



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

Case Reference : LON/00BK/OCE/2015/0230

Property : 5 Bradistan Road, Paddington, London W9 3HN

Applicant : (1) Bridget Jane Elliot; (2) Kenton Robert Elliot; (3) Simon Gwynne Hill and (4) Margaretha Johanna van der Schyf

Representative : Solomon Taylor and Shaw

Respondent : Emmanuel Obiora Ejike

Representative : None

Type of Application : Enfranchisement

Tribunal Members: Judge Robert Latham
Luis Jarero BSc FRICS

Date and venue of Hearing : Paper determination on 6 October 2015 at Alfred Place, London WC1E 7LR

Date of Decision : 13 October 2015

DECISION

(1) The Tribunal determines that premiums to be paid into court in respect of purchase of the freehold of 5 Bradiston Road, Paddington, London is £20,910.

(2) The Tribunal approves the draft proposed transfer in form TR1 which has been submitted by the Applicants.

Background

1. On 3 August 2015, by order of District Judge Hughes sitting at Central London County Court, the Court ordered that, pursuant to Section 26(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act"), the freehold interest in 5 Bradiston Road, Paddington, London, W9 4HN ("the premises") registered at HMLR under Title No.NGL650926 vest in the 5 Bradiston Road Management Company Limited, ("the nominee purchaser") on such terms as may be determined by this Tribunal pursuant to Section 27(1)(b) of the Act. We are required to determine those terms. The claim was issued in the County Court on 6 February 2015.

Evidence

2. We have been provided with a valuation report by Ian Davidson BSc UES MRICS, of Davidson Aquila Ltd, whose address is given as Liberty House, 222 Regent Street, W1B 5TR.

Lease details

3. The Respondent missing landlord is the lessor of the premises:
 - (i) Flat 1 (Ground Floor) is leased by the First and Second Applicants under the terms of a lease dated 10 November 1989 for a term of 125 years from 25 December 1988.
 - (ii) Flat 2 (First Floor) is leased by the Third Applicant under the terms of a lease dated 24 February 1989 for a term of 125 years from 25 December 1988.
 - (iii) Flat 3 (Second Floor) is leased by the Fourth Applicant under the terms of a lease dated 11 August 1989 for a term of 125 years from 25 December 1988.

Valuation date

4. The valuation date is 6 February 2015, namely the date of the application to the Court (see section 27 (1) (b) of the Act).

Purchase Price Payable

5. We approve the purchase price of £20,910 proposed by Mr Davidson. We have taken this course with some hesitation as Mr Davidson has not prepared his report with the care that we would expect from an independent expert valuer. We have reminded ourselves that our role is to determine whether the valuation proposed by the nominee purchaser is fair to the missing landlord. We are satisfied that it is.
6. We make the following observations on Mr Davidson's report:

(i) He takes the valuation date to be 17 September 2015. This is wrong. The relevant valuation date is 6 February 2015. This is highlighted in the transfer order made by the District Judge. This error has not prejudiced the missing landlord.

(ii) He states that the unexpired term is "say 98 years". It is, in fact, 98.88 years.

(iii) We are concerned about his computation of the long lease values of the three flats. He has proposed £607,200 for Flat 1; £452,000 for Flat 2, and £693,000 for Flat 3. We would rather have adopted valuations of some £610,000 for Flat 1; £520,000 for Flat 2 and £600,000 for Flat 3. His total is £1,753,930, whilst our figure would have been somewhat lower at £1,730,000. We discuss this further below.

(iv) He has adopted the Sportelli deferment rate of 5%. We agree with this.

(v) We have checked his calculation of the ground rents in respect of the four flats. Had Mr Davidson used the correct length of the leases, the figure would have been slightly lower at £72 per flat.

(vi) In considering the issue of improvements, Schedule 13, paragraph 3(2)(c) requires us to value the diminution in the landlord's interests "on the assumption that any increase in the value of the flat 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".

(vii) We have considered the overall effect of the adjustments that we would have made. These would have resulted in a somewhat lower premium being paid to the missing landlord.

7. Mr Davidson considers three comparables:

(i) 7B Bradiston Road, W9. This is a first floor flat very close to the subject property which was sold in August 2015 for £530,000. It is some 554 sq ft, slightly larger than Flat 2 at the subject property (525 sq ft). Mr Davidson has made no adjustment for time. We would have made an adjustment of -1.9% for this and reached a value of £520,000. We are satisfied that this is the most relevant comparable.

(ii) 61 "Sultan" Crescent, W9. We think that this should refer to 61 "Saltram" Crescent. This is a top floor flat which we are told was sold for £757,000 in "late 2014". Our inquiries suggest that it was sold in August 2014. This flat is 1,063 sq ft. Mr Davidson suggests that an adjustment of "around 10-15%" should be made for time. We are satisfied that the appropriate adjustment is +1.7%, increasing the value to £770,000.

(iii) Garden Flat, 130 Bravington Road, W9 which sold in June 2015 for £650,000. The flat is 730 sq ft.

8. We first consider the long lease value of Flat 1, the ground floor flat at the subject property. This has the benefit of a small rear garden. This flat is 660 sq ft. Mr Davidson reaches his figure of £607,200 by taking a value of £920 psf. We are not clear how he adopted this figure. Our starting point is to have regard to 7B Bradiston Road (£520,000). Flat 1 is somewhat larger. 130 Bravington Road confirms our view that an additional adjustment should be made for this being a ground floor flat with a garden. Our preferred figure of £610,000 is close to that adopted by Mr Davidson.
9. Mr Davidson proposes a value of £452,000 for Flat 2 (ground floor). He takes a psf of £956 which is the figure that he derives from 7B Bradiston Road. He computes a figure of £502,000 from which he deducts £50,000 for improvements. He states that the flat "presented in a very good condition". However, he provides no evidence to justify his figure of £50,000 for improvements. He describes the flat as "entrance hall, full width lounge with kitchen area, bathroom with wc, utility area, steps to bedroom". This description bears no resemblance to the lease plan for this flat at p.123 of the bundle. When the lease was granted, this was a two bedroom flat. We question whether converting it into a more spacious one bedroom flat would have increased its value. We would have valued it, in its unimproved condition, at £520,000, using 7B Bradiston Road as the best comparable. Whilst this is marginally larger (554 as opposed to 525 sq ft) we do not believe that this would make a significant difference in the price that a purchaser would pay.
10. Mr Davidson proposes a value of £693,000 for Flat 3, the top floor flat. The lease plan for this flat is at p.179. Originally, this was a two bedroom flat on one floor, similar in size to Flat 2. It is apparent that there has subsequently been a roof conversion incorporating a mezzanine area, together with a possible re-arrangement of stud partitions but still remaining as a 2 bedroom unit. This has increased the size of the flat from some 525 to 906 sq ft. Mr Davidson reaches his valuation by taking the size of the flat to be 906 sq ft and valuing it at £820 psf and making a reduction of £50,000 for improvements. Again, there is no evidence to justify the figure of £50,000 for improvements. We would have adopted a different approach. We would have valued Flat 3 at £520,000 in its original condition and size, ignoring any tenant's improvements and development value and using 7B Bradiston Road as the comparable. We would have increased its value to £770,000 in its improved condition, using 61 Saltram Crescent as the comparable. We would then have ignored the improvements, but would take 33% of the improved value, namely £80,000, as the potential development value. Our valuation would have been £600,000 which is substantially below the figure proposed by Mr Davidson.

Calculation of the Premium

11. To conclude, we endorse the premium of £20,910 proposed by Mr Davidson. We have significant concerns about the approach that he has adopted in his report. However, he is the independent expert put forward by the nominee purchaser. Our role is to determine whether the premium proposed is a fair one for the missing landlord. We are satisfied that it is. Should the missing

landlord be found, he should be assured that we have subjected the valuation submitted by the nominee purchaser to anxious scrutiny. We are satisfied that the errors have not prejudiced him, but have rather been to his advantage.

Judge Robert Latham
13 October 2015