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LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

**ON AN APPLICATION UNDER SECTION 26 OF THE LEASEHOLD REFORM,
HOUSING AND URBAN DEVELOPMENT ACT 1993**

Case Reference: LON/00BH/OCE/2012/0075

Premises: 32 Howard Road, Wathamstow, London E17 4SJ

Applicant(s): James Michael Murray

Representative: Cornerstones Solicitors Ltd

Respondent(s): David Miles

Representative: Not represented (missing landlord)

Date of hearing: N/A

**Leasehold Valuation
Tribunal:** Mr Adrian Jack, Mr Duncan Jagger FRICS

Date of decision: 18th June 2012

Procedural

1. The applicants are long leaseholders of respectively the Upper Flat and the Lower Flat at the premises. The respondent is the landlord and freeholder.
2. By a claim form issued on 5th December 2011 under action number 1BO01893 in the Bow County Court the applicant tenants sought dispensation under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 from the requirement to serve a notice under section 13 of that Act in order to purchase the freehold of the premises.
3. By Order of Deputy District Judge Ackland made 31st January 2012 service of the section 13 notice was dispensed with and a vesting order pursuant to section 26 of the Act was made. The determination of the purchase price was referred to this Tribunal.
4. The applicants served a copy of a valuation obtained from Mr T J Henson BSc MRICS dated 31st May 2012.

Decision

5. The Tribunal relied on the description of the property internally given in Mr Henson's report and refers to paragraphs 4 and 5 of that report for the description. The Tribunal did not carry out an inspection.
6. The leases are each granted for a term of 99 years from Christmas Day 1976. At the relevant date, namely 5th December 2011 (see section 27(1)(b) of the Act), the leases had just over 64 years to run.
7. The relevant legislation is set out in an annex to this decision. Because the leases have less than 80 years to run, there is a need to calculate the marriage value. No question of compensation under paragraph 5 of Schedule 6 to the Act arises. Likewise in respect of arrears of rent, the landlord has not served demands in statutory form, so no arrears of rent are payable. Accordingly the purchase price comprises (a) the current value of the ground rents of £10 per annum per flat, and (b) the value of the freehold reversion.
8. Mr Henson's evidence is that the value of the ground rents should be discounted at 7 per cent per annum. The Tribunal accepts that evidence. 64 years of rent with a discount rate of 7 per cent gives a capital value of 14.09764 years' purchase. Applying this number of years' purchase to £20 per annum gives a current value of £282.
9. The present value of £1.00 discounting at 5 per cent per annum for 64 years is £0.044044. Five per cent in respect of the freehold reversion is in accordance with the decision in *Sportelli*.

10. We accept Mr Henson's evidence that the maisonettes are each worth £230,000 and this accords with the Tribunal's own knowledge of the locality. The lower maisonette is smaller than the upper, but has the benefit of the back garden, so the two are worth about the same. Accordingly the value of the freehold with vacant possession is £460,000. Discounting for 64 years at 5 per cent per annum accordingly gives a present value of £20,542.
11. So far as the marriage value is concerned, Mr Henson's evidence is that the relativity (i.e. the difference between the value of the existing lease and that of a virtual freehold) is 88 to 90 percent. He opines that 89 per cent be taken as the relativity and that the value of the freehold should be increased by 1 per cent to reflect the fact that the leaseholders will own it. We accept that evidence.
12. The value of the freehold after enfranchisement will be £464,600 (£460,000 increased by one per cent). The leaseholders' current interest is worth £413,494 (89 per cent of £464,600). The difference is £51,106. The landlord's existing interest is £20,542, so the marriage value is £30,564, which stands to be split evenly between the landlord and the tenants.
13. Accordingly the amount payable is £35,824, say £35,825.
14. **The premium payable is £35,825.**



Adrian Jack, Chairman 18th June 2012

ANNEX: THE LEGISLATION

Schedule 6 Part II

FREEHOLD OF SPECIFIED PREMISES

Price payable for freehold of specified premises

2(1) Subject to the provisions of this paragraph, where the freehold of the whole of the specified premises is owned by the same person the price payable by the nominee purchaser for the freehold of those premises shall be the aggregate of—

- (a) the value of the freeholder's interest in the premises as determined in accordance with paragraph 3,
- (b) the freeholder's share of the marriage value as determined in accordance with paragraph 4, and
- (c) any amount of compensation payable to the freeholder under paragraph 5.

(2) Where the amount arrived at in accordance with sub-paragraph (1) is a negative amount, the price payable by the nominee purchaser for the freehold shall be nil.

Value of freeholder's interest

3(1) Subject to the provisions of this paragraph, the value of the freeholder's interest in the specified premises is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with no person who falls within sub-paragraph (1A)) buying or seeking to buy) on the following assumptions—

- (a) on the assumption that the vendor is selling for an estate in fee simple—
 - (i) subject to any leases subject to which the freeholder's interest in the premises is to be acquired by the nominee purchaser, but
 - (ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser;
- (b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease (except that this shall not preclude the taking into account of a notice given under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);
- (c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded; and
- (d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with and subject to which the conveyance to the nominee purchaser of the freeholder's interest is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to Schedule 7.

(1A) A person falls within this sub-paragraph if he is—

- (a) the nominee purchaser, or
- (b) a tenant of premises contained in the specified premises, or
- (ba) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or

- (c) an owner of an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraphs (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to other matters where those assumptions are appropriate for determining the amount which at the valuation date the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.
- (3) In determining that amount there shall be made such deduction (if any) in respect of any defect in title as on a sale of the interest on the open market might be expected to be allowed between a willing seller and a willing buyer.
- (4) Where a lease of any flat or other unit contained in the specified premises is to be granted to the freeholder in accordance with section 36 and Schedule 9, the value of his interest in those premises at the valuation date so far as relating to that flat or other unit shall be taken to be the difference as at that date between—
- (a) the value of his freehold interest in it, and
 - (b) the value of his interest in it under that lease, assuming it to have been granted to him at that date;
- and each of those values shall, so far as is appropriate, be determined in like manner as the value of the freeholder's interest in the whole of the specified premises is determined for the purposes of paragraph 2(1)(a).
- (5) The value of the freeholder's interest in the specified premises shall not be increased by reason of—
- (a) any transaction which—
 - (i) is entered into on or after the date of the passing of this Act (otherwise than in pursuance of a contract entered into before that date), and
 - (ii) involves the creation or transfer of an interest superior to (whether or not preceding) any interest held by a qualifying tenant of a flat contained in the specified premises; or
 - (b) any alteration on or after that date of the terms on which any such superior interest is held.
- (6) Sub-paragraph (5) shall not have the effect of preventing an increase in value of the freeholder's interest in the specified premises in a case where the increase is attributable to any such leasehold interest with a negative value as is mentioned in paragraph 14(2).