



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

Case Reference : LON/OOAZ/OCE/2015/0069

Property : 40 Loampit Hill, London SE13 7SW

Applicant : Forty Loampit Hill Limited

Representative : Mr Wilson Dunsin FRICS of Dunsin Surveyors

Respondent : Consultants in Care Limited

Representative : Mr Andreas Christou MA MRICS of Andrew Creighton Chartered Surveyors

Type of Application : Application under Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993

Tribunal Members : Tribunal Judge Dutton
Mr L Jarero BSc FRICS

Date and venue of Hearing : 10 Alfred Place, London WC1E 7LR on
7th July 2015

Date of Decision : 27th July 2015

DECISION

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The Tribunal determines that the price payable for the freehold of the property at 40 Loampit Hill, London SE13 7SW is £38,255 together with an additional sum of £250 in respect of the appurtenant land being the cellar under the ground floor flat, making a total sum payable of £38,505.

BACKGROUND - REASONS

1. This application was made by the nominee purchaser on the incorrect application form which relates a lease renewal. However, no point was taken on this and the matter proceeded to a hearing on 7th July on the basis of an application for enfranchisement under the provisions of Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993 (the Act). Directions had been issued by the Tribunal in March of this year and had been complied with.
2. We had before us two valuations, one prepared by Mr Dunsin of Dunsin Surveyors on behalf of the Applicant and the other by Mr Christou of Andrew Creighton Chartered Surveyors on behalf of the Respondent.
3. In the bundle of papers provided there were copies of the official register of title both of the freehold and the three leasehold flats in the property. A copy of the lease of the top floor flat was included as an example of the lease terms applying to all three as was the proposed transfer. In addition to the initial and counter notices we also had a statement of agreed facts and disputed issues. We are pleased to say that most matters had been agreed between the parties. These include:
 - The description of the property and the flats contained therein of which there are three on the ground, first and second floor.
 - The valuation date was agreed at 28th July 2014 as was the present lease term of 99 years from 23rd May 1986. This meant that there was an unexpired term at the valuation date of 70.82 years.
 - The deferment rate had been agreed at 5% and the capitalisation rate at 7%.
 - The recorded ground rents were £35 per annum for the first three years rising to £70 per annum for the next three years and £100 per annum for the final period of the term.
 - Marriage value was agreed at 50% together with an uplift from the extended lease value to freehold vacant possession value of 1%.
 - The relativity was agreed at 92.97%.
 - Finally the parties agreed that the Land Registry house price index for the London Borough of Lewisham may be used to make adjustments for time in respect of the various comparables.
4. This left the freehold vacant possession of the three flats to be determined. The Applicant's assessment of the freehold vacant possession value was £200,000 for the ground floor Flat A; £180,000 for the first floor Flat B and £160,000 for the top floor Flat C. No value was given to the appurtenant property. The freeholder by contrast valued Flat A at £320,000, Flat B at £315,000, Flat C at £250,000 and gave a value of the appurtenant property being the cellar under Flat A of £250.

- 5 Prior to the Hearing we had the opportunity of reading the reports of Mr Dunsin and Mr Christou and do not therefore need to go into any detail with regard to matters contained therein.

HEARING

- 6 Mr Dunsin presented his case first. He told us that there were three main comparable properties that he had chosen, all in Loampit Hill. Loampit Hill is a very busy road and the property itself has a small front garden so is close to the roadway. He thought this had an effect on value. The properties he had selected as comparable to the subject property were flats at 28A and 28D Loampit Hill and 35 Loampit Hill. He also referred to 51A Loampit Hill but thought that this was not a good comparable as it was well set back from the road with a long garden at the front, car parking and in a far better location. In a schedule of comparables and analysis he had relied on three properties at 28A, 28D and 35 Loampit Hill only. Taking the sale prices achieved for the three flats in 2014 and applying adjustments for time as well as disregarding £20,000 in respect of condition, he came to the conclusion that the freehold vacant possession values attributable to the flats in the subject premises were as set out in paragraph 4 above giving a total unimproved freehold vacant possession value of £540,000. By applying the agreed relativity he arrived at an existing lease value for the property at £502,038. Taking into account the value of the ground rent and applying marriage value at 50% he concluded that the premium that should be paid in respect of the property was £28,830.
- 7 When asked whether he had inspected the comparable properties he told us that he had not and explained the greater value he attributed to Flat A, which was smaller than Flat B, was because he had included the cellar within the demise and taking the value of the rear garden this justified the additional £20,000 attributable to Flat A. When asked about the comparables put forward by Mr Christou in his report, he thought that they were not comparable being in different locations to the subject premises and requiring considerable adjustment.
- 8 He was then asked questions by Mr Christou, one of which was why had not used the sale of Flat C in the building in April of 2010 at a price of £158,000. It was put to him that if he had used the Land Registry Index to uplift that would have given a price of around £239,000 at the valuation date taking into account the indexation and relativity. This is not a step that he used and did not consider indexation over that period of time helpful.
- 9 Following Mr Dunsin Mr Christou took us through that element of his report relevant to the issue before us. Contrary to Mr Dunsin he particularly relied on flats at 51B, 28A and 28D Loampit Hill as well as flats at 35 and the historic sale 40C Loampit Hill. He confirmed that in his view the market seemed quite buoyant. He accepted in respect of 51B Loampit Hill this was in a better location but in including that in his comparables he had taken cognisance of this fact and made adjustments for time, lease length, it was just below 70 years, position and car parking. He concluded that at the valuation date this would give rise to a value of £323,936.

- 10 He also indicated that for assessing the relative values of comparables he had used a square footage rate, as a guide. This method valuation did not appear in his report but told us that in assessing his comparables he had used indexation, taken advice from local agents and utilised a rate per square foot to reach his assessment of the values for the subject premises for Flat A at £320,000, Flat B at £315,000 and Flat C at £250,000. This gave a total value of the property of £885,000.
- 11 In respect of the appurtenant land, being the cellar, we were told by Mr Dunsin that he had no particular issue with the figure of £250 included by Mr Christou. However, he had included the cellar in his assessment of the value of the flat notwithstanding that the cellar did not form part of the demise.

THE LAW

- 12 We have applied the provisions of the Act in reaching our determination and in particular Schedule 6.

FINDINGS

- 13 We have been greatly assisted by Mr Dunsin and Mr Christou in narrowing the issues to such an extent. There is still, however, a considerable difference between them on the assessment of the freehold vacant possession value of the property. We have considered all that has been said by both valuers and also stated in their reports. Our findings are as follows.
- 14 We accept that the best comparables are those to be found in Loampit Hill. We do not agree with Mr Dunsin that 51B Loampit Hill should be disregarded. We accept it is a better property with some car parking to the front although not necessarily allocated and with exclusive use of part of the rear garden. We do not consider the split level nature of the property has any impact on the value as argued by Mr Christou. Mr Christou valued 51B Loampit Hill after adjustments at around £324,000. That, therefore, would be the top figure that could be attributed to any of the flats within the subject premises. However, we consider that there are considerable adjustments to be made. These relate to its location, the distance from the roadway, off street parking, which in this area must have considerable value, and condition, which appears to be superior to the subject property.
15. We were not greatly helped by either Mr Dunsin or Mr Christou as to what adjustments would be need to be made to the comparables to bring them in line with the subject premises. Mr Christou in his report at page 10 merely set out what he attributed to be the values of the subject flats without any real explanation as to how he achieved those figures. Indeed at the Hearing, as we indicated above, he introduced a square footage element which is not apparent from his report. Mr Dunsin, as we have indicated, took little or no notice of 51B Loampit Hill perhaps because it was unsupportive of the figures he was putting before us. The properties at 28 Loampit Hill were of a poorer quality to the subject premises.
16. What we have, therefore, is a range of values starting with those at 28 Loampit Road, at the bottom end of the valuation spread and 51B Loampit Hill at the top. Doing the best we can with the evidence that was provided to us, we have come to

the conclusion that the value for Flat A in the subject premises should be £250,000. We have achieved this value by considering not only the value of the property at 51B Loampit Hill but that also of Flat A 28 Loampit Hill where a figure of £210,000 was achieved for the sale of same in 2014. To compare 28A to the subject premises we need to add value for the garden of which there is exclusive use, the fact that the accommodation is larger and in a better location and in a more attractive property with no commercial element. To compare with 51B we need to make deductions for the location and in particular the off road parking and bear in mind the price achieved in 2015 of £315,000. Flat A at the property has only electric heating, it would seem, but we do not consider that would have a great impact on the price. Bearing in mind, therefore, the parameters set by 51B Loampit Hill and Flat 28A, we conclude that a price attributable to Flat A in the property would be £250,000 for the freehold vacant possession value.

17. Turning then to Flat B. We note that this is slightly larger than Flat A with the benefit of two bedrooms. It also has the use of the front garden, although that would have, in our view, little value. Again, considering the comparables at 51B Loampit Hill and 28 Loampit Hill we conclude that given the additional bedroom we should put a value of £275,000 on this property. We consider that the additional bedroom would add value. We appreciate that both valuers gave higher values for flat A than flat B but we consider that a two bedroomed flat will have greater value than a one bedroomed property and the value of the rear garden does not cancel out the value of the additional bedroom.
18. Finally, insofar as Flat C is concerned, we conclude that the comparable at Flat 28A Loampit Hill is perhaps the best with a sale price of £210,000. Flat C has restricted head height in part and of course is at the top of the property with no garden. Taking the matter in the round, we conclude that a value of £200,000 would be appropriate.
- 19 This therefore gives, in contrast to the freehold values suggested by Mr Dunsin and Mr Christou, an unimproved freehold vacant possession value of £725,000 for the property.
- 20 If we feed this figure into the calculations accepting the ground rent figure of £2,647 and applying the relativities, deferment rates and marriage value agreed by the valuers, leads us to the conclusion that the appropriate price payable for the freehold, excluding the appurtenant land is £38,255.
- 21 Insofar as the appurtenant land/cellar is concerned, we do believe that there is some value to be attributed to this. It is not within the demise of Flat A and should not therefore have figured in the assessment of its value. The figure put forward by Mr Christou is £250 which was not challenged by Mr Dunsin and we therefore find that that is the appropriate amount to be awarded in respect of this element which therefore gives a total price payable for the freehold of £38,505

Judge: *Andrew Dutton*

Andrew Dutton