



**First-tier Tribunal  
Property Chamber  
(Residential Property)**

<b>Case Reference</b>	:	<b>CAM/00KF/OCE/2016/0024</b>
<b>Property</b>	:	<b>16 &amp; 16a Chalkwell Park Drive, Leigh-on-Sea, SS9 1NJ</b>
<b>Applicants</b>	:	<b>Benjamin John Copeland, Graham Charles Pond &amp; Nicola Pond</b>
<b>Represented by</b>	:	<b>Michael Stapleton FRICS</b>
<b>Respondents</b>	:	<b>Linda Margaret Barkass (not represented)</b>
<b>Date of Application</b>	:	<b>17<sup>th</sup> November 2016</b>
<b>Type of Application</b>	:	<b>To determine the terms of acquisition of the enfranchisement of the property where the landlord cannot be found (sections 26 &amp; 27 of the Leasehold Reform Housing and Urban Development Act 1993 (“the 1993 Act”))</b>
<b>Tribunal</b>	:	<b>Bruce Edgington (lawyer chair) Stephen Moll FRICS Roland Thomas MRICS</b>
<b>Date and place of hearing</b>	:	<b>28<sup>th</sup> February 2017 at the Court House, Tylers House, Tylers Avenue, Southend- on-Sea SS2 6EU</b>

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**DECISION**

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1. The ‘appropriate sum’ to be paid into court for the freehold of the property pursuant to section 27(3) of the 1993 Act is £2,465.00 i.e. £1,250 in respect of the ground floor flat and £1,215.00 in respect of the 1<sup>st</sup> floor flat. The Tribunal notes that the vesting order allows a deduction to be made in respect of costs. However this does not form part of the valuation exercise by the Tribunal to ascertain the appropriate amount to be paid into court in accordance with subsection 27(5) of the 1993 Act. There is no power under the 1993 Act to make any such deduction.
2. The remaining terms of the transfer are as set out in the document in the bundle provided to the Tribunal by the Applicants’ solicitors as approved by the Tribunal subject, of course, to (a) any reasonable requisitions which

may be raised by the Land Registry, and (b) the insertion of that appropriate sum.

## **Reasons**

### **Introduction**

3. This application is for the Tribunal to determine the terms (including the price) of the collective enfranchisement of the freehold of the property consisting of two flats following a vesting order made by Deputy District Judge Callaghan on the 2<sup>nd</sup> September 2016. The existing freehold owner cannot be found.
4. The said order does not actually dispense with the service of an Initial Notice but as a vesting order was clearly made, this is of no concern to the Tribunal. A combination of the effects of sections 1(8) and 27(1)(b) of the **Leasehold Reform, Housing & Urban Development Act 1993** ("the Act") should give the valuation date. However, the Tribunal is unaware of the date when the application for a vesting order was made and assumes it was on or about 5<sup>th</sup> July 2016, being the date of the statement in support. That date is therefore assumed to be the valuation date.
5. The freehold title is subject to 2 leases, details of which are known to the Applicants and their professional advisors.

### **The Inspection**

6. The members of the Tribunal inspected the property in the presence of the expert witness of the Applicants namely Mike Stapleton FRICS. His report had been sent to the Tribunal before the inspection.

### **The Law**

7. The price to be paid on collective enfranchisement is calculated in accordance with the provisions of Schedule 6 of the 1993 Act. The price includes (a) the value of the freeholder's interest if sold on the open market calculated in accordance with the assumptions in Paragraph 3 of the Schedule (b) the freeholder's share of the marriage value (if any) and (c) any compensation payable to the freeholder under Paragraph 5 of the Schedule.

### **The Hearing**

8. The hearing was attended only by Mr. Stapleton. The members of the Tribunal had been able to discuss the evidence after the inspection but before the hearing and had determined that Mr. Stapleton's basic figures would be accepted. However, the Tribunal noted that there were some slight errors in Mr. Stapleton's calculations in respect of the ground floor flat which the Tribunal went through with him.
9. He readily accepted this and it was agreed between the Tribunal and Mr. Stapleton that rather than spend time re-calculating all the figures a nominal reduction would be made to £1,250.00.

### **Conclusions**

10. As has been said, the revised figures supplied by Mr. Stapleton were agreed by the Tribunal.

11. As far as the draft transfer is concerned, the Tribunal determined that it was agreed save for the matters set out in the decision above.

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**Bruce Edgington**  
**Regional Judge**  
**1<sup>st</sup> March 2017**

#### **ANNEX - RIGHTS OF APPEAL**

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.