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

Case Reference : LON/00AH/OLR/2017/0380

Property : Ground Floor Maisonette,
180 Melfort Road,
Thornton Heath, CR7 7RQ

Applicants : (1) Zoe Short
(2) Marlon Ruddock

Representative : Cartwright Cunningham &
Haselgrove & Co.

Respondents : (1) Rizwan Nawaz
(2) William Defoe

Type of Application : Determination of terms of lease
extension (missing landlord)

Tribunal Members : (1) Mr N Martindale FRICS

Date of Decision : 22 May 2017
(amended 22 Aug 2017)

AMENDED DECISION

Decisions of the Tribunal

1. The premium to be paid by the applicants for the lease extension at Ground Floor Maisonette, 180 Melfort Road, Thornton Heath CR7 7RQ, registered at HM Land registry under title number SGL182993 (the "Property") is **£23,645**.
- 1.a The draft deed of surrender and re-grant attached as an appendix to the applicants bundle, is approved.

The statutory basis of valuation

10. Part 2, Schedule 13 to the Act provides that the price to be paid by the leaseholders, the applicants for the new leasehold interest, where there is no intermediary head leaseholder, as applies here.
11. The premium payable in respect of the grant of a new lease is the total of: (a) the diminution in value of the landlord's interest in the tenant's flat as determined in accordance with paragraph 3, (b) the landlord's share of the marriage value as determined in accordance with paragraph 4, and (c) any amount of compensation payable to the landlord under paragraph 5.
12. The diminution is: 3(1) The diminution in value of the landlord's interest is the difference between (a) the value of the landlord's interest in the tenant's flat prior to the grant of the new lease; and (b) the value of his interest in the flat once the new lease is granted.
13. Paragraph 4 of the Schedule, as amended, provides that the freeholder's share of the marriage value is to be 50%, and that any marriage value is to be ignored where the unexpired term of the lease exceeds eighty years at the valuation date. Here it is included as the unexpired term is less than eighty years.
14. Paragraph 5 of the Schedule provides for the payment of compensation for other loss resulting from the enfranchisement.

The evidence before the Tribunal

15. The applicants have provided a valuation report dated 2 March 2017 by Graham Bridgeman-Clarke of Messrs Bridgeman-Clarke Chartered Surveyors ("the Valuation Report"). They also provided, on request by the Tribunal by way of letter dated 21 April 2017, supplementary details in a letter 10 May 2017, with attachments. These included a revised valuation of the premium payable, with sales particulars and copies of HMLR transfer details to confirm the sales of two comparables upon which the applicant's valuer now relied.
16. Having considered the contents of the Valuation Report and of the supplementary report, and the opinions expressed by the valuer in both, the Tribunal is broadly satisfied that the method adopted is appropriate to determine the premium for the new lease for the Property. The tribunal accepts the description of the Property and its location as stated in the Valuation Report.
17. A photograph of the exterior of the Property was included in the Valuation Report. The tribunal did not consider it necessary or proportionate to carry out an inspection of the Property.

Valuation

18. The Ground Floor Maisonette at 180 Melford Road, Thornton Heath, consists of hallway, access to a rear garden and comprises an entrance hall, bedroom, living room, kitchen, and bathroom/WC.
19. Entry to the two flats is via a shared ground floor entrance door and small front garden.
20. It is stated in the Valuation Report that the flat has double glazing and central heating, but there it also confirms that there are no tenant's improvements to be ignored in the valuation.
21. The valuation date prescribed by section 27(1) of the Act is the date of the applicants' application to the court namely 2 November 2017 and not as the original report stated, 2 March 2017. The supplementary information from the applicant's valuer corrected this error. The unexpired residue of the lease for the maisonette is approximately 56.65 years.
22. Mr Bridgeman-Clarke's assessment of the market value of both flats is based on evidence of completed sales of two comparable flats in the same road. One in March 2016, the other September 2016. Both had leases of 999 years.
23. From this material the valuer draws the conclusion that as at the valuation date, the long lease value, of the property was £200,000. The Tribunal is satisfied with the relevance and detail of the two completed comparable property sales provided in the Valuation Report. The Tribunal accepts the valuer's analysis and assessment of each in the assessment of the value of new long lease of the Property.
24. The Tribunal notes and accepts the 1% adjustment by Mr Bridgeman-Clarke in uplifting the long lease value to its notional freehold value.
25. Mr Bridgeman-Clarke having considered all of the RICS published graphs of relativity, adopts the average from the 2009 Greater London & England graphs, for the unexpired lease period; a relativity of 82.86% and duly applies this percentage relativity to each of the virtual freehold values of the Property.
26. The diminution in the value of the landlord's interest in the tenants' maisonette is represented first by the capitalised value of the grounds rent receivable under their leases. That small income stream is capitalised by Mr Bridgeman-Clarke at 7%, which the Tribunal accepts is appropriate in this case owing to the fixed low ground rents.

27. Next, the effect of the lease extension will deprive the landlord of the property for a further 90 years in addition to the current unexpired term. The present value of that delayed reversion is determined by applying a deferment rate to the freehold value of the flat. The deferment rate appropriate for leasehold flats in Central London was authoritatively determined to be 5% in the case of *Earl Cadogan v Sportelli* (2006) LRA/50/2005. Mr Bridgeman-Clarke also adopts the Sportelli deferment rate of 5% which we accept.
28. The marriage value is to be shared equally between the parties, as required by the Act.
29. The tribunal accepts the valuation for the property, as produced and subsequently amended by Mr Bridgeman-Clarke and in particular his final opinion of value of £23,645 as expressed in his letter dated 10 May 2017. The Tribunal has therefore not produced its own valuation.
30. The premium to be paid by the applicants for the new lease of the Property is therefore **£23,645**.

Name: Neil Martindale Date: 22 May 2017

We exercise our powers under Rule 50 to correct the clerical mistake, accidental slip or omission underneath paragraph 1 of the Decision dated 22 May 2017. The Tribunal's amendments are made in **bold**.

The Tribunal corrected the original Decision because of an omission to reference its approval to the draft deed of surrender and re-grant of lease which was included with the application. The decision otherwise remains unchanged.

Name: Neil Martindale Date: 22 August 2017

Appendix

Leasehold Reform, Housing and Urban Development Act 1993

S.50 Applications where landlord cannot be found.

(1) Where—

(a) a qualifying tenant of a flat desires to make a claim to exercise the right to acquire a new lease of his flat, but

(b) the landlord cannot be found or his identity cannot be ascertained,

the court may, on the application of the tenant, make a vesting order under this subsection.

(2) Where—

(a) a qualifying tenant of a flat desires to make such a claim as is mentioned in subsection (1), and

(b) paragraph (b) of that subsection does not apply, but

(c) a copy of a notice of that claim cannot be given in accordance with Part I of Schedule 11 to any person to whom it would otherwise be required to be so given because that person cannot be found or his identity cannot be ascertained,

the court may, on the application of the tenant, make an order dispensing with the need to give a copy of such a notice to that person.

(3) The court shall not make an order on any application under subsection (1) or (2) unless it is satisfied—

(a) that on the date of the making of the application the tenant had the right to acquire a new lease of his flat; and

(b) that on that date he would not have been precluded by any provision of this Chapter from giving a valid notice under section 42 with respect to his flat.

(4) Before making any such order the court may require the tenant to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person in question; and if, after an application is made for a vesting order under subsection (1) and before any lease is executed in pursuance of the application, the landlord is traced, then no further proceedings shall be taken with a view to a lease being so executed, but (subject to subsection (5))—

(a) the rights and obligations of all parties shall be determined as if the tenant had, at the date of the application, duly given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat; and

(b) the court may give such directions as the court thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Chapter or of regulations made under this Part.

(5) An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a lease under section 51(3) and, after it is withdrawn, subsection (4)(a) above shall not apply; but where any step is taken (whether by the landlord or the tenant) for the purpose of giving effect to subsection (4)(a) in the case of any application, the application shall not afterwards be withdrawn except—

(a) with the consent of the landlord, or

(b) by leave of the court,

and the court shall not give leave unless it appears to the court just to do so by reason of matters coming to the knowledge of the tenant in consequence of the tracing of the landlord.

(6) Where an order has been made under subsection (2) dispensing with the need to give a copy of a notice under section 42 to a particular person with respect to any flat, then if—

(a) a notice is subsequently given under that section with respect to that flat, and

(b) in reliance on the order, a copy of the notice is not to be given to that person,

the notice must contain a statement of the effect of the order.

(7) Where a notice under section 42 contains such a statement in accordance with subsection (6) above, then in determining for the purposes of any provision of this Chapter whether the requirements of Part I of Schedule 11 have been complied with in relation to the notice, those requirements shall be deemed to have been complied with so far as relating to the giving of a copy of the notice to the person referred to in subsection (6) above.

51 Supplementary provisions relating to vesting orders under section 50(1).

(1) A vesting order under section 50(1) is an order providing for the surrender of the tenant's lease of his flat and for the granting to him of a new lease of it on such terms as may be determined by a leasehold valuation tribunal to be appropriate with a view to the lease being granted to him in like manner (so far as the circumstances permit) as if he had, at the date of his application, given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat.

(2) If a leasehold valuation tribunal so determines in the case of a vesting order under section 50(1), the order shall have effect in relation to property which is less extensive than that specified in the application on which the order was made.

(3) Where any lease is to be granted to a tenant by virtue of a vesting order under section 50(1), then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a lease which—

(a) is in a form approved by a leasehold valuation tribunal, and

(b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to section 56(1) and section 57 (as that section applies in accordance with subsections (7) and (8) below);

and that lease shall be effective to vest in the person to whom it is granted the property expressed to be demised by it, subject to and in accordance with the terms of the lease.

(4) In connection with the determination by a leasehold valuation tribunal of any question as to the property to be demised by any such lease, or as to the rights with or subject to which it is to be demised, it shall be assumed (unless the contrary is shown) that the landlord has no interest in property other than the property to be demised and, for the purpose of excepting them from the lease, any minerals underlying that property.

(5) The appropriate sum to be paid into court in accordance with subsection (3) is the aggregate of—

(a) such amount as may be determined by a leasehold valuation tribunal to be the premium which is payable under Schedule 13 in respect of the grant of the new lease;

(b) such other amount or amounts (if any) as may be determined by such a tribunal to be payable by virtue of that Schedule in connection with the grant of that lease; and

(c) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of that lease, due to the landlord from the tenant (whether due under or in respect of the tenant's lease of his flat or under or in respect of any agreement collateral thereto).

(6) Where any lease is granted to a person in accordance with this section, the payment into court of the appropriate sum shall be taken to have satisfied any claims against the tenant, his personal representatives or assigns in respect of the premium and any other amounts payable as mentioned in subsection (5)(a) and (b).

(7) Subject to subsection (8), the following provisions, namely—

(a) sections 57 to 59, and

(b) section 61 and Schedule 14,

shall, so far as capable of applying to a lease granted in accordance with this section, apply to such a lease as they apply to a lease granted under section 56; and subsections (6) and (7) of that section shall apply in relation to a lease granted in accordance with this section as they apply in relation to a lease granted under that section.

(8) In its application to a lease granted in accordance with this section—

(a) section 57 shall have effect as if—

(i) any reference to the relevant date were a reference to the date of the application under section 50(1) in pursuance of which the vesting order under that provision was made, and

(ii) in subsection (5) the reference to section 56(3)(a) were a reference to subsection (5)(c) above; and

(b) section 58 shall have effect as if—

(i) in subsection (3) the second reference to the landlord were a reference to the person designated under subsection (3) above, and

(ii) subsections (6)(a) and (7) were omitted.