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

Case Reference : LON/OOAG/OCE/2013/0251

Property : 180 Camden Road, London NW1 9HG

Applicants : Christopher Anthony Briere-Edney
Kathryn Briere- Edney
Elaine Margaret Lewis

Representative : Tucker Turner Kingsley Wood LLP

Respondent : Stella Wong-Lun-Sang

Representative : Thrings Solicitors

Type of Application : **Application for the determination
of the price payable on the
purchase of a freehold**

Tribunal Members : Mrs Sonya O'Sullivan
Mr Duncan Jagger MRICS

**Date and venue of
Hearing** : **18 March 2014 at 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **18 March 2014**

DECISION

The background

- 1) This is a claim by the Applicants to acquire the freehold interest of 180 Camden Road, London NW1 9HG (the "Property") under the Leasehold Reform, Housing and Urban Development Act 1993 (the "1993 Act").
- 2) The initial notice was dated 17 April 2013 and the counter notice dated 28 June 2013.
- 3) Directions were made in this matter on 3 December 2013 which set out the steps to be taken by the parties to prepare for the hearing. This included a direction that the parties were to exchange valuations by 21 January 2014.
- 4) The Applicants filed a bundle in accordance with those directions which contained statements of case made by both parties and what was described as a "tenants' list of document terms and other legal issues remaining in dispute". The bundle also contained valuation reports filed on behalf of both parties.

The hearing

- 5) A hearing took place on 18 March 2014. The Applicants were represented by Mr Walsh of Counsel with Mr Pook of instructing solicitors and their valuer Mr Hanton also attending. The Respondent attended in person and confirmed that she would be representing herself.
- 6) At the commencement of the hearing the parties confirmed that the only matter now in issue was the premium, all other matters had now been agreed.
- 7) The Respondent, Ms Wong applied for permission to rely on late evidence. This was heard to consist of a witness statement made by Ms Wong in relation to the valuation. It had been received by the Applicants' solicitors at close of business the day previously. Ms Wong confirmed that this statement reported further advice received from her valuer and argued that a higher premium was payable than that contained in the valuation report in the bundle dated September 2012. It did not attach a valuation or supplemental valuation report. She explained that she had decided this was necessary as the Applicants' expert had produced a higher valuation than expected. She had not been able to obtain a supplemental report from her valuer due to the time available and because she said it did not make commercial sense given the amount in dispute. The admission of this late evidence was opposed by the Applicants on the basis the evidence was served very late in the day, it was not in the form of a valuation report and that they would be severely prejudiced by its admission. Counsel also pointed

to the fact that the Respondent had been legally represented throughout and as a qualified solicitor should have been aware of the requirements to serve evidence in a timely manner.

- 8) The Tribunal having briefly adjourned to consider the request to admit the late evidence decided that it should be refused. The Respondent has been represented throughout and no good reason was given for the failure to serve the evidence in a timely manner. It considered that its admission would prejudice the Applicants. In any event given that it consisted in the majority of hearsay evidence the tribunal did not consider it was likely to be of any assistance as little weight could be placed on the reported evidence of a valuer.

Evidence

- 9) Both parties relied on expert evidence. The Applicants relied upon a report of Mr Simon Hanton dated 4 March 2014. The Respondent relied upon a report by Ms Vanessa Knape dated 27 September 2012. Mr Hanton attended the hearing.
- 10) The evidence heard and the Tribunal's decision is set out below. What follows is a summary of the evidence, the majority being in any event contained in the bundle before the parties.
- 11) The Applicants' valuer valued the enfranchisement price to be £52,100 plus £400 for the value of the land to be acquired pursuant to section 1(2)(a). The Respondent relied on a valuation dated September 2012 which valued the Property at £51,800.
- 12) The Respondent's report was criticised by the Applicants as being non compliant with rule 1995) of the Tribunal procedure (First Tier tribunal) (Property Chamber) Rules 2013. This valuation predated the valuation date of 17 April 2013 by approximately 7 months and valued the premium to be paid at £51,800. On the face of it therefore the difference between the parties in the respective valuations was £700.
- 13) We were faced with the somewhat unusual position of the landlord seeking a lower premium than that suggested by the Applicants.
- 14) The Respondent confirmed that she did wish to continue to rely on her valuation report. However she submitted that the property prices had increased over that 7 month period and that if her valuation had been carried out on or after the valuation date the premium put forward by her valuer would have been higher. In support of this she referred to the fact that the price for the premium included in the notice of claim was only £24,000 plus £400 for the land when the valuation report valued the premium payable as £52,100. She suggested this underlined the fact that property prices had moved on quickly. However she had filed no

further valuation evidence to substantiate those submissions. She also confirmed that she disagreed with the relativity rate adopted by the Applicants of 90%. She confirmed that she continued to rely on the rate of 87.95%.

The Tribunal's decision

15) The Respondent relied on the valuation report dated September 2012. She had filed no further supplemental evidence despite having ample opportunity to do so. Although she made general submissions that the property prices had increased from the September 2012 valuation to the valuation date of 17 April 2013 these were in our view merely supposition. Although she did not accept the relativity percentage adopted by the landlord in any event even using her own suggested figure of 87.95% her valuer had reached a lower figure for the premium than that suggested by the Applicants. The Respondent could not in our view place reliance on her valuation report and at the same time seek to argue that its contents were incorrect. On the evidence before us therefore her valuer had valued the premium at £51,800 and it had been confirmed by the Respondent that she wished to rely on that valuation.

We accepted the valuation evidence put forward by the Applicants (being the higher of the two valuations) and find that the premium payable on the acquisition of the Property by the Applicants is £52,100 and the premium payable for the land to be acquired is £400.

Name: S O'Sullivan

Date: 18 March 2014