



2958

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

Case Reference : **CAM/00KF/OCE/2014/0010**

Property : **17 Warrior Square North,
Southend-on-Sea,
Essex SS1 2JN**

Applicants : **Martin Derek Hopson, Richard John
Michael Hopson & Jason Anthony
Stephen Bowen**

Respondent : **Percy William Clowes
(not present or represented)**

Date of Application : **15th July 2014**

Type of Application : **To determine the terms of acquisition
of the enfranchisement of the property**

Tribunal : **Bruce Edgington (lawyer chair)
Evelyn Flint DMS FRICS
Stephen Moll FRICS**

**Date and place
of hearing** : **21st October 2014 at The Court House,
80 Victoria Avenue, Southend-on-Sea
Essex SS2 6EU**

DECISION

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1. The total price to be paid for the freehold of the property is £12,590.00 split as to £1,500.00 for the ground floor flat, 17 Warrior Square North, £4,650.00 for the first floor flat, 17b Warrior Square North and £6,440.00 for the second floor maisonette, 17a Warrior Square North calculated in accordance with the Schedule attached to this decision.
2. The remaining terms of the transfer are as set out in the document annexed to this decision as approved by the Tribunal subject, of course, to the insertion of the price.

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 the one maisonette and two flats described in the decision following a vesting order made by District Judge Ashworth on the 23rd May 2014. 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") and the terms of the said order mean that the valuation date is a date shortly before the 23rd May 2014.
5. The words 'shortly before' are used because one of several defects in the bundle provided for the Tribunal was that no copy of the application for the vesting order was provided. The valuation date is the date of the application. The only relevant document supplied was the vesting order itself which does not give this information
6. The freehold title is subject to 3 leases namely:-
 - (a) ground floor flat, 17 Warrior Square North, let on a lease for 199 years from the 24th June 1985 with a ground rent of £50 for the first 30 years, £100 for the next 30 years, £150 for the next 33 years, £200 for the next 30 years and £250 for the remainder of the term,
 - (b) first floor flat, 17b Warrior Square North, let on a lease for 99 years from 26th May 1988 with a ground rent of £60 for the first 33 years, £120 for the next 33 years and £180 for the last 33 years and
 - (c) second floor maisonette, 17a Warrior Square North, let on a lease for 99 years from 29th September 1987 with ground rents as in 17b.

The Inspection

7. The members of the Tribunal inspected the property in the presence of the expert witness of the Applicants namely Ian G. Burden Dip. BS. FRICS. His report dated 25th July 2014 says that he only represents 2 of the Applicants but it is assumed by the Tribunal that he in fact represents all 3. The location is in a central position close to Southend town centre and is in close proximity to 2 railway stations with commuter trains into 2 central London stations. It is a converted mid-terraced house of partly rendered brick construction under interlocking concrete tiled pitched roofs built in the late 19th or early 20th century.
8. Through the front door is a small hallway with the door to the ground floor flat known as 17 Warrior Square North. This is described by Mr. Burden as being a 1 bedroom flat. In fact, one goes through the front door into a hallway. Off to the left is a reception room. Next on the left is a double bedroom. The hall then goes past an understairs cupboard into another reception room off which are first the small kitchen and then a shower room and WC. The kitchen has a door into the small garden area at the rear which is fenced off from more garden to the rear. It is likely that this property would be marketed as a 2 bedroom flat.

9. The next property is the flat known as 17b Warrior Square North which is on the first floor up a flight of stairs. There is a double bedroom to the rear. In front of that is a small kitchen, then a small bathroom/WC with a lounge towards the front although it did not have a view to the front, only to the rear along the side of the building.
10. The last flat or maisonette – 17a Warrior Square North – was on 2 levels on the 1st and 2nd floors with a lounge and a kitchen to the front. Then a small staircase to a landing off which are the bathroom/WC, a single bedroom and then a double bedroom to the rear.
11. The outside was in fairly poor decorative order, particularly to the rear. There was a mixture of windows including uPVC and wooden frames, some of which are in good order and some not. All the flats appeared to have central heating with radiators. None appeared to have been improved enough to require specific allowances in the prices.
12. The bundle was deficient in not providing coloured plans to the leases and not providing any plan for the freehold title. There was clearly a large part of the freehold title to the rear which is unfenced and appears to be used by all and sundry for parking. Mr. Burden suggested that no-one would want to upset people by fencing this off. However, it clearly belongs to the property and is available for development. The Tribunal noted, for example, that both the freehold title and the lease to 17a said that this flat had the benefit of a parking space which could only be outside the existing fenced area at the rear.

The Law

13. 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 and (c) any compensation payable to the freeholder under Paragraph 5 of the Schedule.

The Hearing

14. Only Mr. Burden attended the hearing to present his report and answer questions from the Tribunal. He was able to say that although his valuation was at a date almost a year before the valuation date, he had looked at the figures again. He said that the 'no Act' value of the flats had been revised upwards. For 17, he now thought it was £100,000 rather than £85,000 partly because of the potential for 2 bedrooms rather than 1. For 17b, he still thought that £75,000 was appropriate but for 17a he revised upwards from £110,000 to £115,000. He agreed that according to Land Registry figures, there had been an increase of some 5/10% over the last year.
15. As to relativity, deferment and capitalisation of ground rent, he stuck by the figures in his report namely 94% relativity for 17a and 17b with none for 17; 5.25% and 7% respectively. He provided no 'compelling evidence' as to why the deferment rates in the well known Upper Tribunal case known as *Sportelli* should be changed.

Conclusions

- 16. As far as the 'no Act' values of the 3 flats were concerned, the Tribunal accepted Mr. Burden's figures save for 17b. He said that the value had not increased in the last year. However, he had accepted that the values of flats in this locality had increased by 5/10% in that period. The Tribunal therefore agreed with him about the values of flats 17 and 17a but applied a figure of £80,000 to 17b to reflect this increase.

- 17. The Tribunal accepted Mr. Burden's figure of 7% for capitalisation of ground rents but adopted the *Sportelli* rate of 5% for deferment. As far as relativity was concerned, the Tribunal adopted a figure of 93% for 17a and 17b to reflect the fact that Mr. Burden's valuation was a year out of date and the lease terms would therefore be that much shorter.

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Bruce Edgington
Regional Judge
23rd October 2014

The Schedule

17 Warrior Square North, Southend-on-Sea SS1 2JN

Ground Floor Flat

Valuation Date	23rd May 2014
Lease Start Date	24th June 1985
Lease Length (Years)	199 yrs
Lease Remaining (Years)	170.083 yrs

Capitalisation Rate	7%
Deferment Rate	5%
Relativity	100%

Freeholder's Present Interest

Ground Rent	£50 pa		
YP 1.08yrs @ 7%		1.004472	£50
Ground Rent	£100 pa		
YP 30 yrs @ 7% deferred 1.08 yrs		11.5365	£1,154
Ground Rent	£150 pa		
YP 30 yrs @ 7% deferred 31.08 yrs		1.515511	£227
Ground Rent	£200 pa		
YP 30 yrs @ 7% deferred 61.08 yrs		0.1990887	£40.00
Ground Rent	£250 pa		
YP 79 yrs @ 7% deferred 91.08 yrs		0.0299662	£7.50

Diminution in value due to loss of G R **£1,478.50**

Reversion to Freehold with vacant possn.	£100,000		
PV of £1 @ 5% deferred 170.08 yrs	0.00025	£25	
Marriage Value		£0	
		£1,503.50	
<u>PREMIUM</u>	say	£1,500	

17b Warrior Square North, Southend-on-Sea SS1 2JN

First Floor Flat

Valuation Date	23rd May 2014
Lease Start Date	26th May 1988
Lease Length (Years)	99 yrs
Lease Remaining (Years)	73 yrs

Capitalisation Rate	7%
Deferment Rate	5%
Relativity	93%

Freeholder's Present Interest

Ground Rent	£60 pa		
YP 7yrs @ 7%	5.3893	£323	
Ground Rent	£120 pa		
YP 33 yrs @ 7% deferred 7 yrs	7.9424251	£953	
Ground Rent	£180		
YP 33 yrs @ 7% deferred 40 yrs	1.515511	£153	

Diminution in value due to loss of G R £1,429

Reversion to Freehold with vacant possn.	£80,000.00		
PV of £1 @ 5% deferred 73 yrs	0.028391	£2,271	£3,700

Marriage Value

Add			
Freeholders proposed interest	£0		
Lessee's proposed interest	£80,000	£80,000	
Less			
Freeholders current interest	£3,700		
<u>Lessee's current interest</u>	£74,400	£78,100	
Marriage Value		£1,900	
	50%		£950

PREMIUM £4,650

17a Warrior Square North, Southend-on-Sea SS1 2JN

First/Second Floor Flat

Valuation Date	23rd May 2014
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Lease Start Date	29th Sept 1987
Lease Length (Years)	99 yrs
Lease Remaining (Years)	72.33 yrs

Capitalisation Rate	7%
Deferment Rate	5%
Relativity	93%

Freeholder's Present Interest

Ground Rent	£60 pa		
YP 6.33 yrs @ 7%	4.9741	£298	
Ground Rent	£120 pa		
YP 33 yrs @ 7% deferred 6.33 yrs	8.313067	£998	
Ground Rent	£180 pa		
YP 33 yrs @ 7% deferred 39.33 yrs	0.8914498	£160	

Diminution in value due to loss of G R £1,456

Reversion to Freehold with vacant possn.	£115,000		
PV of £1 @ 5% deferred 72.33 yrs	0.293374	£3,374	£4,830

Marriage Value

Add

Freeholders proposed interest	£0		
Lessee's proposed interest	£115,000	£115,000	

Less

Freeholders current interest	£4,830		
<u>Lessee's current interest</u>	£106,950	£111,780	

Marriage Value		£3,220	
	50%		£1,610

PREMIUM £6,440