



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

**Case Reference** : **LON/00BH/OCE/2019/0251**

**Property** : **63 Queens Road, London E11 1BA**

**Applicants** : **Kieran Jame Walsh  
Elaine Catherine Walsh  
Khizar Hussain**

**Representative** : **Rahman & Co Solicitors Ltd**

**Respondent** : **Bhajah Singh Chima  
Jugpal Singh Chima  
Lakbir Singh Chima  
Ragbir Singh**

**Representative** : **N/A**

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

**Tribunal Members** : **P M J Casey Valuer Chairman  
Judge Timothy Powell**

**Date and venue of  
Original Hearing** : **Paper hearing on 4 February 2020  
10 Alfred Place, London WC1E 7LR**

**Date of Decision  
Amended on** : **10 February 2020  
2 March 2020**

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**AMENDED DECISION**

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### **Decisions of the tribunal**

- (1) The tribunal determines that the purchase price payable for the Freehold interest in 63 Queens Road, London E11 1BA (“the property”) is the sum of £12,275.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

### **The application**

1. The applicants seek a determination by the Tribunal pursuant to an order made under the provisions of S26 of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by District Judge Davies sitting at the County Court at Edmonton on 27 November 2019 of the price to be paid into Court on the acquisition of the freehold interest in the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 16 July 2019 by Rahman & Co Solicitors Ltd on behalf of the applicants in which it was said that the applicants were entitled to acquire the property under the provisions of the Act.

### **The hearing**

3. In response to the Tribunal’s directions which provided for a determination on the papers to be submitted, the applicants’ solicitors provided a bundle of documents including a valuation report dated 16 January 2020 for use in Tribunal proceedings prepared by Mark Dooley BSc MRICS of Hull & Co. Whilst the wrong valuation date has been used by Mr Dooley in that it should be the date the claim was issued not the date the Order was made this make little difference to the premium payable and the tribunal can make its determination on the evidence thus provided.
4. The Tribunal considered the hearing bundle on 4 February 2020. No inspection of the property was deemed necessary given the description, photographs and plans included in the report.

### **The evidence**

5. From the description of the property in the report it is a two storey terraced former house erected in the late part of the 19<sup>th</sup> century of traditional construction and converted circa 1995 to provide two self-contained flats. The ground floor flat comprises 3 rooms, kitchen and Bath/WC and cellar storage (28.09m<sup>2</sup>) whilst the first floor flat also has 3 rooms, kitchen and shower/WC. The gross internal area is said to be 64.25m<sup>2</sup> for the ground floor and 73.1m<sup>2</sup> for the first. The photographs show both flats to be in reasonable condition. Both flats share the front

forecourt but there is only one car parking space and both have a delineated part of the rear garden.

6. The ground and first floor flats at the property are held on 125 year leases from 24 March 1995 and 30 March 1995 respectively subject, at the valuation date, to a ground rent payment of £75.00 per annum rising for the following 42 years to £150.00 per annum and rising to £225.00 per annum for the final 41 years of the term.
7. At the Valuation Date, 16 July 2019, the leases had just over 100.7 years unexpired.
8. Mr Dooley gives his opinion of the value of the extended lease value of each flat by reference to three completed sales of similar properties in the location. From this evidence he says the value of the ground floor flat is £480,000 and the upper flat is £530,000. From each figure he deducts £5,000 for “tenants’ improvements” though only the tenant of the ground floor flat provided a list of what these comprised. He does however uplift his opinion of the extended lease value of both flats by 1% to give the value of the freehold reversion.
9. To capitalise the ground rent income for the unexpired term of the existing leases in his valuation of the existing freehold interest in the property he adopts a rate of 7% whilst to arrive at the present value of the freeholder’s right to possession on the expiration of the existing lease terms he adopts the “Sportelli” deferment rate of 5%.
10. He rightly points out that as both leases have more than 80 years unexpired there is no marriage value. He does however add £2,000 to the premium for what he says is compensation to the landlord in respect of the potential of the seemingly undemised roof space a factor he says he has successfully used in negotiations in the past with leaseholders reluctant to proceed to tribunal.
11. His valuation attached to his report produces a purchase price of £12,275.

### **The decision**

12. Mr Dooley supports his capitalization rate by reference to a case heard by the First-tier Tribunal in which both valuers adopted 7% but there the Ground Rent was fixed at £25 for the term. The Ground Rents here are a more attractive proposition being larger amounts and rising over the term. In the tribunal’s view 6% is more appropriate. His adoption of the Sportelli rate of 5% to defer the reversion is however accepted.
13. His opinion of the extended lease values of the flats is supported by the sales evidence for which reasonably full particulars have been provided

and there is considered adjustment and analysis of such evidence. His opinion of value in the ground floor flat is accepted in the sum of £480,000 but with no allowance for the effect on value of tenant's improvements as none are listed. Likewise the tribunal accepts £530,000 as the value of the first floor flat and whilst there is a list of things the tenant says have been done to the flat few if any of these amount to improvements that are likely to have increased the value of the flat.

14. Mr Dooley's sum as compensation to the landlord for the loss of potential development space in the undemised roof space also seems out of place. Sums paid by tenants as a consequence of the "DeLaforce effect" would form no part of a determination by a tribunal. Mr Dooley's rough and ready calculation of the possible value of such space on the reversion shows a very small sum which by the time the various risks are factored in, planning, structural integrity, costs, etc becomes negligible. The only person who could do anything with the space before the reversion falls in is the owner of the lease of the first floor flat who certainly has a sufficiently long unexpired term but whether he or the landlord would get together and release any potential latent value adds yet further layers of risk and it is difficult to see a purchaser of the freehold increasing his bid by 20% to reflect such a remote prospect. However as this is an absent freeholder case the tribunal sees no good reason to reduce the purchase price proposed by the applicant which would allow circa £1,000 as a "gambling chip" for potential roof space development.
15. The tribunal's valuation is as set out below.
16. No other sums are payable as no valid demands for ground rents are believed to have been made in the last 20 years.
17. ~~No draft form TR1 setting out the proposed terms of the conveyance has been included in the bundle and the tribunal is not in a position to comment on the terms of transfer.~~ A draft form TR1 appeared at pages 116-118 of the hearing bundle but, following correspondence with the tribunal, a new TR1 was submitted for consideration on 24 February 2020. The new TR1 is approved, save that:
  - (i) In Panel 10, delete the words: "This property is sold in pursuant to the court order"; and
  - (ii) In Panel 11, add the words: "This transfer is executed for the purposes of Chapter I of Part I of the Leasehold Reform, Housing and Urban Development Act 1993'.

**Name:** Patrick M J Casey                      **Date:** 10 February 2020  
Judge Timothy Powell                      **Amended:** 2 March 2020

LON/00BH/OCE/2019/0251

**First Tier Tribunal  
Property Chamber (Residential Property)**

**S26 Leasehold Reform Housing and Urban Development  
Act 1993**

**Price payable for the Freehold Interest in 63 Queens Road, London  
E11 1BA**

**Valuation date: 16 July 2019**

**Value of Freehold Interest**

Term 100.7 years unexpired			
Ground Rent Income (both flats)	£150		
YP 17.7 years @ 6%	<u>10.7</u>	£1,605	
Review to	£300		
YP 42 years deferred 17.7 years @ 6%	<u>5.5</u>	£1,650	
Review to	£450		
YP 41 years deferred 59.7 years @ 6%	<u>0.45</u>	<u>£203</u>	£3,458
<b>Reversion to F/H Vacant Possession (both flats) Value</b>	£1,011,000		
Deferred 100.7 years @ 5%	<u>0.0076</u>		<u>£7.684</u>
			£11,142
“Gambling chip” for possible roof space development			<u>£1.000</u>
			£12,142
<b>But say</b>	<b>£12,275</b>		

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).