



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

Case Reference : **LON/00BB/OCE/2021/0151**

Property : **87 Wakefield Street, London, E6 1NR**

Applicants : **Mohammed Akram and Bibi Zakaria
Matthew Charles Whitfield**

Representative : **Crown Law Solicitors**

Respondents : **Mohammed Saghir
Matthew Charles Whitfield**

Representative : **None (missing landlord)**

Type of Application : **Section 26 Leasehold Reform, Housing
and Urban Development Act 1993 (the
Act)**

Tribunal Members : **Mrs H C Bowers – Regional Surveyor
(Chair)
Mr M Martynski – Deputy Regional
Judge**

Date of Reasons : **25 May 2022**

DECISION

- **The Tribunal determines that the premium payable for the collective enfranchisement of £64,400.**
 - **No sums are payable under section 27(5)(b) of the Leasehold Reform, Housing and Urban Development Act 1993.**
 - **The TR1 is approved subject to the amendments as set out in paragraph 23 below.**
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REASONS

BACKGROUND

1. By an order made by District Judge Lightman dated 18 June 2022 in the County Court at Central London in claim number G10CL122 (“the Order”) the matter was remitted to the Tribunal. The original claim was issued on 27 September 2019, this being the valuation date. The Tribunal is required to determine the terms of acquisition including the premium and other sums payable by the Applicants, pursuant to section 27 and Schedule 6 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) and the form of transfer in respect of 87, Wakefield Street, London, E6 1NR (the subject property).
2. The Tribunal originally issued Directions on 8 September 2021, with the original intention that this case would be determined on the basis of the papers provided in the week commencing 1 November 2021. However, on review of the original bundle it became apparent that the valuation report did not reflect the right being sought, namely the right to collectively enfranchise the whole building. There has been repeated correspondence from the Tribunal regarding the need to address the correct valuation approach. Eventually the Tribunal listed this for an oral hearing and provided details of how the Applicants should address the valuation aspects. Although a further expert valuation report was submitted immediately prior to the hearing, this had the incorrect valuation date.
3. A hearing took place on Tuesday 17 May 2022 at 10, Alfred Place, London, Wc1E 7LR. In attendance for the Applicants was Mr Rowan of counsel and Mr Andrew Balcombe BSc FRICS FCI Arb. Mr Balcombe produced a revised valuation report with the correct valuation date.
4. The Tribunal had before it a bundle of 244 pages. These papers included the Claim Form with two Witness Statements from Mohammed Akram and supporting documentation; various Court Orders, including a Court Order dated 18 June 2020, copies of the freehold and leasehold registers of title and the leases of the two flats in the subject property. The freehold interest is under title number EGL60147. The lease for the first floor flat (87a Wakefield Street is under title number EGL418867) is dated 23 December 1983 and is for a term of 99 years from 29 September 1983. The lease for the ground floor flat (87, Wakefield Street, under title number EGL151430) is dated 14 May 1984 and is for a term of 99 years from 29 September 1983. The bundle also included a valuation report from Upsdales dated 15 November 2021, but as indicated above this report did not reflect the interest being acquired.
5. The expert report from Mr Andrew Balcombe of Messrs Strettons was dated 12 May 2022 comprises 23 pages. The Tribunal was also provided with a copy of a proposed TR1
6. The essence of this matter is that the freehold is jointly owned by Mr Matthew Charles Whitfield and Mr Mohammed Saghir and that Mr

Saghir is missing. The Tribunal enquired of Mr Rowan whether Mr Whitfield, as well as being one of the Applicants should also be identified as the Respondent. Mr Rowan asked if he could obtain instructions. We heard from the Applicants' representative after the hearing who indicated that it was not considered necessary for Mr Whitfield to be joined as a Respondent, but that if the Tribunal choose to do so, that it would have no impact on the Order.

7. The revised valuation report confirms that the valuation date adopted is the date of the issue of the claim, namely 27 September 2019. The subject property is a two-storey, end of terrace house on a corner plot that has been converted to provide two flats, one on the ground floor and one on the first floor. The Applicants hold the two long leasehold interests in the two flats and seek to collectively enfranchise the property.
8. The property is described as being located in East Ham and a short distance to East Ham High Street, and close to Upton Park and East Ham underground stations in a predominantly residential area. The property is of traditional construction with rendered brick walls under a pitched tiled roof.
9. The ground floor flat is described as having a reception room, one bedroom, a dining area, a kitchen and a bathroom. It is commented that it would be possible to convert the dining area into a second bedroom. The rear garden is demised to this flat. The flat has an approximate floor area of 53.12 m². The first floor flat has a living room, two bedrooms, a kitchen and a bathroom with WC and an additional WC. The lease shows the property as a one bedroom. The floor area is said to be 57.43 m². Each flat has its own private external entrance.
10. The property is described in poor external condition with cracking to the flank wall and the rear garden is overgrown and inaccessible. The ground floor flat is in poor internal condition and requires redecoration. There is evidence of a historic leak to the ceiling of the dining area that has been repaired, but the damage to the decorations has not been remedied. Mr Balcombe has disregarded the value of any improvements relating to the conversion of the flats into two-bedroom units.
11. Each lease is for a term of 99 years from 29 September 1983. The initial ground rent for the ground floor flat is £80 per annum rising each 20 years to £160, £320 and for the last 39 years to £640. The initial ground rent for the first floor flat is £60 per annum rising each 20 years to £120, £240 and for the last 39 years to £480.
12. The valuation report suggests a capitalisation rate of 7% as the ground rents are described as unexciting and would not be attractive to an investor. He has applied a deferment rate of 5%.
13. In respect of the unimproved long lease/freehold values, Mr Balcombe has considered sales of units with over 100 years unexpired. The comparables are summarised below:

- 67 Wakefield Street, a ground floor two-bedroom flat with a rear extension, making it larger than the subject flats. No floor area is given, but it was sold with a very high specification for £328,000 in November 2019.
 - 37a Wakefield Street is a first floor two- bedroom flat, sold with potential, so is assumed to be un-refurbished. No floor area is provided but it sold in July 2019 for £280,000.
 - 5a Campbell Road was sold in November 2019 for £217,500 and is a two-bedroom first floor flat of 55.8 m². It was sold in poor condition and went to tender.
 - 62 Thackery Road sold in March 2019 for £240,000. The property is described as a one-bedroom unit of 45 m² and was in need of refurbishment.
 - 11 Kempton Road is a ground floor one-bedroom flat at 42m² but in need of refurbishment that sold for £240,000 in April 2019.
 - 29a Lloyd Avenue is a two-bedroom flat of 59.83 m² with a garden and sold in good condition for £285,000 in July 2019.
 - 61 Compton Avenue is a two-bedroom flat but with no details of floor area. The flat has a garden and was in reasonable condition and sold in January 2020 for £280,000.
 - 20 Skeffington Road sold for £260,000 in January 2020 and is described as a first floor, two-bedroom flat sold in a 'lettable' condition.
14. From these comparables Mr Balcombe has considered that the subject flats are generously size one-bedroom flats; that the ground floor flat has the rear garden demised; that the external condition may result in future large service charge bills and that the leaseholders are assumed to have complied with the terms of their leases. On that basis he adopts a long lease value of £250,000 for the ground floor flat and £240,000 for the value of the first floor flat. He further adopts a 1% adjustment between long lease and freehold values.
15. The unexpired terms at the valuation date are 63 years. Mr Balcombe states that there is no short lease evidence. Therefore, he concludes that it would be appropriate to adopt the Savills 2015 graph of relativity. From this graph he uses a figure of 80.3% for relativity.
16. By inputting these variables into a valuation formula, Mr Balcombe calculates the premium for the subject property to be £64,400. From these factors, he has also calculated that the proportion of the value is derived as £33,100 for the ground floor flat and £31,300 for the first floor flat.

FINDINGS.

17. In respect of the correct Respondents in this case, whilst the Tribunal appreciates the terms of the Order, we consider that it would be correct to identify Mr Whitfield as both an Applicant and Respondent in this

case, reflecting his position both as a leaseholder of ground floor flat and as the joint freeholder.

18. The Tribunal is happy to adopt the capitalisation rate and the deferment rates proposed by Mr Balcombe. The ground rents are set at a modest level and with stepped increases. However, the level of growth is limited and is not geared to market values. The adoption of 5% as a deferment rate is standard and in line with relevant case law and is accepted by the Tribunal.
19. In respect of the long lease value of the two flats, the comparables provided for the units are useful and in relatively close proximity and overall require marginal adjustments. Overall, the Tribunal is happy with the analysis undertaken and accepts the figures put forward by Mr Balcombe. The Tribunal therefore adopts the value of £250,000 for the ground floor flat and £240,000 for the value of the first floor flat. We also accept the 1% adjustment between long lease and freehold values.
20. As to the issue of relativity, it is accepted that due to the lack of any short lease evidence the use of the relativity graphs would be appropriate in this case. Therefore, the Tribunal accepts a relativity of 80.33% from the Savills 2015 graph of relativity for the current unexpired terms.
21. The Tribunal has checked all these variables and the valuations and accepts the figures proposed by Mr Balcombe and determines the premium of £64,400.
22. The Tribunal is also required to determine any other sums payable under section 27(5)(b) of the Act. It would appear that no ground rents have been demanded and there are no details as to whether any service charges have been demanded. However, if the Respondents have not served any rent or service charge demands in the statutory form no arrears of service charges are payable and therefore no sum is therefore payable into court under section 27(5)(b) of the Act.
23. The TR1 form as provided is amended as follows:
 - Panel 5 the transferee should also included Mr Matthew Charles Whitfield
 - Panel 11 should have the following wording: “*This conveyance [or transfer] is executed for the purposes of Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993.*” (section 34(10) of the Leasehold Reform, Housing and Urban Development Act 1993 and rule 196 of the Land Registration Rules 2003)” and “*The transferees hereby covenants with the transferor hence from to observe the covenants on the part of the Landlord contained in the registered leases and to indemnify the transferor against all costs claims or demands made in respect of any future breach non-observance thereof.*”

ANNEX - 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