry House price index for Lewisham flats. He makes various other adjustments for size, layout, condition, the detriment of a railway behind the subject flats and floor position. Finally, he makes an upward adjustment of 1 or 2% to reflect the advantage of a freehold interest. His adjustments are logical and fully reasoned and we see no reason to disturb them.
6. Mr Prevatt adopts relativity to value the existing leasehold interests: 88.5% in respect of the basement flat and 87.0% in respect of the upper maisonette. Those relativities are based on the Lawrence Nesbit and Andrew Pridell relativity graphs in the Greater London and England section of the October 2009 RICS Research Report. Those graphs indicate relativity ranging from 88.3% to 89.5%. His chosen relativities give existing lease values of £221,250 and £295,800.
7. As Mr Prevatt accepts market evidence with a deduction for act rights is to be preferred to the use of relativity graphs. He has identified two short lease sales: the first is the sale of the basement flat in November 2016 for £216,00 and the second is the sale of the upper maisonette at 17 Elswick Road in May 2017 for £310,00. However, he discounts both sales. The sale of the basement flat because he considers that it is tainted by the missing landlord. The sale of 17 Elswick Road because it was sold at auction and he has no information about its condition.
8. Although we do not find his reasons for discounting these sales entirely convincing nevertheless an analysis of the achieved sale prices

gives us confidence in Mr Prevatt's existing lease values, which we endorse.

9. We agree with Mr Prevatt's deferment rate of 5% which is consistent with *Earl Cadogan v Sportelli* [20017]. Equally we accept his capitalisation rate of 6.5% that is within generally accepted parameters having regard to the small reserved ground rents.
10. Consequently, we approve and adopt Mr Prevatt's valuation and we determine the price to be paid for the freehold interest in the property at £50,100.
11. The form of transfer at pages 259 to 261 of the document bundle. It is with limited title guarantee as required by paragraph 2(2)(b) of Schedule 7 to the Act. However, it must be amended to include a statement that it is executed for the purposes of Chapter 1 of Part 1 of the Act as required by section 34(10) of the Act. That apart we approve the draft transfer.

**Name: Angus Andrew**

**Date: 15 May 2018**