



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

Case Reference : **LON/00AC/OCE/2020/0011**

Property : **65 Sunny Gardens Road, London
NW4 1SJ**

Applicant : **65 Sunny Gardens Freehold
Limited**

Representative : **Kingsley Napley**

Respondent : **Joseph and Sandra Clair**

Representative : **Not known**

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

Tribunal Members : **Judge Pittaway
Ms M. Krisko FRICS**

**Date and venue of
paper determination** : **10 March 2020
10 Alfred Place, London WC1E 7LR**

Date of Decision : **10 March 2020**

DECISION

Decision

The tribunal determines

1. That the appropriate premium to be paid into court for the freehold interest of 65 Sunny Gardens Road London NW4 1SJ is **£24,939. (twenty four thousand nine hundred and thirty nine pounds)**.
2. That the TR1 is approved subject to Box 8 being amended and a note put in Box 11 to show that the premium has been paid into court; and Box 9 amended to show that the transfer is with limited title guarantee.

Background

1. The applicant seeks a determination as to the terms and price at which the respondent's interest in 65 Sunny Gardens Road may vest in the applicant, being the nominee purchaser of Mr S G Conway and Mr S Miraftab, the tenants respectively of 65B and 65A Sunny Gardens Road.
2. On the 1 August 2019 the tenants made an application to the County Court at Central London under Chapter I of Part I of the Leasehold Reform Housing and Urban Development Act 1993 ("the **Act**") seeking a vesting order under Section 26 and 27 of the Act providing for the transfer of the freehold interest in the property to the applicant as the landlord cannot be found.
3. HH Judge Wulwik sitting in the County Court at Central London made a vesting order under claim No.F1OC666 transferring the application to the tribunal for determination of the premium to be paid and to approve the form of the transfer to the applicant.
4. The Tribunal issued Directions on providing for the case to be determined based on the documents alone and without an oral hearing.
5. 65A Sunny Gardens Road is held on a 99-year lease from 24 December 1984 (approximately 64.40 years unexpired at the valuation date) at a ground rent of £100 p.a. for the remainder of the term. 65B Sunny Gardens Road is held on a 189-year lease from 24 December 1984 (approximately 154.4 years unexpired at the valuation date) at a peppercorn rent.

Expert Evidence

6. The Tribunal considered an expert report dated of Mr Marc Sansom MRICS of Anderson Wilde & Harris dated 18 February 2020.
7. The property is a terraced house built c1900 and converted into two flats over ten years ago. Access to the flats is via a communal entrance hall. 65A Sunny Garden Road is a one bedroom ground floor flat with

direct access to a private rear garden. 65B Sunny Gardens Road is a first floor two-bedroomed flat with no outside space.

8. Mr Sansom provided comparable evidence to the tribunal of four one bedroom flats in the locality, three of which sold between July and September 2019, and one of which was under offer. Based on these comparables he placed a market value on the long leasehold interest in Flat 65A at the valuation date of £330,000, making the value of the freehold £333,000.
9. Mr Sansom provided comparable evidence to the tribunal of four two bedroom flats in the locality, three of which sold between March and September 2019, and one of which was under offer. Based on these comparables he placed a market value on the long leasehold and freehold interest in Flat 65B at the valuation date of £370,000.
10. Mr Sansom made no time adjustment to his comparables to reflect when they were sold as against the valuation date.
11. Mr Sansom used a capitalisation rate of 6.5% as reflecting the levels that the Upper Tribunal and the property investment market have recently adopted. He took into account that property had been out performing traditional stocks and shares as a form of investment and that yields have continued to fall over the last three years. He adopted a deferment rate of 5% in line with the decision of the Lands Tribunal in *Earl Cadogan and Cadogan Estates Ltd and others v Sportelli*.
12. For Flat 65A Mr Sansom adopted a relativity of 88.93%, based on the graphs of relativity set out in the RICS Research Paper-Leasehold Reform, and also the Beckett& Kay Graph of Graphs.
13. He therefore calculated the premium payable in respect of Flat 65A to be £24,739, which he rounded down to £24,700.
14. For Flat 65B Mr Sansom assumed a ground rent of £1 p.a.
15. He calculated the premium payable in respect of Flat 65B to be £200.

Tribunal's decisions and reasons

16. **Capitalisation and Deferment Rate.** The Tribunal agrees that 6.5% is an appropriate capitalisation rate for the ground rent for Flat 65A and that there is no reason to depart from the generic deferment rate for flats of 5%.
17. **Enfranchisement Price.** The Tribunal determines the premium at twenty four thousand nine hundred and thirty nine pounds (£24,939). Having considered the comparables in Mr Sansom's report and his comments on these, the tribunal accepts his market values for the flats, but without rounding up, because this is a statutory valuation. The

tribunal also accepts that given the sale dates of the comparables there is no need to make any adjustment for time.

18. The tribunal notes, and has disregarded an apparent typographical error in the valuation for Flat 65B which refers at one point to the sum of £215. The tribunal have also discounted the £15 attributed to the value of the Landlord's existing interest in Flat 65B as this is based on a ground rent of £1 p.a. The ground rent is a peppercorn.
19. **Terms of the Transfer.** The TR1 is approved subject to Box 8 being amended and a note put in Box 11 to show that the premium has been paid into court and Box 9 amended to limited title guarantee.
20. The TR1 must reflect the statutory provisions in Schedule 7 of the Act. It should also reflect that the premium is being paid into court.

Name: Judge Pittaway

Date: 10 March 2020

ANNEX 1 - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.