



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

Case reference : **LON/00AY/OCE/2018/0292**

Property : **11 St. Martin's Road, London SW9
0SP**

Applicant : **David & Sylvia Mingay**

Representative : **Bircham Dyson Bell**

Respondent : **Persons unknown**

Representative : **N/A**

Type of application : **Enfranchisement – missing
landlord**

Tribunal member(s) : **Judge Tagliavini
Mr. K Ridgeway MRICS**

**Date and venue of
hearing (paper)** : **22nd January 2019 at 10 Alfred
Place, London WC1E 7LR**

Date of decision : **22nd January 2019**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the premium payable by the Applicants is £110 (one hundred and ten pounds) excluding costs.

The application

1. The Applicants seek a determination pursuant to the direction of the county court sitting at Wandsworth dated 31 August 2018, remitting this matter to the first-tier tribunal, of the premium payable for the acquisition of the freehold of the subject property.

Background

2. In an application to the county court the Applicants seek to acquire the freehold of the subject property, a mid-terrace Victorian house held pursuant to a lease dated 11 June 1580 for a term of 1000 years at a ground rent of £6.13. The freehold interest of the property is unregistered but the leasehold interest is registered under Title Number LN211688 [GR1/1-3].
3. On 31st August 2018 the county court made an order vesting the freehold interest in the subject property in the Applicants, having been satisfied it was entitled to do so, despite the absence and unknown identity of the landlord. The matter was then remitted to the tribunal for a determination of the premium payable by the Applicants for the acquisition of the freehold.

Evidence

4. The tribunal was provided with an expert witness report from Prosper Marr-Johnson MRICS dated 22nd November 2018, which addressed the long-lease length; the extreme length of the remaining unexpired term (561.78 years) as the valuation date of 11th June 2018 and the ground rent of £6.67 per annum (at current values). The report also addressed the lack of comparable sales which, was attributed to the depressed London market although referred to No. 6 St. Martin's Road with an asking price of £1,400,000 in August 2018 but subsequently withdrawn from sale. Mr. Marr-Johnson stated in his report that in his opinion that even if the freehold vacant possession value was £1,500,000 or £15,000,000 the effect of having to defer the landlord's interest for 562 years at 4.75% realises a value at today's figures of £0. Consequently, the total diminution of the freeholder's interest is only made up of the capitalised ground rent.
5. In his report Mr. Marr-Johnson referred to a deed dated 22nd October 1962 which refers to the rent not being paid for 240 years. The

Applicants purchased the existing lease on 22nd November 1978 and have not received demands for or paid any ground rent since acquiring their leasehold interest. Therefore, Mr. Marr-Johnson capitalised the ground rent that might be considered due, having regard to the operation of The Limitation Act 1980, as £110 allowing for an accumulation of ground rent of six years.

The tribunal's decision and reasons

6. Having regard to the unusual circumstances of this application and the extremely long lease and its unexpired term, the tribunal is satisfied that Mr. Marr-Johnson has properly addressed all issues relating to this valuation as are necessary in an appropriate and reasonable fashion. In the absence of any evidence to the contrary and drawing upon its own expert knowledge and experience, the tribunal concurs with Mr. Marr-Johnson's approach and valuation. Therefore, the tribunal determines that the premium payable by the Applicants for the acquisition of the freehold is £110 (one hundred and ten pounds). The tribunal now remits this matter to the country court at Wandsworth for any final orders.

Name: Judge Tagliavini

Date: 22nd January 2019

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).