

4312



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

Case Reference : **LON/00/BA/OCE/2016/0198**

Property : **129 Seely Road, London Sw17 9QX**

Applicants : **Tusar Patel & Uma Tusar Patel (1)
Alindo Wayne Foster & Carol May Foster (2)**

Representative : **Broadway Solicitors**

Respondent : **Mook Lan How-Foh-Yee**

Representative : **None**

Type of Application : **Determination of the appropriate
sum to be paid into court – section
27(3) Leasehold Reform, Housing
and Urban Development Act 1993**

Tribunal Members : **Judge John Hewitt
Mr W Richard Shaw FRICS**

Date of Decision : **7 October 2016**

DECISION

Decisions of the tribunal

1. The tribunal determines that:
 - 1.1 The appropriate sum for the purposes section 27(5) of the Act is £34,115.00; and
 - 1.2 If the applicants wish the tribunal to approve the form of conveyance pursuant to section 27(3) of the Act, they shall comply with the direction at paragraph 8 below.
2. The reasons for our decisions are set out below.

Procedural background

3. On 12 October 1978 the respondent was registered at Land Registry as the proprietor of the freehold interest in the property, 129 Seely Road, London Sw17 9QX (Title number P20572).
4. The Charges register, Schedule of notices of leases, records two leases have been granted and registered out of the freehold interest:
 - Flat A: dated 22 December 1982 for a term of 99 years from 24 June 1982 (Title number SGL365481); and
 - Flat B: dated 15 September 1982 for a term of 99 years from 24 June 1982 (Title number SGL361871)
5. On 16 September 1992 the first applicant was registered at Land Registry as the proprietor of the lease of Flat A.

On 25 January 2008 the second applicant was registered at Land Registry as the proprietor of the lease of Flat B.
6. Evidently the current whereabouts of the respondent freeholder is unknown. On 14 May 2014 the applicants made an application to the County Court at Wandsworth (Claim Number A00WT645) pursuant to section 26 of the Act on the footing that the respondent was a 'missing landlord' for the purposes of that section.
7. On 8 April 2016 Deputy District Judge Linwood sitting at the County Court at Wandsworth made an order, paragraph 2 of which provided that:

"2. Upon payment into Court of such price as may be determined by the First-tier Tribunal pursuant to s27 of the Act, the freehold interest in the property known as 129 Seely Road, London Sw17 9QX, registered at HM Land Registry with Title Number P20572 (the Property) shall vest in equal measure in:

 - a. The first and second Claimants [the first applicant] of ...*
 - b. The third and fourth Claimants [the second applicant] of ..."*

That order appears to be a vesting order for the purposes of section 26(1) of the Act.

8. Section 27(3) of the Act provides that where a vesting order is made under section 26(1) then upon payment into court of the appropriate sum there shall be executed by such person as the court may designate a conveyance which is in a form approved by the appropriate tribunal.

Section 27(5) of the Act provides that the appropriate sum for the purposes of subsection (3) is such sum as may be determined by the appropriate tribunal. Subsections (a) and (b) of subsection (5) specify what elements are to comprise and make up the appropriate sum.

This tribunal is the appropriate tribunal for the purposes of section 27 of the Act.

The court has ordered this tribunal to determine the appropriate sum but the order does not expressly order the tribunal to settle the form of the conveyance. The form of the conveyance will usually be a form TR1. It is implicit that where a vesting order has been made the conveyance shall be in a form approved by the tribunal.

Accordingly, the tribunal is willing to settle a form TR1 on the assumption that the Court will require an approved conveyance at some point. Thus, if the applicants wish the tribunal to do so now, the applicants shall by **5pm Monday 17 October 2016** file with the tribunal by a draft of the form TR1 for which they contend. If this is not done now and the applicants wish to pursue acquisition of the freehold interest, they will have to make a fresh application to the tribunal at some future time, and possibly a further order from the court.

9. Pursuant to directions issued by the tribunal we have been provided with a hearing file containing the material documents.

The appropriate sum

10. We have been provided with a valuation report prepared by Nigel G Simpson BSc (Hons) MRICS dated 15 July 2016, a revised valuation prepared following correction as to the number of years unexpired and an addendum dated 26 August 2016 which dealt with some points raised by members of the tribunal.
11. We have gone through these materials carefully which are in a format compliant with rule 19 of this tribunal's rules which concerns expert evidence. We have noted Mr Simpson's revised valuation and his methodology and the reasons for his conclusions. We find that he has adopted good valuation practice in his approach. He has provided evidence of comparable transactions, most of which are acceptable. His relativity at 91% is supported by the graphs he has identified and relied upon.

12. Taken overall we find that we can rely upon the expert evidence of Mr Simpson with some confidence. Accordingly, we adopt Mr Simpson's evidence and determine the appropriate sum to be £34,115.00.

Judge John Hewitt
7 October 2016