

4216



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

Case reference : **LON/00BB/OCE/2016/0093**

Property : **75 Margery Park Road, Forest Gate,
London E7 9LD**

Applicant : **(1) Carol Wint &
(2) David Ainsworth (lessees)**

Representative : **Laing Law**

Respondent : **(1) Paul Haim &
(2) John Michael West**

Representative : **None (missing landlords)**

Type of application : **Sections 26 & 27 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal members : **Judge Timothy Powell
Mr Ian Holdsworth FRICS**

**Date of determination
and venue** : **22 June 2015 at
10 Alfred Place, London WC1E 7LR**

Date of decision : **11 July 2015**

DECISION

Background

1. The applicants are respectively the long leaseholders of 75A and 75B Margery Park Road, Forest Gate, London E7 9LD, being the ground & first floor and the first & second floor flats of a building at 75 Margery Park Road ("the premises"). The freehold title of the premises is registered under title number EGL52550. The applicants wish to acquire the freehold of the premises under the Leasehold Reform,

Housing and Urban Development Act 1993, but it appears that the respondent freeholders cannot be found.

2. The applicants made an application to the county court for a vesting order pursuant to section 26(1) of the 1993 Act. By an order dated 20 November 2013, District Judge Jackson, sitting in the County Court at Central London, made an order that the freehold interest in the premises shall vest in the applicants jointly, upon such terms and at such price as may be determined by the First-tier Tribunal (Property Chamber) to be appropriate, and in a form approved by the tribunal. The county court order provides that once the applicants have paid into court all appropriate sums for the new lease as determined by the tribunal, the applicants' solicitors, Laing Law, 95 Holdenhurst Road, Bournemouth BH8 8DS shall be entitled to execute the conveyance of the respondents' interest in the premises to the applicants.

The premises

3. The premises comprise two purpose-built maisonettes (referred to as Flats A and B), constructed in around 1985. The premises are detached from neighbouring properties and appear to be of conventional construction (the walls are mainly of cavity construction, the floors are mainly of suspended timber construction and the roofs are pitched and tiled). The windows are double-glazed.
4. To the rear of the premises, a terrace adjoining the building has been demised to Flat A, with a depth of around 12 feet (3.7 metres); a garden has been demised to Flat B, with a depth of around 56 feet (17.1 metres) and, between the two, a car parking space has been demised to each of the flats.
5. The premises are located at the southern end of Margery Park Road, within a mainly residential area and close to West Ham Park. The busy Romford Road, which forms part of the A118, is located around half a mile to the north of the premises.
6. Both leaseholders hold leases that run for 99 years from 1 January 1985 at an initial ground rent for the first 33 years of £50 per annum, rising to £100 per annum for the next 33 years, and £150 per annum for the remainder of the term.

The hearing

7. The applicants' solicitors provided a bundle of relevant documents for the tribunal to determine the relevant issues on the papers, without a hearing. However, certain queries arose from those papers, so an oral hearing was arranged for 22 June 2016, when Mr Daniel Conway MRICS, a partner in Conways Chartered Surveyors, attended on behalf

of the applicants. On that occasion, Mr Conway relied upon his original report of 26 June 2015 and a supplemental report of 31 May 2016, in order to assist the tribunal in making its determinations.

The comparable evidence

8. In relation to the premium to be paid, Mr Conway's original report concluded that the premium payable should be £22,600 as at the valuation date (which is the 1 November 2012, being the date of issue of the county court proceedings). In response to queries from the tribunal, Mr Conway handed in further evidence at the outset of the hearing, including colour photographs of the interiors of Flats A and B, and a previous LVT decision concerning a property with a similar unexpired lease term as the present flats, namely 71.2 years.
9. Mr Conway's report contained five comparable sales transactions in the Forest Gate area, which he submitted in evidence in a schedule to his report, together with details and location plan, as follows:

	Address	Date of sale	Price £	Approx. area (sq ft)	Description
1.	Flat A, 43 Margery Park Road	1.3. 2012	167,000	657	Two bedroom, first floor flat; conversion
2.	Flat A, 21 Salisbury Road	1.11.2012	160,000	743	Two bedroom, first floor flat; conversion
3.	Flat 12, Fyfield Court, Disraeli Road	1.3.2013	190,000	689	Two bedroom, ground floor flat with communal garden; conversion
4.	Flat B, 5 Lorne Road	1.7.2013	230,000	818	Two bedroom first floor flat with garden
5.	Flat A, 177 Ham Park Road	1.9.2013	230,000	719	Two bedroom ground floor flat; conversion

10. Of these, Mr Conway he preferred three transactions, namely numbers 1, 3 and 5. The tribunal considered that these properties were reasonable matches to the subject in terms of location, gross internal area, type and accommodation. The long leasehold sales of the remaining two properties, at 21 Salisbury Road and 5 Lorne Road, were not used directly to determine market value.
11. Two of the preferred sale transactions, those at 43 Margery Park Road and 177 Ham Park Road, were of converted 1890s properties, with shared access. An adjustment of 10% was added to the sale values to reflect these factors, which are significant differences to the more recently-built subject premises, with private access to each flat. A similar adjustment was made to the property sale price of the third

preferred transaction, at Fyfield Court, to reflect its situation in a multi-storey block of flats, with common access.

12. No adjustment was made to the Margery Park Road comparable for location, but the Ham Park Road comparable was considered to be in a superior position to the subject and the price was adjusted by -5%. A supplement of 5% was made to the Fyfield Court property sale price, to reflect the inferior location.
13. The adjustments made by the tribunal are seen in the table below:

Long leasehold sales evidence										
Comparable Evidence	Date of Sale	Price	Area	Price per ft	Type	Adjustments to Evidence			Adjusted value per £/ft	
						Location	Age	Total % change		
1 Flat A 43 Margery Park Road Forest Gate London E7	01/03/2012	£167,000	657	£254	7.50%	0.00%	2.50%	10.00%	£280	
2 Flat A 21 Salisbury Road Forest Gate London E7	01/11/2012	£160,000	743	£215						
3 Flat 12 Fyfield Court Disraeli Road Forest Gate	01/03/2013	£190,000	689	£276	7.50%	5.00%	2.50%	15.00%	£317	
4 Flat B No 5 Lorne Road Forest Gate London E7	01/07/2013	£230,000	818	£281						
5 Flat A 177 Ham Park Road Forest Gate	01/09/2013	£230,000	719	£320	7.50%	-5.00%	2.50%	5.00%	£336	
Average				£269					£311	

14. These adjustments produce a value per square foot for the long leasehold value of £311, equivalent to a market worth of £185,000 for Flat A and £216,000 for Flat B.
15. The tribunal then adopts the same price supplements as the applicants' expert, to reflect the presence of a garden, terrace or car parking spaces. These produce an adjusted long leasehold value of £200,000 for Flat A and £240,000 for Flat B.

Appurtenant property

16. It was agreed at the hearing that the enfranchisement requires the acquisition of appurtenant property from the freeholder. This is the roadway that leads from the highway beneath part of the property to the rear car parking spaces and turning areas.
17. The tribunal determines the total value of this area as £1,500. The cost of compensation to the freeholder is shared equally between the leaseholders.

Relativity

18. The applicants' expert, Mr Conway, had used three relativity graphs as sources of relativity. These are the graphs prepared by Nesbitt and Co, Andrew Pridell Associates Ltd and Beckett and Kay. He argued this sample of graphs best represented relativity outside central London.

19. After careful consideration, the tribunal decided to adopt the Nesbitt and Co relativity graph only, because it relies upon transaction and settlement data gathered in the northern outer suburbs of London, more akin to the location of the subject flats.
20. The relativity adopted for these leases with an unexpired term of 71.17 years is 91.6%.
21. No market evidence was offered to corroborate the relativity derived from the RICS graphs.

Capitalisation and deferment rates

22. Mr Conway adopted a capitalisation rate of 7% and a deferment rate of 5%, both of which are standard.
23. In the circumstances, the Tribunal determines the premium sum payable is **£28,060**, as follows:

75a Margery Park Road, Forest Gate:	£12,880
75b Margery Park Road, Forest Gate:	<u>£15,180</u>
Overall premium for enfranchisement:	£28,060

24. A copy of the tribunal's valuation calculation is annexed.

Other sums payable

25. The only other sum potentially due from the applicants to the respondents is the unpaid ground rent. However, by virtue of section 166 of the Commonhold and Leasehold Reform Act 2002, a tenant is not liable to make a payment of rent under a lease unless the landlord has given him a notice, in the prescribed form, relating to the payment. As the landlords are missing and have not given such notice, no ground rent, or other sum, is payable by the applicants.

Form of transfer

26. The Tribunal has seen the terms of the proposed Form TR1 and determines that they are satisfactory, subject to:
 - (i) In panel 2, the description of the Property should be: "75 Margery Park Road, Forest Gate, London E7 9LD";
 - (ii) In panel 8, the third box (not the first) should be checked and beneath it insert: "The sum of £28,060 has been paid into court pursuant to an order made claim number 2CLO2639"; and

- (iii) In panel 12, after the word MILLER, insert: “on behalf of the transferees”.

Name: Judge Timothy Powell **Date:** 11 July 2015

Attached: Approved valuation

LON/00BB/OCE/2016/0093			
Property: 75a Margery Park Road Forest Gate London E7 9LD			
Lease and Valuation Data			
Lease Term:	01/01/1985		
Lease Expiry date:	31/12/2083		
Unexpired term as at valuation date:	71.17	years	
Date of Valuation	01/11/2012		
Rent receivable by landlord:			
Payable from valuation date for 5.2 years	£	50	
Payable from review date for 33 years	£	100	
Payable from review date for 33 years	£	150	
Values			
Reversionary lease value on statutory terms	£	200,000	
Notional Freehold taken as Long Lease Value	£	200,000	
LHVP	£	183,200	Relativity 91.60%
Capitalisation rate (%)			
	7.00		
Deferment rate (%)			
	5.00		
Value of Freeholders present interest			
Term 1			
Ground rent payable	£	50	
YP @ 5.2 years @ 7%		4.23710	£ 212
Term 2			
Ground rent payable	£	100	
YP @ 33 years @ 7%		12.75379	
Deferred for 5.2 years @ 7%		0.7034	£ 897
Term 3			
Ground rent payable	£	150	
YP @ 33 years @ 7%		12.75379	
Deferred for 38.2 years @ 7%		0.0754	£ 144
Reversion			
Freehold value of flat	£	200,000	
PV of £1 in 71.17 years at 5%		0.03104	£ 6,209
Freeholders interest value			
			£ 7,462
Calculation of Marriage Value			
Value of flat with long lease on statutory terms	£	200,000	
Landlords proposed interest		Nil	£ 200,000
Less			
Value of Leaseholders existing interest	£	183,200	
Value of Freeholders current interest	£	7,462	£ 190,662
Marriage value			
	Total		£ 9,338
Division of Marriage Value equally between			
Freeholder			£ 4,669
Leaseholder			£ 4,669
Price payable to Freeholder			
Value of freeholders current interest			£ 7,462
Plus share of marriage value			£ 4,669
Other compensation for loss incurred by freeholder			£ 750
Appurtenant property			
Total			£ 12,881
Say			£ 12,880

LON/00BB/OCE/2016/0093			
Property: 75b Margery Park Road Forest Gate London E7 9LD			
Lease and Valuation Data			
Lease Term:	01/01/1985		
Lease Expiry date:	31/12/2083		
Unexpired term as at valuation date:	71.17	years	
Date of Valuation	01/11/2012		
Rent receivable by landlord:			
Payable from valuation date for 5.2 years	£	50	
Payable from review date for 33 years	£	100	
Payable from review date for 33 years	£	150	
Values			
Reversionary lease value on statutory terms	£	240,000	
Notional Freehold taken as Long Lease Value	£	240,000	
LHVP	£	219,840	Relativity 91.60%
Capitalisation rate (%)			
		7.00	
Deferment rate (%)			
		5.00	
Value of Freeholders present interest			
Term 1			
Ground rent payable	£	50	
YP @ 5.2 years @ 7%		4.23710	£ 212
Term 2			
Ground rent payable	£	100	
YP @ 33 years @ 7%		12.75379	
Deferred for 5.2 years @ 7%		0.7034	£ 897
Term 3			
Ground rent payable	£	150	
YP @ 33 years @ 7%		12.75379	
Deferred for 38.2 years @ 7%		0.0754	£ 144
Reversion			
Freehold value of flat	£	240,000	
PV of £1 in 71.17 years at 5%		0.03104	£ 7,450
Freeholders interest value			
			£ 8,703
Calculation of Marriage Value			
Value of flat with long lease on statutory terms	£	240,000	
Landlords proposed interest	Nil	£	240,000
Less			
Value of Leaseholders existing interest	£	219,840	
Value of Freeholders current interest	£	8,703	£ 228,543
Marriage value			
	Total		£ 11,457
Division of Marriage Value equally between			
Freeholder		£	5,728
Leaseholder		£	5,728
Price payable to Freeholder			
Value of freeholders current interest		£	8,703
Plus share of marriage value		£	5,728
Other compensation for loss incurred by freeholder			
Appurtenant property		£	750
Total			
		£	15,182
Say			
		£	15,180

LON/00BB/OCE/2016/0093	
75a and 75b Margery Park Road Forest Gate London E7 9LD	
Summary of premium sums payable	
75a Margery Park Road Forest Gate	£ 12,880
75b Margery Park Road Forest Gate	£ 15,180
Overall premium for enfranchisement	£ 28,060