



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

**Case Reference** : **RC/LON/00AJ/OCE/2019/0180**

**Property** : **1133 and 1133A Greenford Road,  
Greenford, Middlesex, UB6 0DP**

**Applicants** : **Henrika Bonnor Morris (Formerly  
Henrika Stawiecka)  
Corina Coleman and Francis Barry  
Coleman**

**Representative** : **Redferns Solicitors**

**Respondent** : **Fitzroy dyke  
Jessica Beckford**

**Representative** : **N/A**

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

**Tribunal Members** : **P M J Casey MRICS**

**Date and venue of  
Hearing** : **Paper hearing on 15 October 2019  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **25 October 2019**

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**DECISION**

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### **Decisions of the tribunal**

- (1) The tribunal determines that the purchase price payable for the Freehold interest in 1133 and 1133A Greenford Road, Greenford, Middlesex UB6 0DP (“the property”) is the sum of £42,130.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

### **The application**

1. The applicants seek a determination by the Tribunal pursuant to an order made under the provisions of S26 of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by District Judge Ahmed sitting at the County Court at Willesden on 23 August 2019 of the price to be paid into Court on the acquisition of the freehold interest in the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 28 September 2019 by Redferns Solicitors on behalf of the applicants in which it was said that the applicants were entitled to acquire the property under the provisions of the Act.

### **The hearing**

3. In response to the Tribunal’s directions which provided for a determination on the papers to be submitted, the applicants’ solicitors provided a bundle of documents including a valuation report dated 24 September 2019 for use in Tribunal proceedings prepared by Philip M Physick FRICS of Philips & Co.
4. The Tribunal considered the hearing bundle on 15 October 2019. No inspection of the property was deemed necessary given the description, photographs and plans included in the report.

### **The evidence**

5. From the description of the property in the report it is a two storey semi-detached 1930s built house traditional construction and converted in the late 1980s into two self-contained flats each with a separate ground floor entrance. The ground floor flat comprises 2 rooms, kitchen and bath/WC whilst the first floor flat also has 2 rooms, kitchen and bath/WC. Each flat has a share of the rear garden and a parking space in the former front garden. The gross internal area is said to be 53m<sup>2</sup> for both flats and both flats are said to be free from serious defects that would be likely to affect market value. No tenants’ improvements that fall to be disregarded in making the required valuation have been claimed.

6. Both flats at the property are held on 99 year leases from 29 September 1989 subject, at the valuation date, to a ground rent payment of £75.00 per annum rising for the following 33 years to £125.00 per annum and rising to £200.00 per annum for the final 33 years of the term.
7. At the valuation date, 28 September 2018, the leases had some 70 years unexpired.
8. Mr Physick gives his opinion of the value of the extended lease value of each flat at the date of his report by reference to four completed sales of similar properties in the location. Photographs of each are provided. 4a Clare Parade, Clare Road, Greenford sold in May 2019 for £267,000 on a new 125 year lease. It is a purpose built two bedroomed first floor flat. 1137 Greenford Road, Greenford sold in January 2018 for £250,000 with 77 years unexpired of the lease. It is a one bedroomed ground floor converted flat. Mr Physick comments that the lease length would make the flat mortgageable with most main stream lenders who require an unexpired term of not less than 70 years. 26 Community Road, Greenford sold in November 2018 for £225,000. It is a purpose built ex-local authority one bedroomed second floor flat with some 134 years unexpired of the lease. 3 Rugby Court, Rugby Avenue, Greenford sold in June 2019 for £250,000 with an unexpired lease term of some 151 years. It is a one bedroomed ground floor purpose built property but said to be smaller than the subject flats. All of the above sales were handled by Philips & co.
9. Mr Physick has valued the property as at 16 September 2019 but he says values have differed little over the period from November 2017 when he first advised on the value of the freehold interest.
10. To capitalise the ground rent income for the unexpired term of the existing leases in his valuation of the freehold interest in the property he adopts a rate of 6% whilst to arrive at the present value of the freeholder's right to possession on the expiration of the existing lease terms he adopts the "Sportelli" deferment rate of 5%.
11. To calculate the marriage value and the landlord's entitlement to 50% thereof he has assessed the value of the existing lease term in both flats, disregarding the value of the rights conferred by the Act, by reference to what are generally referred to as graphs of relativity. He takes what he says is the average for an unexpired term of 69 years of the Greater London and England "tables" published in an RICS report of 91.91% which he rounds to 92%. He does not however include the report in his submission.
12. His valuation attached to his report produces a purchase price of £30,000.

## **The decision**

13. Mr Physick's adoption of a capitalization rate of 6% is appropriate given the amount of the ground rent and the provision for future increases. His adoption of the Sportelli rate of 5% to defer the reversion is also accepted.
14. His opinion of the extended lease values of the flats he supports by the sales evidence and by his own extensive experience of the locality. His opinion of the value of the extended lease of flat 1133 in the sum of £250,000 does however look somewhat low given the sale of no 1137 at this price with only 77 years remaining on the lease as a 2002 "real world" graph published by Savills suggests a relativity for such a term of 91% of freehold value suggesting a long lease value of £272,000 if 1% is allowed for the difference between extended lease value and freehold value as Mr Physick does. The tribunal accordingly adopts £265,000 as the extended lease value of no 1133 and accepting Mr Physick's differential between the ground and first floor flats £155,000 for no 1133a. His 1% uplift to freehold value is accepted.
15. The only evidence before the tribunal for the existing lease values is what Mr Physick says is the average of the various relativity graphs published in an RICS report and said to relate to outer London and the rest of England. These in the main express the relativity of any given term of years as a percentage of freehold value and claim to reflect the "no Act World" Usually valuers argue as Mr Physick does that in non-Prime Central London (PCL) locations an average of these five Outer London/England relativity graphs should be used. Mr Physick makes no mention of the Upper Chamber decision in *Sloane Stanley Estate V Mundy* which had again emphasised that if there were evidence of open market sales of short(er) leases then that was the best evidence. He makes no use of the sale of no 1137 which albeit sold at a price reflecting rights under the Act but makes his relativity percentage look high. It is a fact that whenever reliable open market sales' evidence is given to the tribunal valuations lower than those suggested by the relativity graphs result. The only graph to be given some credence in the *Sloane Stanley* decision was the 2003 graph produced by John D Wood & Co (1996) and Gerald Eve (in the public domain) relating to PCL areas and which shows about 87.0% relativity for this length of unexpired term. Whilst this graph is based on PCL area evidence Mr Physick, along with most other valuers, does not offer any cogent argument or evidence as to why lease length per se should not be the over-riding determinant of relative value rather than a difference in location of a few miles. Doing the best it can with the very limited evidence available the tribunal determines a relativity of 88% of freehold value for the existing leases.
16. The tribunal's valuation which gives a purchase price payable on the collective enfranchisement of £42,130 is attached.

17. No other sums are payable as the last valid demands for ground rents are believed to have been made more than 10 years ago.
18. A draft form TR1 setting out the proposed terms of the conveyance is included in the bundle and has been considered and is approved by the tribunal.

**Name:** Patrick M J Casey

**Date:** 25 October 2019

### **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).

**First Tier Tribunal  
Property Chamber (Residential Property)**

**S26 Leasehold Reform Housing and Urban Development Act 1993**

**Price payable for the Freehold Interest in 1133 and 1133A Greenford Road,  
Greenford, Middlesex, UB6 0DP**

**Valuation date: 28 September 2018**

**Value of Freehold Interest**

**Flat 1133**

Term 70 years unexpired		
Ground Rent Income	£75	
YP 4 years @ 6%	<u>3.4651</u>	£260
Review to	£125	
YP 33 years deferred 4 years @ 6%	<u>11.272</u>	£1,409
Review to	£200	
YP 33 years deferred 37 years @ 6%	<u>1.648</u>	<u>£330</u>

**Reversion to F/H Vacant Possession Value** £267,650

Deferred 70 years @ 5%	<u>0.0328662</u>	<u>£8,797</u> £10,796
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**Marriage Value**

F/H Vacant Possession Value £267,650

**Less**

Existing leasehold interest @ 88% relativity	£235,530	
Plus freehold Interest	<u>£10,796</u>	<u>£246,326</u> £21,324

**Marriage Value to Freeholder @ 50%** £10,662  
£21,458

**Say £21,460**

**Value of Freehold Interest**

**Flat 1133A**

Term 70 years unexpired		
Ground Rent Income	£75	
YP 4 years @ 6%	<u>3.4651</u>	£260
Review to	£125	
YP 33 years deferred 4 years @ 6%	<u>11.272</u>	£1,409
Review to	£200	
YP 33 years deferred 37 years @ 6%	<u>1.648</u>	<u>£330</u>

**Reversion to F/H Vacant Possession Value** £257,550

Deferred 68 years @ 5%	<u>0.0328662</u>	<u>£8,465</u> £10,464
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**Marriage Value**

F/H Vacant Possession Value £257,550

**Less**

Existing leasehold interest @ 88% relativity £226,644

Plus freehold Interest £10,464 £237,108

£20,442 £10,221

**Marriage Value to Freeholder @ 50%**

£20,685

Say **£20,680**

**Plus Flat 1133** £21,450

**Total price payable £42,130**