



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

<b>Case reference</b>	:	<b>LON/00BB/OCE/2020/0005</b>
<b>Property</b>	:	<b>125 &amp; 125A Mitcham Road London E6 3NG</b>
<b>Applicants</b>	:	<b>Kevin Joseph Donovan (Leaseholder, flat 125a first floor) Herjinder Kaur (Leaseholder, flat 125 ground floor)</b>
<b>Representative</b>	:	<b>Streathers LLP (Solicitors)</b>
<b>Respondents</b>	:	<b>Reginald Richard Davies &amp; Benjamin Solomans (Missing Landlords)</b>
<b>Representative</b>	:	<b>None</b>
<b>Type of application</b>	:	<b>Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993</b>
<b>Tribunal members</b>	:	<b>N Martindale FRICS</b>
<b>Date of determination and venue</b>	:	<b>4 March 2020 at 10 Alfred Place, London WC1E 7LR</b>
<b>Date of decision <i>Revised</i></b>	:	<b>4 March 2020 <i>24 April 2020</i></b>

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**DECISION**

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**Decision**

The appropriate premium payable for the collective enfranchisement is **£61,200 (Sixty-One thousand two hundred pounds)**. Subject to the

comments below, the form and content of the transfer as submitted with the original application, incorporating this sum, are approved.

### **Background**

1. This concerns an application made under Section 24 of the Leasehold Reform Housing and Urban Development Act 1993 (the “Act) for acquisition of the freehold of the Property. This determination is of the premium to be paid by the applicant leaseholders to missing landlord respondents. The basis is set out in the appendix to this decision.
2. The applicant leaseholders are, between them, the registered long leaseholders of the 2 leases, one each of the 2 flats (No. 125 and No. 125a) at the Property. Both leases run for 99 years from 19 October 1997 at rising rents of £20, £25, £30 pax for the initial 33, next 33 and final 33 years of the term respectively.
3. The freehold registered under HMLR title EGL 18784 is the name of the respondents. The leases are registered: No. 125, under EGL 34655 and 125a, under EGL 22302.
4. The Property is a former single fronted late C19th terraced house of traditional construction, with brick walls and tiled roof, converted it would appear, in the 1990’s, into two small two-bedroom flats. One on the ground floor and one on the first floor.
5. By order of District Judge Beecham issued on 6 January 2020, from the County Court, at Clerkenwell and Shoreditch, on being satisfied that the respondent could not be found, the respondents’ interest in the subject Property was vested in the applicants in accordance with S.26 of the Act.
6. The Tribunal considered the issue on the papers submitted by the applicants, without a hearing. A copy of the Tribunal’s Standard Directions in missing landlord cases under S.24, and dated 20 January 2020 appear to have been complied with.
7. The Tribunal’s jurisdiction is derived from the vesting order is issued by the Court on 6 January 2020. The Court referred the question of determining the premium payable and the form and content of the transfer, for the acquisition of the freehold interest.

### **Statutory basis of valuation**

8. Schedule 6 to the Act provides the basis for which the premium by the applicants to the landlord shall be calculated. Such premium is to be made up of several elements as set out in the Schedule to this decision. The diminution of the landlord’s value of the existing rental stream and

deferred vacant possession; the landlords share of any marriage value and the value of any compensation for remaining elements.

9. In this case as both leases have less than 80 years to run, then the exercise is to value the landlords' current total income stream and the reversionary interest with the addition of marriage value.

### **Applicants' Case**

10. The applicant provided a valuation report dated 24 February 2020. Prepared by Daniel Conway MRICS. The report contains a formal Statement of Truth confirming that in so far as the facts stated in the report are within their own knowledge, that they believe them to be true. It concludes a statement of compliance confirming that they understand their duty to this Tribunal.
11. Having considered the contents of the Valuation Report and the opinions expressed in that report the Tribunal is broadly satisfied that the method adopted is appropriate to determine the enfranchisement price for the Property. The Tribunal accepts the description of the property and its location as set out in the Valuation Report.

### **Valuation**

12. The report describes the Property as situated in an established residential neighbourhood close to transport and other usual retail amenities in East Ham. The original house was built around the late C19th of traditional brick construction with a double pitched tiled roof over, and a two storey back addition. The house was single fronted with a central entrance porch. The former porch became a communal hallway.
13. The former house was converted into 2 flats. Accommodation is on 2 levels: Ground floor, small 2 bedroom (41.3m<sup>2</sup>): First floor small 2 bedroom flat (44.6m<sup>2</sup>). Each flat has a living room, kitchen and bathroom.
14. At the valuation date the unexpired residue of the original 99 year lease from 19 October 1997 was about 52.9 years remaining.
15. The Valuer's assessment of the market value is based on evidence of completed sales of two local comparable converted flats, each of two bedrooms. There were two sales and another report of one under offer nearby. Although the number of sales was small, their particularly local and similar aspects were accepted by Tribunal as just sufficient to arrive at the premium for the whole Property.
16. The unexpired term of each of the 2 leases was well short of the period of 80 years, so in addition there was a substantial element and addition

of marriage value in the premium due. The premium was therefore the total value of the right to receive on a capitalised basis, a rising ground rent from each of the leases for the remainder of the term. There is no residual landlords interest to deduct, this being a transfer of the whole to the applicants.

17. The Valuer adopted 6.5% capitalisation rate reflecting a rising but still very modest ground rent and the costs of collection. The Valuer adopted the Sportelli rate of 5% deferment rate on the capital value for the reversion. The Tribunal accepts the reasoning set out and the rates adopted in the report and the valuation submitted within.
18. The premium to be paid by the applicants for the whole Property for the transfer of the freehold subject to these two leases, is therefore **£61,200. (sixty one thousand, two hundred pounds).**
19. The form and content of the transfer as submitted with the original application, a copy of which is annexed to the end of this decision, are approved, save that, in Panel 8, the cross in the first box should be removed and, instead, a cross should be placed in the third box “Insert other receipt as appropriate:” and, after that, the following words should be inserted:

“The sum of £56,072.67 (Fifty-six thousand and seventy-two Pounds and sixty-seven Pence) (being the premium determined by the tribunal of £61,200 reduced, in accordance with the court’s order of 23 December 2019, by the £5,127.33 summarily assessed costs) has been paid into court, pursuant to an order made under section 26(1) of the Leasehold Reform, Housing and Urban Development Act 1993.”

**Name: Neil Martindale FRICS      Date: 4 March 2020**  
**Revised: 24 April 2020**

## **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).

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

### **SCHEDULE 6 PURCHASE PRICE PAYABLE BY NOMINEE PURCHASER**

#### **Part I GENERAL**

Interpretation and operation of Schedule

1(1) In this Schedule—

“intermediate leasehold interest” means the interest of the tenant under a lease which is superior to the lease held by a qualifying tenant of a flat contained in the specified premises, to the extent that—

(a) any such interest is to be acquired by the nominee purchaser by virtue of section 2(1)(a), and (b) it is an interest in the specified premises;

“the valuation date” means—

(a) the date when it is determined, either by agreement or by a leasehold valuation tribunal under this Chapter, what freehold interest in the specified premises is to be acquired by the nominee purchaser, or

(b) if there are different determinations relating to different freehold interests in the specified premises, the date when determinations have been made in relation to all the freehold interests in the premises.

(2) Parts II to IV of this Schedule have effect subject to the provisions of Parts V and VI (which relate to interests with negative values).

#### **Part II FREEHOLD OF SPECIFIED PREMISES**

Price payable for freehold of specified premises

2(1) Subject to the provisions of this paragraph, where the freehold of the whole of the specified premises is owned by the same person the price payable by the nominee purchaser for the freehold of those premises shall be the aggregate of—

(a) the value of the freeholder’s interest in the premises as determined in accordance with paragraph 3,

(b) the freeholder’s share of the marriage value as determined in accordance with paragraph 4, and

(c) any amount of compensation payable to the freeholder under paragraph 5.

(2) Where the amount arrived at in accordance with sub-paragraph (1) is a negative amount, the price payable by the nominee purchaser for the freehold shall be nil.

Value of freeholder’s interest

3(1) Subject to the provisions of this paragraph, the value of the freeholder’s interest in the specified premises is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with no person who falls within sub-paragraph (1A)] buying or seeking to buy) on the following assumptions—

(a) on the assumption that the vendor is selling for an estate in fee simple—

(i) subject to any leases subject to which the freeholder’s interest in the premises is to be acquired by the nominee purchaser, but

(ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser;

(b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease

(except that this shall not preclude the taking into account of a notice given under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);

(c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and

(d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the conveyance to the nominee purchaser of the freeholder's interest is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to Schedule 7.

(1A) A person falls within this sub-paragraph if he is—

(a) the nominee purchaser, or

(b) a tenant of premises contained in the specified premises, or

(ba) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or]

(c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).

(2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.

(3) In determining that amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of the interest on the open market might be expected to be allowed between a willing seller and a willing buyer.

(4) Where a lease of any flat or other unit contained in the specified premises is to be granted to the freeholder in accordance with section 36 and Schedule 9, the value of his interest in those premises at the valuation date so far as relating to that flat or other unit shall be taken to be the difference as at that date between—

(a) the value of his freehold interest in it, and

(b) the value of his interest in it under that lease, assuming it to have been granted to him at that date;

and each of those values shall, so far as is appropriate, be determined in like manner as the value of the freeholder's interest in the whole of the specified premises is determined for the purposes of paragraph 2(1)(a).

(5) The value of the freeholder's interest in the specified premises shall not be increased by reason of—

(a) any transaction which—

(i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and

(ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by a qualifying tenant of a flat contained in the specified premises; or

(b) any alteration on or after that date of the terms on which any such superior interest is held.

(6) Sub-paragraph (5) shall not have the effect of preventing an increase in value of the freeholder's interest in the specified premises in a case where the increase is attributable to any such leasehold interest with a negative value as is mentioned in paragraph 14(2).

Freeholder's share of marriage value

4(1) The marriage value is the amount referred to in sub-paragraph (2), and the freeholder's share of the marriage value is 50 per cent. of that amount.

(2) Subject to sub-paragraph (2A),] the marriage value.



**Annex: TR1 submitted with the original application**

<p>HM Land Registry Transfer of whole of registered title(s)</p>	<p>TR1</p>
<p><b>Any parts of the form that are not typed should be completed in black ink and in block capitals.</b></p>	
<p>If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.</p>	
<p>For information on how HM Land Registry processes your personal information, see our <a href="#">Personal Information Charter</a>.</p>	
<p>Leave blank if not yet registered.</p>	<p>1 Title number(s) of the property:  EGL18784</p>
<p>Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.</p>	<p>2 Property:  125 Mitcham Road, East Ham, London E6 3NG</p>
<p>Remember to date this deed with the day of completion, but not before it has been signed and witnessed.</p>	<p>3 Date:</p>
<p>Give full name(s) of all the persons transferring the property.</p>	<p>4 Transferor:  Reginald Richard Davies and Benjamin Solomons</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>
<p>Complete as appropriate where the transferor is a company.</p>	<p>5 Transferee for entry in the register:  Kevin Joseph Donovan and Herjinder Kaur</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>
<p>Give full name(s) of all the persons to be shown as registered proprietors.</p>	<p>6 Transferee's intended address(es) for service for entry in the register:  82 Upper Villiers Street, Wolverhampton WV2 4NX  10a The Avenue, Hornchurch RM12 4JL</p>
<p>Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with HM Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.</p>	
<p>Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.</p>	

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 11.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

The registrar will enter a Form A restriction in the register *unless*:

- an 'X' is placed:
  - in the first box, or
  - in the third box and the details of the trust or of the trust instrument show that the transferees are to hold the property on trust for themselves alone as joint tenants, or
- it is clear from completion of a form JO lodged with this application that the transferees are to hold the property on trust for themselves alone as joint tenants.

Please refer to *Joint property ownership and practice guide 24: private trusts of land* for further guidance. These are both available on the GOV.UK website.

Insert here any required or permitted statement, certificate or application and any agreed covenants, declarations and so on.

7 The transferor transfers the property to the transferee

8 Consideration

The transferor has received from the transferee for the property the following sum (in words and figures):

£5,127.33 (Five Thousand One Hundred and Twenty Seven Pounds and Thirty Three Cents) pursuant to the court order dated 23 December 2019.

The transfer is not for money or anything that has a monetary value

Insert other receipt as appropriate:

9 The transferor transfers with

full title guarantee

limited title guarantee

10 Declaration of trust. The transferee is more than one person and

they are to hold the property on trust for themselves as joint tenants

they are to hold the property on trust for themselves as tenants in common in equal shares

they are to hold the property on trust:

50% Kevin Joseph Donovan

50% Herjinder Kaur

11 Additional provisions

The Property is transferred subject to and with the benefit of the registered leases of Title Number EGL18784 ("The Leases").

This Transfer is executed for the purpose of Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993.

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

If there is more than one transferee and panel 10 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to Joint property ownership and practice guide 24: private trusts of land for further guidance.

Examples of the correct form of execution are set out in practice guide 8: execution of deeds. Execution as a deed usually means that a witness must also sign, and add their name and address.

Remember to date this deed in panel 3.

## 12 Execution

SIGNED as a Deed by  
Sarah Hoad on behalf of **REGINALD RICHARD DAVIES**  
and **BENJAMIN SOLOMONS** acting as a duly authorised  
officer of the Court in accordance with  
the order of the Court dated 23 December 2019:-

.....

In the presence of:

Signature of witness:.....

Name (in BLOCK CAPITALS):.....

Address:.....

.....

.....

Occupation:.....

SIGNED as a DEED by **KEVIN JOSEPH DONOVAN**

.....

In the presence of:

Name:.....

Signature:.....

Address:.....

.....

.....

Occupation:.....

SIGNED as a DEED by HERJINDER KAUR

.....

In the presence of:

Name:.....

Signature:.....

Address:.....

.....

.....

Occupation:.....

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 86 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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