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

Case Reference : **CAM/00MD/OLR/2018/0030**

Property : **11, Sandringham Court, Slough SL1 6JU**

Applicant : **Ranjiv and Monisha Bhalla**

Representative : **Mr P Prikryl of D C Kaye & Co solicitors**

Respondent : **Missing Landlord**

Representative :

Type of Application : **Application to determine the premium payable under section 50 of the Leasehold Reform Housing and Urban Development Act 1993**

Tribunal Members : **Tribunal Judge Dutton
Miss M Krisko BSc (Est Man) FRICS
Mr D Barnden MRICS**

Date and venue of Hearing : **The Magistrates Court, Slough on 19th July 2018**

Date of Decision : **23rd July 2018**

DECISION

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DECISION

The Tribunal determines that the premium payable for a lease extension in respect of the property being the ground floor flat 11, Sandringham Court, Slough, Berkshire SL1 6JU (the Property) is £15,988 divided as to £14,428 to Mr John Godbold the immediate landlord of the Applicants and as to £1,560 in respect of the missing landlord's share, such latter sum to paid into the County Court at Milton Keynes as provided for in the Orders made on 16th January 2018 and 23rd March 2018. The valuation of Mr David T Stone dated 7th June 2018 sets out the calculations (the Valuation).

BACKGROUND

1. On, it would appear, 7th December 2017 the Applicants, the leaseholders of the Property, made application to the County Court at Milton Keynes seeking an extension to the term of their lease under section 50 of the Leasehold Reform Housing and Urban Development Act 1993 (the Act).
2. On 16th January 2018 at the County Court at Milton Keynes District Judge Kanwar remitted the application to the Tribunal for the determination of the appropriate terms on which a new lease of the flat should be granted and the premium in respect of such lease extension in so far as it related to the missing landlord's share. A further Order was made, again by District Judge Kanwar on 23rd March 2018, together referred to as the Orders.
3. The circumstances of the case are somewhat unusual and bear recounting. The Applicants acquired the leasehold interest, it would seem in 1998. Under title number BK356795 they have Title Absolute to the property. Their immediate landlord is Mr John Godbold, he acquiring the freehold title BK215949 in 1992. In addition there is a leasehold title BK223802 held under a lease dated 16th May 1555 for a term of 531 years from 24th June 1555. This title refers to a strip of land on which part of the block housing the Property has been built. It seems the Property was built in the early 1960's.
4. The owner of the ancient title is unknown, prompting the application to the County Court and resulting in the Orders.
5. We were provided with a bundle of papers for this matter to be considered at a hearing on 19th July 2018 at the Magistrates Court in Slough. The bundle included the papers lodged at Court, although not the application to enable us to be certain as to the valuation date. The Orders were provided and a copy of a lease dated 16th October 1998, which was, it would seem a re-grant of a lease dated 21st March 1979, a copy of which was not provided to us. The proposed new lease was included, which we were told had been agreed between the Applicants and Mr Godbold. The bundle also contained letters from Mr D T Stone, a retired Chartered Surveyor, dated 9th March 2017, 3rd February 2018 and 7th June 2018. The letter of 3rd February 2018 had the Valuation attached showing a premium of £15,988 as being due to be divided as to 9.7547% for the missing landlord and the remainder for the benefit of Mr Godbold. The figures were £1,560 and £14,428 respectively. These figures were agreed by the

Applicants. It should be noted that although Mr Stone indicated he acted as an expert witness he was first and foremost the valuer for Mr Godbold.

6. We inspected the Property before the hearing. It is a ground floor three bedroomed flat, with living room, kitchen and bathroom. It was in good condition and had the benefit of double glazing, electric wall mounted heaters and what appeared to be a newish kitchen and bathroom. We assume these are part of the improvements that Mr Stone made an allowance for in his valuation. We noted some evidence of structural movement to the rear wall and there was some dampness evident in the common parts, which might emanate from the Property's bathroom.

DETERMINATION

7. We have considered the provisions of section 50 of the Act.
8. In reaching our decision we have considered the letters from Mr Stone, who has been accepted as the valuer for both the Applicant and Mr Godbold, for whom he has acted for sometime past. We have no quibble with the long and short lease values, based upon his knowledge of other flats in the estate and his assessment of relativity, which was based on the average of a number of graphs well known to us. The capitalisation rate of 6.25% and the deferment rate of 5% are acceptable. The one area with which we are uncertain is his assessment of the share of the missing landlord. He has relied on the case of Stokes v Cambridge which dealt with the value attributable to, in effect a ransom strip. No case report was provided. In this case we do not accept that this would apply. It is difficult to see how a ransom strip argument could apply to the Property which was built in the 1960's and has Absolute title. More appropriate would seem to be a share based on the square footage of the flat, and the ratio that bears to the area covered by the freehold title of the missing landlord. However, we were not provided with any measurements.
9. We did have the ability to speak with Mr Stone by telephone, but he was on a bus and did not have his papers with him. We put it to him that the Stokes case would not seem to apply but he was not to be moved. His view was that in adopting the method of calculation set out in his letter of 3rd February 2018 he had been very fair, if not generous, to the missing landlord. We could not take the matter further.
10. Mr Prikryl was not able to help us with matter. He did not have a copy of the original lease, was not aware of the Property's measurements and did not know how the percentage attributable to the missing landlord share had been calculated. This was notwithstanding that the Directions order specifically required that a statement of case should be produced explaining this portion. The presentation of this case was sadly lacking.
11. We were required by the Orders to confirm that the Property overlaps the freehold by 9.67% or "determine other percentage overlap". The approach taken by Mr Stone did not undertake this route. Instead he relied on the Stokes principle of 1/3rd being due to the freeholder and applied the necessary calculation to achieve the reversionary value, including a share of the marriage

value. We have no particular grievance with his method of calculation reaching the figure of £1,560.

12. We have done our best to review the matter by estimating what the square footage of the Property is relative to the missing landlord's share. It would seem to occupy a goodly proportion of the living room. If we accepted Mr Stones assessment of the long lease value less the garage of £251,490 based on his knowledge of the estate, which seems reasonable, we achieve a rough square footage figure of about £420, on Mr Stones recollection that the Property was around 600 square feet. We would estimate the area under the missing landlord's ownership to be no more than 20%. If we apply then appropriate PV value, as set out in Mr Stone's report of 0.0352859 to the estimated 20% share, it gives a figure close to that which is being argued for by the parties and upon which they have agreed.
13. There are a couple of anomalies in the Valuation in that the ground rent would seem to include £5 for the garage, but we cannot say whether that is correct or not as we have no information. The lease reserves a starting figure of £75. Further it seems to us that the future value for the freeholder of £113 should have been deducted from the present value figure in calculating the landlord's loss. The result however is de minimis.
14. We are required to determine the value attributable to the missing landlord's share. Initially this seems to have been recorded as 9.67%. By agreement we are told that it should be 9.7547%. Doing the best we can with the evidence before us and having reviewed, albeit on a very rough and ready basis, the square footage value ratio we are comfortable with this share, giving the missing landlord the sum of £1,560 and the amount due to Mr Godbold of £14,428 and we so order.
15. The new lease is acceptable save that it should refer to the correct premium of £15,988 and show the division as to £14,428 to Mr Godbold and £1,560 to the missing landlord. The percentages at Recital 2 should be amended as should the figures mentioned in the Demise at clause 5 to reflect the different sums.

Andrew Dutton

Judge:

A A Dutton

Date:

23rd July 2018

ANNEX – RIGHTS OF APPEAL

1. 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 at the Regional Office which has been dealing with the case.
2. 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.

3. If the application is not made within the 28-day time limit, such application must include a request to 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.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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.