

907



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

Case Reference : **LON/00BA/OAF/2014/0020**

Property : **36 Cavendish Avenue, KT3 6QQ**

Applicant : **Mr Stanley Raymond Tarry**

Representative : **Ms Ilori of Capulet Solicitors**

Respondent : **Person(s) Unknown**

Type of Application : **Sections 9(1) and 27 Leasehold Reform Act 1967**

Tribunal Members : **Mr M Martynski (Tribunal Judge)
Mrs S F Redmond BSc(Econ)
MRICS**

Date of Decision : **1 July 2014**

DECISION

Decision summary

1. The Tribunal decides that the premium payable for the freehold interest of 36 Cavendish Avenue, KT3 6QQ ('the Property') is £139,450

Background

2. The Property is a semi-detached, two-storey, four bedroomed house with two reception rooms, kitchen and bathroom with front and rear gardens built in or about 1920.

3. The Applicant holds the leasehold interest in the Property by way of a lease dated 8 October 1921 for a term of 99 years from 29 October 1921.
4. It was the Applicant's case that the freehold interest in the Property was not registered and that he could not trace the freeholder owner of the Property and accordingly he applied to the Kingston County Court for an order for the transfer of the freehold title into his name.
5. By order of District Judge Brown dated 6 May 2014, the Applicant's claim was granted and the court referred the matter to this tribunal '*for the determination of the correct basis of valuation as well as the valuation of the said freehold title*'.

The Applicant's valuation

6. In his application to this tribunal, the Applicant relied upon the valuation report of D. Ambrose MRICS dated 28 May 2014.
7. We have considered this referral from the County Court on the basis of that written report and the other papers supplied by the Applicant's solicitor and have made this decision without a hearing and without inspecting the Property.
8. Mr Ambrose based his valuation on Section 9(1) of the Leasehold Reform Act 1967 ('the Act') on the basis that the rateable value of the Property was below £1,000 as at 31 March 1990¹.
9. The date of valuation was taken as 2 August 2013, that being, according to Mr Ambrose, the date of the Applicant's application to the court. In fact the Claim Form lodged with the court is dated 9 August 2013.
10. Mr Ambrose assessed the entirety value of the Property as £405,000. He based this figure on four comparables, the best one being a sale of number 53 Cavendish Avenue (the same road as the Property) in October 2013 for £415,000².
11. The valuation is stated to take account of the fact that the Property requires modernisation, Mr Ambrose having stated in his report that:-

The property is in basic condition and requires complete modernisation and refurbishment to include new bathroom and kitchen
12. All the elements of the valuation were set out by Mr Ambrose in his report.

¹ No evidence was supplied regarding the rateable value, we have relied upon Mr Ambrose's assertion in his report that the rateable value was below £1,000 at the relevant time

² The summary of this sale on the Zoopla website states that this property has three bedrooms. On viewing the property via the Google Street View website, this property appears to have a garage. This property was sold in October 2013.

The tribunal's decision

13. We accept the basis of the valuation on section 9(1) of the Act on the basis of Mr Ambrose's assertion as to the rateable value.
14. We accept all elements in the valuation save for:-
 - (a) the unexpired term of the Applicant's lease which is approximately 7.16 years
 - (b) any consideration of the condition of the Property. The Act requires a valuation of the land in question with the relevant type of property built on it
 - (c) the Deferment rate adopted of 5%. No reason was given as to why the Sportelli³ rate of 4.75% should not be adopted.
15. We consider therefore that the value of the best comparable, 53 Cavendish Avenue, is taken, without any deduction in respect of the condition of the Property but adjusted for time (given that house prices were rising rapidly around the valuation date). We have therefore settled on a figure of £410,000, that being the sale price of number 53 of £415,000 less £5,000 to adjust for the time difference between the sale of that property and the valuation date.
16. Our valuation is attached.

Mark Martynski, Tribunal Judge
1 July 2014

³ Cadogan v Sportelli and other appeals [2008] 1 WLR 2142

**LEASEHOLD REFORM ACT 1967 S 9(1)
VALUATION FOR ENFRANCHISEMENT**

36 Cavendish Avenue, New Malden, KT3 6QQ

Facts and matters determined:

Valuation date	09/08/2013
Term unexpired approximately	7.16
Entirety value	£410,000
Deferment rate	5%
Capitalisation rate	6%
Site Value	33%
Virtual freehold value unimproved: S 15 Rent	6%

	£	£	£
Term:			
Current Ground Rent		6.30	
YP for 7.16 years @ 6%		<u>5.9517</u>	37

Value of Modern Ground Rent:

Entirety Value	410000		
Site value @ 33%	<u>135300</u>		
MGR @ 6%		8,118	
YP for 50 years @ 6%	18.98		
deferred 7.16 years @ 6%	<u>0.71729</u>	<u>13.6142</u>	110,520

Reversion:

Freehold House with vacant possession	410,000		
deferred 57.16 years		<u>0.0705</u>	<u>28,893</u>

Enfranchisement price payable £139,450