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

Case Reference : **LON/OOBD/OCE/2013/0074**

Property : **7 St. Margaret's Road,
Twickenham, TW1 2 LN**

Applicants : **N7 Management Company Limited
(nominee purchaser)**

Representatives : **Ms N. Ridley and Mr G. Rahmet-
Samii (leaseholders and directors
of the nominee purchaser)**

Respondents : **Mr R. Valentini and Mr R. Mouny
(landlords)**

Representative : **Mr S. Harding MRICS who
appeared as both an advocate and
an expert witness at the hearing. He
was instructed by Comptons,
solicitors.**

Type of Application : **Application for the determination
of the premium payable made
under section 24 Leasehold
Reform, Housing and Urban
Development Act 1993 (the 'Act')**

Tribunal Members : **Professor James Driscoll, solicitor
(Tribunal Judge) and Mr John
Barlow JP, FRICS**

**Date and venue of
Hearing** : **7 August 2013 at 10 Alfred Place,
London WC1E 7LR**

Date of Decision : **3 September 2013**

DECISION

Summary of the decision

1. The premium payable for the acquisition of the freehold of the subject premises is the sum of £75,300 (that is seventy-five thousand, three hundred pounds which includes the sum of £1,000 for the appurtenant property).

Background

2. This is an application for the determination of the price payable for the acquisition of the freehold of the subject premises which is a converted block of four flats all held on qualifying long leases as defined in the Act. All of the leaseholders are participating in the enfranchisement claim.
3. The nominee purchaser was incorporated on behalf of the participating leaseholders to represent them in the enfranchisement claim and to acquire the freehold. It gave a notice seeking to acquire the freehold under section 13 of the Act on 25 August 2012 which the parties agree is to be treated as the valuation date. A premium of £52,000 was proposed (which included the sum of £1,000 for appurtenant property).
4. The respondents are the joint owners of the freehold of the property and the landlords under the leases. On or about 4 November 2012 a counter-notice was given under section of the Act admitting the claim and making a counter-proposal of £136,000 for the freehold.

The application to the tribunal

5. As the parties did not agree on the purchase price an application was made to the tribunal on 12 April 2013. Standard directions were given on 30 April 2013. A hearing was scheduled for 6 and 7 August 2013. In the event, the hearing took place during the morning of 7 August 2013 and the tribunal members carried out an inspection of the premises later that day. Each of the parties prepared and served a bundle of documents. The nominee purchaser decided not to instruct a valuer. Instead Ms Ridley, one of the leaseholders prepared a valuation which she spoke to at the hearing. The landlords instructed Mr Harding to prepare a valuation which he did.

The hearing

6. At the hearing the nominee purchaser was represented by Ms Ridley and Mr G. Rahmet-Samii who are the joint leaseholders of the second floor flat (the top flat) and members of the nominee purchaser company. The landlords were represented by Mr Harding who acted as both an advocate and as an expert witness on valuation. He was instructed by Comptons a firm of solicitors.

7. The parties signed a statement of agreed facts on 2 August 2013. They describe the building as a late Victorian four storey mid-terraced house containing four self-contained flats set over the lower ground to the second floor with one flat per floor. The building has a pitched roof.
8. All four flats are held on identical leases for a term of 99 years from 6 September 1982, with ground rents starting at £50 per annum, which will increase to £100 per annum from 6 September 2015, and then increase to £200 per annum from 6 September 2048.
9. They also agreed that the valuation date is 25 August 2012 and at that date the unexpired lease terms were each 69.03 years. A freehold unimproved value of £1,000,000 was agreed and they agreed also that the capitalisation rate is 6.5% and the deferment rate is 5%. (The value of the appurtenant property is agreed at £1,000).
10. Two issues divided them: (a) the relativity rate and (b) whether there is any value in the prospect of building a flat in the loft extension, a rear conservatory extension, and the conversion of the ground floor studio flat into a one bedroom flat. At the start of the hearing we were told that the development plans had changed in that that the landlord was no longer arguing that there is development value in the prospect of building a rear conservatory.
11. The nominee purchaser argues for a relativity rate of 92% and submits that there is no development value in the building as the landlord suggests. In reply the landlord argues for a relativity rate of 88.8 % and they contend that there is a net development value of £110,000 for a possible loft extension and a net figure of £15,000 for ground floor conversion.

Submissions and evidence for the nominee purchaser

12. After a brief opening Ms Ridley addressed us on the two disputed valuation issues. She has had interests as a freeholder and leaseholder in a number of properties in St Margaret's Road for thirty years. In preparing her submissions on value she relies on this experience, on two surveys and on information gleaned from valuation reports she is familiar with from other property transactions in the Road. She is not professionally qualified as a valuer but has made careful study of the local market and she has read about the basic principles governing the valuation of leasehold enfranchisement and new lease claims.
13. Her conclusions on relativity are drawn from three sources: graphs of relativity; transaction evidence and settlement evidence.
14. On relativity graphs she makes extensive reference to the RICS research paper on graphs of relativity (2009) which she submits has been used and approved by several decisions of the Upper Tribunal. She excludes the graphs which relate to prime central London and she also excludes the LEASE graph (that is the Leasehold Advisory Service) as this would produce

Wood & Co working paper on relativity (a copy is appended to his report), relativities for both prime central London and Greater London and two decisions of this tribunal (copies were appended to his report). He prepared an analysis of the available evidence as appendix 7 to his report. His overall conclusion is that a relativity of 88.8% should be applied in this case.

22. Mr Harding submits that there is additional marriage value in this case because of the two development opportunities: one is to develop the loft space above the top floor flat; the other the conversion of the ground floor flat into a one-bedroom flat.
23. He refers to the loft conversion at number 11 St. Margaret's Road where planning permission was granted to convert the loft into a self-contained flat. He refers also to the sale of flat 4, 209 St Margaret's Road which sold in May 2012 for £160,000. Allowing for the need to obtain planning permission and other consents and allowing also for the costs of the conversion (for which he relies on '..my own experience and that of friends' (page 6 of his report) he considers that the sum of £50,000 should be allowed generating a net profit of £110,000 where the landlord's share would therefore be the sum of £53,102.
24. Mr Harding also contends that the ground floor flat could, subject to the landlord's consent, be converted into a one-bedroom flat. He told us that a ground floor flat at number 29 St. Margaret's Road, which had been converted into a one-bedroom flat, sold for £218,000 in April 2012. This should be compared, he argues, with the sale of a studio flat at number 209 St. Margaret's Road for £170,000 in May 2012. He adjusts these figures to £200,000 and £190,000 which he says shows a potential development profit of £30,000. Although he does not produce any supporting evidence, he estimates that the conversion costs would be some £15,000 producing a net profit of £15,000 of which the landlord would receive one half.

Our inspection

25. We inspected the premises and other adjoining buildings on 7 August 2013. The subject property (originally a single terraced dwelling-house) has been converted to provide 4 flats on the basement, raised ground, first and second floors. Constructed in the latter part of the 19th century of London stock brick under a tiled roof, the property retains some original features including high ceilings and wooden sash windows. There is evidence of some settlement at top floor level especially round the right hand window when viewed from the street. This has resulted in the installation of a metal bar above the windows running across the frontage of the property in an attempt to prevent further movement.
26. The properties in the immediate vicinity are residential and front on to a relatively busy road which is subject to permit parking. So far as any future development/improvement of the properties concerned, it is felt that there may be scope for some expansion into the roof space and also some redesign internally within the raised ground floor flat. With regard to the roof space, this comprises an area equivalent to the footprint of the building

evidence. Many of the transactions she examined concerned leases with unexpired terms well in excess of 70 years. Even though she may have made efforts to adjust these results we consider that her proposed rate is on the high side and we return to this in paragraph 32 below.

32. We were far less impressed by Mr Harding's analysis. As his appendix 7 to his report shows he has relied on five graphs on transactions in prime central London. This property is in an expensive a popular location but the location can hardly be described as in the PCL. We do not, therefore, consider that evidence relevant to a property in Twickenham.
33. We have read the John D. Wood report and note that much of the commentary relates to PCL properties and that the graphs are based on LVT decisions. Using such decisions is no substitute for any available transaction evidence which Ms Ridley managed to assemble. Like Ms Ridley we believe that the non-PCL graphs can be a useful source of evidence.
34. Based on her evidence tempered by our own knowledge and experience leads us to the conclusion that the appropriate relativity in this case is **91%**.
35. We turn now to the issues of potential development dealing first with the proposed loft conversion. On the basis of our inspection of the top floor flat and our external inspections we do not think that the development proposed by the landlord is feasible for several reasons. First, it would require the leaseholder of the top floor flat to agree to lose space to enable access from the common area on the first floor. Clearly, the leaseholder would require compensation not only for the loss of part of the property demised under the lease but also for the costs of that leaseholder living in alternative accommodation whilst the works were being carried out. We find it impossible to believe that the leaseholder would be willing to transfer part of their property with the noise and the inconvenience during the conversion works, to say nothing of the permanent loss of privacy with a new living unit on top of their flat. We were also surprised that the landlord made no effort to find quotations for the works and we were not impressed at what appears to be no more than a guess of what the works would actually cost.
36. Another criticism is that the the potential costs of buying the loft space from the current landlord has not been considered at all. It is possible that a landlord who wished to dispose of this loft space would have to comply with the right of first refusal provisions in Part I of the Landlord and Tenant Act 1987.
37. Yet another problem with this proposal is that the building has suffered from movement which accounts for the installation of a metal bar as we noted at the inspection. There are also planning issues that were not fully addressed. We were surprised that those advising the landlord appear to have taken no steps to make enquiries of the local planning authority.
38. Another problems is that building a new flat would require changes to the service charge contributions in the existing leases. Variations of these

leases would be required and no doubt the landlord for the time being would expect the developer to meet these costs.

39. All these points have led us to the firm conclusion that building a studio flat into the loft space is an implausible proposition. However, on the basis of our inspection there is clearly room for the conversion of the loft space as an additional room for the top floor which could add additional value to that flat (but subject to the reservations we express in paragraph 27 above). However, this was not the case put forward on behalf of the landlord and it would not, therefore, be appropriate for us to consider what such development value could have on the price to be paid for the freehold.
40. All of these points lead us to the conclusion that there is no development value in the proposal that the loft space could be converted into a studio flat.
41. On the basis of our inspection of the ground floor there is clearly the potential for converting it into a one-bedroom flat. However, Mr Harding failed to deal adequately with the costings which makes it very difficult to assess the value of the proposed development. Doing the best we can we determine that the likely net profit given the increase in the value of a studio flat being converted into a one-bedroom flat allowing for the costs of the conversion and the costs the landlord may charge for consenting to the alterations is the sum of £20,000 which adds the sum of £10,000 to the marriage value.
42. Applying a relativity of 91% and valuing the development potential relating to the ground floor flat leads us to the conclusion that the price to be paid for the specified premises and the appurtenant property is the sum of £75,300. (The parties agreed that the price payable for the appurtenant property is the sum of £1,000 and this is included in the premium we have determined). A copy of our valuation is attached to this decision.

Judge James Driscoll and Mr John Barlow JP, FRICS
3 September 2013.

7, St. Margaret's Road, Twickenham Middlesex, TW1 2LN.

PURCHASE PRICE PAYABLE BY NOMINEE PURCHASER

in accordance with the Leasehold Reform, Housing and Urban Development Act 1993

Valuation Date	25/08/2012
Yield	6.50%
Deferment rate	5.00%
Unexpired Term	69.03

Freeholders interest

Ground rent receivable

YP 3 yrs @ 6.5%

£200.00

2.65

£530.00

Revised Ground rent receivable

YP 33 yrs @ 6.5%

13.46

£400.00

PV £ 3 yrs @ 6.5%

0.828

11.145

£4,458.00

Revised Ground rent receivable

YP 33 yrs @ 6.5%

13.46

£800.00

PV £ 36 yrs @ 6.5%

0.1036

1.394

£1,115.20

Reversion to agreed value

PV £ 69 yrs @ 5%

£1,000,000

0.034510

£34,510.00

Current freehold interest

£40,613.20

Marriage value

Agreed freehold value

£1,000,000

less existing interests

Freeholders Interest

£40,613.20

Lessees interest (based on 91% relativity)

£910,000.00

£950,613.20

Total Marriage value

£49,386.80

50% Marriage value

£24,693.40

Premium payable

£65,306.60

Plus

Net profit for conversion of raised ground floor unit

£20,000.00

Landlord's 50% share of above

£10,000.00

Total premium payable

£75,306.60

say **£75,300.00**