



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

Case Reference : LON/OOAC/OCE/2015/0127

Property : 16 Milton Road, Mill Hill, London
NW7 4AX

Applicants : Jennifer Ann Schaverien and Alan
Roy Baldwin

Representative : Alan Edwards & Co. Solicitors

Respondent : Leonard Walters

Representative : None

Type of application : To determine the terms on which
the freehold is to be acquired
where the landlord is missing

Tribunal members : Angus Andrew
Richard Shaw FRICS

Date of determination : 24 June 2015

DECISION

1. This is an application under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") to determine the price to be paid for and other terms of acquisition of the freehold of 16 Milton Road, London NW7 4AX. The property comprises two flats, one on the ground floor and the other on the first floor with a more recent loft extension that we assume was approved by the landlord. Both flats are of modest proportions although the ground floor flat has the benefit of the rear garden whilst the first floor flat has the benefit of the front garden and a small roof terrace. The ground floor flat is held on a lease for a term of 99 years from 24 June 1982

and reserves an annual ground rent of £10.50. The first floor flat is also held on a lease for a term of 99 years but from 24 June 1983 so that it has an additional year left to run. The lease of the first floor flat reserves an annual ground rent of £20 rising to £120.

2. The landlord cannot be found and by an order made on 21 April 2015 the county court transferred the claim to this tribunal for a determination of the terms of acquisition of the freehold in accordance with sections 26 and 27 of the Act.
3. The applicant leaseholders rely on a valuation report prepared by Andrew Laurence Cohen FRICS of Talbots Surveying Services Ltd. He has inspected the property and describes it as being in a popular residential road. It was built in the Edwardian era as an end of terrace house that was subsequently converted into two self-contained flats.
4. Having ignored the tenants' improvements Mr Cohen concludes that the ground floor flat has a freehold value of £320,000 and the first floor flat a freehold value of £310,000. He has based those values on a number of comparable transactions the most relevant being the sale of the ground floor flat at 37a Birkbeck Road, London NW7 for £330,000. That flat was described as being in very good order and the sale was close to the valuation date so that the price did not have to be adjusted for time. We accept his valuations.
5. Mr Cohen takes 20 November 2014 as the valuation date whereas the application to the County Court appears to have been made on 24 November 2014. However the difference is immaterial and we ignore it. Consequently at the valuation date the unexpired term of the ground floor lease was 66.59 years and the unexpired term of the first floor lease was 67.59 years.
6. Mr Cohen in his report adopts a relativity of 90.35% for the ground floor flat and 91% for the first floor flat. These relativities are based on a basket of common relativity graphs taken from the RICS Research report and we accept them. However in his concluding valuation he uses relativities of 90.80% and 91.50% and that is clearly a mistake. The agreed relativities of 90.35% and 91% produce existing lease values of £289,120 for the ground floor flat and £282,100 for the first floor flat rather than the values of £290,560 and £283,650 contained in Mr Cohen's concluding valuation.
7. Mr Cohen has applied a capitalisation rate of 8% to the ground floor ground rent of £10.50 and 7% to the higher first floor ground rent that is subject to upward increase. Although it might be more usual to apply a rate of 7% to both ground rents we accept his reasoning that the very small ground floor ground rent, which is not subject to upward increase, justifies a higher rate. Equally we agree with the deferment rate of 5% adopted by Mr Cohen, which is consistent with Sportelli.

8. The use of the correct relativities results in slightly higher marriage values of £18,334 for the ground floor flat and £15,684 for the first floor flat. We have also added the nominal sum of £100 suggested by Mr Cohen for development potential to which we do not object.
9. We determine the price to be paid for the freehold interest in the property at £41,871 and a copy of our valuation is attached.
10. We are asked to approve the form of transfer at pages 127 to 129 of the document bundle. It is with limited title guarantee as required by paragraph 2(2)(b) of Schedule 7 to the Act and it contains the statement required by section 34(10) of the Act. We approve the transfer subject to the following:-

- a. In panel 8 the receipt should record that the premium has been paid into court.
- b. Pursuant to paragraph 5 of Schedule 7 to the Act the following indemnity covenant should be added to panel 11:-

“The transferees hereby jointly and severally covenant with the transfer to observe and perform the restrictive covenants referred to in entry number 1 in the charges register and to indemnify the transferor against all costs claims and demands made in respect of any future breach or non-observance thereof”.

- c. In panel 12 the execution clause should state:-

“Signed as a deed by the officer of the court nominated to execute this deed on behalf of Leonard Walters in accordance with the order of the court dated 21 April 2015”.

Name: Angus Andrew

Date: 24 June 2015

Appendix A

16 Milton Road, London NW7 4 AX

Ground Floor Flat

Value of Freeholder's interest

Term
 Rent 10.5
 YP 66.59 yrs @8% 12.4257 130

Reversion
 Freehold value 320,000
 deferred 66.59 yrs @5% 0.0388 12,416

Value of Freehold interest 12,546

Marriage Value

Aggregate of values after enfranchisement

Landlords interest 0
 Tenant's proposed interest 320,000
 Less 320,000

Aggregate of values before enfranchisement

Landlord's interest 12,546
 Tenant's interest 289,120

Relativity 90.35%

Marriage vlaue 301,666
 18,334

50% 9,167
21,713

Ground Floor Flat

First Floor Flat

Value of Freeholder's interest

Term
 Rent 40
 YP 18.59 yrs @ 7% 10.2245 409

Rent 80
 YP 25 yrs @ 7% 11.6536
 deferred 18.59 yrs @ 7% 0.2843 265

Rent 120
 YP 24 yrs @7% 11.4693
 deferred 43.59 yrs @7% 0.0524 72

Reversion
 Freehold value 310,000
 deferred 67.59 yrs 0.037 11,470

Value of Freehold interest 12,216

Marriage Value

Aggregate values after enfranchisement

Landlords interest 0

Tenant's proposed interest	310,000		
Less		310,000	
Aggregate of values before enfranchisement			
Landlord's interest	12,216		
Tenant's interest	282,100		Relativity 91%
		294,316	
Marriage vlaue		15,684	
		50%	7,842
First Floor Flat			20,058
Ground Floor Flat		21,713	
First Floor Flat		20,058	
Appurtenant Land/Development value		100	
Total		41,871	