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

Case Reference : **LON/OOAE/OCE/2018/0053**

Property : **15 Greenbank Avenue Sudbury
HA0 2TF**

Applicants : **Denista Wincey and Dias Wincey**

Representative : **Darlingtons Solicitors LLP**

Respondent : **Michael Ferguson)**

Representative : **None**

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

Tribunal Members : **Evelyn Flint DMS FRICS
Marina Krisko FRICS**

**Date and venue of
Hearing** : **Determination without an oral
hearing in accordance with the
procedure in regulation 13 of the
Leasehold Valuation Tribunals
(Procedure)
(England) Regulations 2003
5 April 2018
10 Alfred Place, London WC1E 7LR**

Date of Decision : **10 April 2018**

DECISION

Decision

1. The premium payable for the freehold interest is £33,639 (Thirty three thousand six hundred and thirty nine pounds).

Background

2. On 22 August 2017 the Applicants made an application to the Willesden County Court 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 as the landlord cannot be found.
3. District Judge Bloom sitting at Willesden County Court on 5 January 2018 made an order under claim No. D02W1331 transferring the application to the Tribunal for determination of the terms of the conveyance and the appropriate sum to be paid for the interest to be vested in accordance with s26 of the Act.
4. The Tribunal issued Directions on 22 February providing for the case to be determined on the basis of documents alone and without an oral hearing.
5. Both flats are held on leases for 99 years from 29 September 1987 at £75 pa for the first 25 years, £125 pa for the next 25 years, £175 pa for the next 25 years and £225 pa for the remainder of the term. The unexpired term at the valuation date is 69.1 years.

Expert Evidence

6. The Tribunal considered an expert report dated 12 March 2018 of Simon Levinson BSc(Hons) MRICS MRICS of OCK Chartered Surveyors. Greenbank Avenue is in Sudbury close to Maybank Open Space in a mainly residential area. The property has good access to shops, public transport (rail, tube and bus) and the main road network via the A40 and A406 North Circular Road.
7. The property is an end terraced house built c1900, converted into two flats. Access to the flats is via a communal entrance hall. The ground floor flat which comprises two rooms, kitchen and bathroom/wc has use of half the rear garden. The upper flat comprises two rooms, kitchen, bathroom and separate wc has use of half the rear garden.
8. The schedule of comparable evidence referred to sales between November 2016 and December 2017 of five flats in the locality. The sale prices were adjusted to the valuation date using the Land registry index for flats and maisonettes for the London Borough of Brent.

9. 6 Greenbank Avenue, an extended and modernised ground floor flat with exclusive use of a 100ft rear garden was sold on 27 March 2017 at £325,000 with an unexpired term of 166 years. Adjusting for time, condition and size of garden gave an adjusted value of £295,048 for the extended lease and £297,999 for the freehold.
10. 4A Northolt Gardens, a two bedroom first floor flat with part of the rear garden, sold 11 November 2016 for £310,000 with an unexpired term of over 900 years. Adjusting for time and condition gives a value of £303,229 for the freehold.
11. 75C Drew Gardens, a one bedroom first floor flat in a converted end of terrace house with communal rear garden and allocated parking space, sold 20 October 2017 for £237,000 with an unexpired term of 93 years. The adjusted long leasehold value is £239,735 and £244,530 for the freehold.
12. 75a Drew Gardens, a ground floor flat in an end of terrace house converted into four flats with a communal garden and allocated parking sold on 15 May 2017 for £260,000 with an unexpired term of 93 years. The adjusted long lease value is £252,305 and the freehold value is £257,351.
13. 2a Drew Gardens is an unmodernised one bedroom ground floor flat in an end of terrace house converted into four flats with communal garden and allocated parking sold 20 December 2017 for £250,000 with a new 125 year lease. The adjusted long lease value is £259,059 and the value of the freehold is £261,650.
14. Mr Levinson valued the freehold of both flats at £275,000 which he stated he had arrived at by adding 1% to the long leasehold values. There was no evidence of this differential in the valuation attached to his report, and he had 2% added to the long lease values at 75a and 75c Drew Gardens.
15. Since there were no comparable sales of similar length short leases the relativity was arrived at by considering the RICS Greater London and England graph published in 2009 to support a relativity of 91.97%.
16. The capitalisation rate used was 7%. No evidence of any settlements was produced. The deferment rate adopted was 5.25% a departure of 0.25% from the generic rate in the decision of the Lands Tribunal in Earl Cadogan and Cadogan Estates Ltd and others v Sportelli. In support of the higher rate reference was made to a very short excerpt from a decision of this tribunal and that in his opinion there was a greater risk of obsolescence due to the missing landlord.
17. Marriage value is payable as there is less than 80 years unexpired at the relevant date.

18. A valuation was attached to the report indicating a value for the freehold of £32,568.

Decision

14. **Valuation date.** The valuation date is 22 August 2017, being the date of the application to the County Court.
15. **Freehold values.** Based on the information available on the comparable sales evidence, the sale in the same street being the best evidence, the Tribunal finds that the extended lease value of the ground floor flat as at the valuation date is £300,000 and £290,000 for the first floor flat. The differential reflects the almost identical size of both flats however the ground floor has direct access into the garden. The Tribunal determines that there is a 1% differential between the value of the extended lease and freehold values. Therefore, the value of the freehold interest in the ground floor is £303,000 and in the first floor £292,900.
16. **Relativity.** The Tribunal is familiar with the 2009 RICS publication and since no other information is available uses the information provided in relation to the publication to determine the relativity at 91.97%.
17. **Capitalisation Rate.** The Tribunal agrees that 7% is the appropriate capitalisation rate for the ground rents. The Tribunal has not seen any evidence to indicate that there is any reason to depart from the generic deferment rate for flats of 5%. The case referred to was not provided and the excerpt was so short that the reason for the departure, which would have been based on the facts of that case, was not apparent. There was no evidential based proposition to support the proposed 0.25% increase in the deferment rate.
18. **Enfranchisement Price.** The Tribunal determines the premium at £33,639 (Thirty three thousand six hundred and thirty nine pounds), the valuation is attached to this decision.
19. **Terms of the Transfer.** The TR1 is approved providing Box 8 is amended to show that the premium has been paid into court.

Evelyn Flint
Chairman

11 April 2018

TRIBUNAL VALUATION

15A and 15B GREENBANK, LONDON, HA0 2TF

Valuation date	22nd August, 2017
Remaining term	69.10 years
Term	7%
Reversion	5%

Existing lease value	£548,049
Extended lease value	£590,000
	(15A £300,000
	15B £290,000)
Freehold value	£595,900
Relativity	91.97%

<u>Term</u> (as per applicant's valuation)	£ 3,946
Reversion £595,900 5% 0.0342	<u>£20,380</u>
Landlord's interest	£24,326

Marriage Value

Extended lease value	£590,000		
Less			
Existing lease value	£548,049		
Less			
Landlord's interest	<u>£ 24,326</u>		
	£ 17,625	50%	£ 8,813
	Appurtenant parts		<u>£ 500</u>
	Premium payable		<u>£ 33,639</u>

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.