



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

- Case Reference** : MAN/00DA/OCE/2019/0008
- Property** : Flats 59 and 59A Roman Avenue,
Leeds LS8 2AN
- Applicant** : Mr John Linley
- Representative** : Williams & Co Solicitors
- Respondents** : Messrs Francis Watson and John Maxwell
Chambers (Missing Landlords)
- Type of Application** : Collective Enfranchisement – A
determination of the appropriate sum to be
paid into Court under sections 26 and 27 of
the Leasehold Reform Housing and Urban
Development Act 1993 (“the Act”)
- Tribunal Member(s)** : Regional Surveyor N. Walsh FRICS
Judge J. Holbrook
- Date of Decision** : 15 July 2020

DECISION

Decision

- **The Tribunal determines that the price payable by the Applicant for the freehold reversion of the property is to be the sum of £ 285.00 and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is £220.00.**
- **The draft TR1 is approved subject to the amendments referred to below.**
- **No assessment of costs has been made.**

Background

1. Following the application of John Linley Deputy District Judge Goldberg sitting at the County Court at Leeds made an order dated 1 November 2019 directing that;
 - a. The requirement for service on the Defendants of a preliminary notice in accordance with section 13 of the Leasehold Reform Housing and Urban Development Act 1993 be dispensed with.
 - b. An application shall be made to the first-tier Tribunal (Property Chamber) for the determination of the premium payable for the Claimant's acquisition of the Freehold to 59 and 59a Roman Avenue, Leeds LS8 2AN.
 - c. Following determination of the premium in accordance with paragraph 2 above, the Defendant [this appears to be an error and should state the Claimant here] do pay into the Court Funds Office the premium amount.
 - d. Following payment of the premium into the Court Funds Office, District Judge Goldberg shall execute the Transfer in the form approved by the First-tier Tribunal (Property Chamber).
 - e. Subject to paragraphs 2, 3 and 4, the property known as 59 and 59a Roman Avenue Leeds LS8 2AN shall be vested in the Claimant.
 - f. There shall be no order as to costs.
2. The Tribunal informed the Claimant that the application and enclosed documentation would be accepted as the Claimants' bundle and no further Directions would be issued, indicating that the matter would be determined on the papers without an oral hearing unless a party objected. No objection has been received.
3. The bundle of documents received with the application form, upon which this determination is now made, included a Valuer's Report together with up to date official copies of the entries at HM Land Registry of the leasehold titles and a draft of the proposed Transfer. The freehold title is unregistered.

4. An inspection of the property has not been carried out.

The Law

5. Section 27(5) of the Act provides:
 - a. *The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:*
 - b. *Such amount as may be determined by (or on appeal from) the appropriate Tribunal to be the price payable in accordance with Section 9 above; and*
 - c. *The amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the Conveyance which remains unpaid.*
6. Schedule 6 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation. The effect of Section 27(1) is that the valuation date is the date on which the application was made to the Court.

Evidence

Valuation

7. The Valuer's Report dated 24 July 2019 prepared by N S Nabarro of Nabarro McAllister & Co does not contain the usual expert's statement nor does contain a statement of truth. It does not appear to have been prepared for the purposes of these proceedings but is however relied upon by the Tribunal.
8. Mr Nabarro describes the property as a detached building comprising two self-contained flats constructed approximately 55 years ago of traditional cavity wall brick construction under a concrete tiled pitched roof. He states in his report that there are two brick garages with asphalt rooves, which are detached from the main building and there are communal gardens.
9. 59 is the ground floor flat and comprises:- entrance hallway, living room, two bedrooms, bathroom, kitchen and garage no2.
10. 59a is the first floor flat and comprises:- entrance lobby and first floor landing, living room, two bedrooms, kitchen and garage no 1.
11. The leases for both flats are for terms of 999 years from 25 March 1965 at a yearly ground rent of £10 p.a. While Mr Nabarro has noted some deterioration to the exterior of the property and some structural movement, given the long unexpired lease terms he does not consider this has any impact upon the value of the freehold interest.
12. Mr Nabarro considers that the value of the reversionary interest when deferred for some 945 years to be zero and that therefore the value lies

solely in the capitalisation of the ground rents passing which total £20 p.a. He has capitalized these in perpetuity applying a yield at 10%, which also equates to a years purchase multiplier of 10.

Terms of Transfer

13. A draft TR1 was submitted by the Claimant and enclosed with the application form.

Decision

14. With one exception the Tribunal accepts Mr Nabarro's valuation.
15. His adoption of a yield of 10% is significantly higher than the Tribunal would expect. Mr Nabarro has not provided any reason or justification for adopting a 10% yield and the Tribunal, applying its own valuation and market knowledge, therefore considers a yield of 7% to be more appropriate. This equates to a capitalisation rate or years purchase in perpetuity of 14.29. (£20p.a. x 14.29 = £285.00)
16. The Tribunal also notes that since acquiring the leasehold in both flats in October 2008, Mr Linley has not paid the yearly ground rent of £10 in respect of each flat. This not having been demanded by the missing landlord.
17. The Tribunal therefore determines that the price to be paid for the freehold of 59 and 59a Roman Avenue, Leeds LS8 2AN is £285.00 and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is £220.00(11 years @ £20 p.a. – October 2008 to November 2019).

Corrections to TR 1

18. The Tribunal approves the TR1 found at pages 120-122 of the bundle subject to the following alterations.
 - Box 8; insert – “The Transferee has paid the sum of £505.00 (Five hundred and five pounds) into Court Funds Office in accordance with the Court Order dated 1 November 2019.”
 - Box 9; Amend from full title guarantee to limited title guarantee
 - Box 11; Add “This transfer is executed for the purposes of chapter 1 of part 1 of the Leasehold Reform Housing and Urban Development Act 1993. It is hereby declared that the same covenants for title shall be implied herein as if the owner was conveying/transferring the property with limited title guarantee.”

- Box 12; Alter to “Signed as a Deed by the officer of the Court nominated to execute this deed on behalf of *name of transferor* in accordance with the Order of the Court dated

Costs

19. District Judge Goldberg’s order directed there shall be no order as to costs and the Tribunal has not therefore made any assessment as to costs.

20. The case file and this determination will now be returned to the County Court at Leeds.

Date: 15 July 2020
Regional Surveyor N. Walsh