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

Case Reference : LON/00AC/OCE/2016/0140

Property : 34 & 34A Durham Road London N2 9DT

Applicant : Isabel Poncia
Sylvia Yarwood
Carolyn Manoharan
Julie Yarwood

Representative : YVA Solicitors

Respondent : Stuart Jay Leon

Representative : not represented

Type of Application : S24 of the Leasehold Reform Housing and
Urban Development Act 1993

Tribunal Members : Mrs F J Silverman Dip Fr LLM
Ms M Krisko Bsc (Est Man) BA FRICS

**Date and venue of
paper consideration** : 10 Alfred Place London WC1E 7LR
8 June 2016

Date of Decision : 8 June 2016

- 10 In relation to the Applicant's valuation the Tribunal agrees with the total value of the ground rent calculation of £3,319 as well as the reversionary calculation resulting in a diminution in value of the freehold of £40,243.
- 11 However in the calculation of the marriage value a slight error has arisen in that the figure shown on Mr Lovatt's valuation of the lessee's present interest which should be 89.2% of the total freehold value of £1,005,000 as shown in his table at the top of p.125 of the hearing bundle. The corrected figure is £896,460. This gives a marriage value of £34,350 and results in a premium value of £74,593.
- 12 The Valuation date was taken to be as being 17 September 2015 .
- 13 The Tribunal approves the draft transfer as drawn.
- 14 The matter is remitted to the Willesden County Court.

The Law

S1 The right to collective enfranchisement.

- (1) This Chapter has effect for the purpose of conferring on qualifying tenants of flats contained in premises to which this Chapter applies on the relevant date the right, exercisable subject to and in accordance with this Chapter, to have the freehold of those premises acquired on their behalf—
 - (a) by a person or persons appointed by them for the purpose, and
 - (b) at a price determined in accordance with this Chapter;
 and that right is referred to in this Chapter as "the right to collective enfranchisement".
- (2) Where the right to collective enfranchisement is exercised in relation to any such premises ("the relevant premises")—
 - (a) the qualifying tenants by whom the right is exercised shall be entitled, subject to and in accordance with this Chapter, to have acquired, in like manner, the freehold of any property which is not comprised in the relevant premises but to which this paragraph applies by virtue of subsection (3); and
 - (b) section 2 has effect with respect to the acquisition of leasehold interests to which paragraph (a) or (b) of subsection (1) of that section applies.
- (3) Subsection (2)(a) applies to any property if at the relevant date either—
 - (a) it is appurtenant property which is demised by the lease held by a qualifying tenant of a flat contained in the relevant premises; or
 - (b) it is property which any such tenant is entitled under the terms of the lease of his flat to use in common with the occupiers of other premises (whether those premises are contained in the relevant premises or not).
- (4) The right of acquisition in respect of the freehold of any such property as is mentioned in subsection (3)(b) shall, however, be taken to be satisfied with respect to that property if, on the acquisition of the relevant premises in pursuance of this Chapter, either—
 - (a) there are granted by the person who owns the freehold of that property—
 - (i) over that property, or
 - (ii) over any other property, such permanent rights as will ensure that thereafter the occupier of the flat referred to in that provision has as nearly as may be the same rights as those enjoyed in relation to that property on the relevant date by the qualifying tenant under the terms of his lease; or

- (b) there is acquired from the person who owns the freehold of that property the freehold of any other property over which any such permanent rights may be granted.
- (5) A claim by qualifying tenants to exercise the right to collective enfranchisement may be made in relation to any premises to which this Chapter applies despite the fact that those premises are less extensive than the entirety of the premises in relation to which those tenants are entitled to exercise that right.
- (6) Any right or obligation under this Chapter to acquire any interest in property shall not extend to underlying minerals in which that interest subsists if—
 - (a) the owner of the interest requires the minerals to be excepted, and
 - (b) proper provision is made for the support of the property as it is enjoyed on the relevant date.
- (7) In this section—
 - "appurtenant property", in relation to a flat, means any garage, outhouse, garden, yard or appurtenances belonging to, or usually enjoyed with, the flat; [...] [FN1]
 - "the relevant premises" means any such premises as are referred to in subsection (2).
- (8) In this Chapter "the relevant date", in relation to any claim to exercise the right to collective enfranchisement, means the date on which notice of the section "the relevant premises" means any such premises as are referred to

S3 Premises to which this Chapter applies.

- (1) Subject to section 4, this Chapter applies to any premises if—
 - (a) they consist of a self-contained building or part of a building [...] [FN1];
 - (b) they contain two or more flats held by qualifying tenants; and
 - (c) the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.
- (2) For the purposes of this section a building is a self-contained building if it is structurally detached, and a part of a building is a self-contained part of a building if—
 - (a) it constitutes a vertical division of the building and the structure of the building is such that that part could be redeveloped independently of the remainder of the building; and
 - (b) the relevant services provided for occupiers of that part either—
 - (i) are provided independently of the relevant services provided for occupiers of the remainder of the building, or
 - (ii) could be so provided without involving the carrying out of any works likely to result in a significant interruption in the provision of any such services for occupiers of the remainder of the building;
 and for this purpose "relevant services" means services provided by means of pipes, cables or other fixed installations

Note:
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.