



4483

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

**Case Reference** : CAM/00KF/OCE/2017/0010

**Property** : 94 Lord Roberts Avenue,  
Leigh-on-Sea,  
SS9 1NE

**Applicants** : Maureen Pope, Sarah Jacinta Baker  
and Joanna Mary Watts

**Represented by** : Danny Turpin (solicitor) and Mark  
Dooley BSc MRICS

**Respondent** : Robert John Hill  
(not represented)

**Date of transfer from : 22<sup>nd</sup> February 2017  
the county court sitting  
at Southend**

**Type of Application** : To determine the terms of acquisition  
of the enfranchisement of the property  
where the landlord cannot be found  
(sections 26 & 27 of the Leasehold  
Reform Housing and Urban  
Development Act 1993 (“the 1993 Act”))

**Tribunal** : Bruce Edgington (lawyer chair)  
Stephen Moll FRICS  
Gerard Smith MRICS FAAV REV

**Date and place  
of hearing** : 28<sup>th</sup> February 2017 at the Court House,  
80 Victoria Avenue, Southend-on-Sea  
SS2 6EU

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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 £6,400.00 i.e. £3,075.00 in respect of the ground floor flat and £3,325.00 in respect of the 1<sup>st</sup> floor flat.
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 to (a) any reasonable requisitions which may be raised by the Land Registry, (b) the insertion of the appropriate sum, (c) the alteration of clause 11.1 to reflect that it is for the purposes of Part 1 Chapter 1 of the 1993 Act and not the other way round and (d) the insertion of the words "*jointly and severally*" after the third word of clause 11.2 and the second word shall be "*transferees*" (plural).

## 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 Regional Judge Edgington sitting as a District Judge of the county court on the 17<sup>th</sup> March 2017. The existing freehold owner cannot be found. A combination of the effects of sections 1(8) and 27(1)(b) of the **Leasehold Reform, Housing & Urban Development Act 1993** ("the Act") mean that the valuation date is 22<sup>nd</sup> February 2017.
4. The freehold title is subject to 2 leases, details of which are known to the Applicants and their professional advisors. The identity of the flats is somewhat confusing. The ground floor flat has a lease commencing on the 6<sup>th</sup> May 1982 and is described in that lease as 94 (title no. EX261359). The first floor flat lease commenced on the 29<sup>th</sup> April 1983 and is described in that lease as 94A (title no. EX279453). The Land Registry titles describe them both as 94A. The flats themselves are numbered the opposite way round i.e. 94 is the first floor and 94A is the ground floor.

### The Inspection

5. The members of the Tribunal inspected the property on the morning of the hearing, having previously received and read the report of the Applicants' expert valuer, Mr. Mark Dooley BSc MRICS.

### The Law

6. 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

7. The hearing was attended by Mr. Turpin (for part of the time) and Mr. Dooley. The members of the Tribunal had been able to discuss the evidence after the inspection but before the hearing and had determined that subject to his clarifying one or two matters, Mr. Dooley's figures would be accepted.

### Conclusions

8. As has been said, the figures supplied by Mr. Dooley were agreed by the Tribunal. However it should be said that the Tribunal was not particularly impressed by the accuracy of some of the material supplied

from the Rightmove “Surveyor Comparable Tool” which seemed to be Mr. Dooley’s principal source of material for the comparables. There were no indicators as to (a) whether the flats were 1<sup>st</sup> or 2<sup>nd</sup> floor (b) whether gardens were included, (c) whether there was off street parking and (d) who took the measurements and whether they were internal or external. These matters can have a considerable affect on value. Fortunately the surveyor members of the Tribunal had obtained sales particulars of comparable properties.

9. The Tribunal would probably have determined slightly higher figures but Mr. Dooley’s were just within an acceptable range bearing in mind that valuation is not an exact science.
10. 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 which were discussed with Mr. Turpin.

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**Bruce Edgington**  
**Regional Judge**  
**30<sup>th</sup> May 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.