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

**Case Reference** : **DD/LON/00AP/OCE/2017/0130**

**Property** : **37 Fairbourne Road, London  
N17 6TP**

**Applicant** : **Lisa Griffin and Jacqueline  
Campbell**

**Representative** : **Jamieson Alexander Legal**

**Respondent** : **Terence McGovern and Martina  
McGovern**

**Representative** : **N/A**

**Type of Application** : **S26 Leasehold Reform Housing  
and Urban Development Act 1993,  
Missing Landlord**

**Tribunal Members** : **P M J Casey MRICS**

**Date and venue of  
Hearing** : **Paper hearing on 19 July 2017  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **18 August 2017**

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**DECISION**

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### **Decisions of the tribunal**

- (1) The tribunal determines that the purchase price payable for the Freehold interest in 37 Fairbourne Road, London N17 6TP (“the property”) is the sum of £41,420.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

### **The application**

1. The applicants seek a determination by the Tribunal pursuant to an order made under the provisions of S26 of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by District Judge Dias sitting at the County Court at Edmonton on 26 May 2017 of the price to be paid into Court on the acquisition of the freehold interest in the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 17 October 2016 by Jamieson Alexander Legal on behalf of the applicants in which it was said that the applicants were entitled to acquire the property under the provisions of the Act. The application was for a vesting order under the provisions of Section 25 of the Act on the terms of the proposals contained in the Initial Notice under S13 of the Act which was served on the freeholder, on 15 July 2016, at the address given on the Proprietorship Register at Land Registry but Judge Dias decided that it should be treated as an application under S26 of the Act, “missing landlord”, and made the Order referred to in paragraph 1 on that basis.

### **The hearing**

3. In response to the Tribunal’s directions which provided for a determination on the papers to be submitted, the applicants’ solicitors provided a bundle of documents including a valuation report dated 13 July 2017 for use in Tribunal proceedings prepared by Obiora Chianumba BA(Hons) MSc MRICS of Newman Webb Surveyors. The report contained the requisite declarations required of a Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 19 July 2017. No inspection of the property was deemed necessary given the description, plans and photographs included in the report.

### **The evidence**

5. From Mr Chianumba’s description of the property it is a two storey Victorian inner terrace former house which has been converted into two self-contained flats. The ground floor is arranged as a one bedroomed

flat with gardens to front and rear, whilst the other, originally a one bedroomed first floor flat has been extended into the roof space to give a second bedroom and bathroom. These additional rooms are, he says, tenant's improvements which fall to be disregarded under the valuation provisions of the Act.

6. The ground floor flat at the property is held on a 99 year lease from 29 September 1988 subject, at the valuation date, to a ground rent payment of £50.00 per annum. The first floor flat is also held on a 99 year lease but from 25 December 1988 at a ground rent of £100 per annum.
7. At the Valuation Date, 17 October 2016, the leases had 70.95 and 71.19 years unexpired respectively.
8. Mr Chianumba provides market evidence for the extended lease values of the flats at the property as at the Valuation Date by reference to four transactions involving similar properties at around that time the details of which are provided in the report. He makes various adjustments to the sale prices achieved by these properties to reflect the differing sale dates, differences in size and location. The adjusted sale price evidence he then devalued to give a per square foot rate for the ground floor flat of £605 and for the First floor flat £538. The latter figure he applied only to the original area of the flat as he claims the roof void extension as tenant's improvements. The resulting value difference between the flats he got from applying these rates did not in his view adequately reflect the extra value of the gardens to the ground floor flat so he increased the figure for that flat slightly to give a £10,000 difference.
9. From this evidence he says the value of an extended lease in the ground floor flat is £318,274 for a term of 160 years or so at a peppercorn ground rent with the first floor flat at £308,274. He increases these figures by 1% to give virtual freehold values of £321,457 and £311,357 respectively.
10. To capitalise the ground rent income for the unexpired terms of the existing leases in his valuation of the existing freehold interest in the property he adopts a rate of 7% whilst to arrive at the present value of the freeholder's right to possession on the expiration of the existing lease term he adopts the "Sportelli" deferment rate of 5%.
11. To calculate the marriage value and the landlord's entitlement to 50% thereof he has assessed the value of the existing lease terms in the two flats, disregarding the value of the rights conferred by the Act, by reference to what are generally referred to as graphs of relativity as he says there is no local sales' evidence for properties held on leases of such unexpired terms. He refers the five graphs relating to outer London/England which were published in an RICS report into relativity. Averaging the five suggests to him that in a "no Act world"

the existing lease terms would have values of 93.16% and 93.28% of the freehold value. However he then goes on to say that these graphs were compiled pre 2009 and since then the market has changed with the costs of enfranchisement being better understood by prospective buyers and mortgage lenders showing an increasing reluctance to lend on leases with less than 80 years unexpired. To reflect these factors he reduces those average relativities by 2% in each case to give 91.16% for the ground floor flat and 91.28% for the first floor flat.

12. His valuation attached to his report produces a purchase price of £35,465.

### **The decision**

13. Mr Chianumba's adoption of a capitalization rate of 7% cannot in the present case be said to be wrong where there are relatively low fixed ground rents and again, in the absence of extensive evidence to the contrary, his adoption of the "Sportelli" deferment rate of 5% is accepted.
14. The comparable sales evidence provided appears to support his extended lease values and the 1% uplift to the virtual freehold value accords with the tribunal's experience of cases involving outer London properties where the extended lease will be for a term exceeding 150 years.
15. However Mr Chianumba took the valuation date to be 12 July 2016 the date of the purported S13 Notice whereas it is actually some four months' later as Judge Dias decision to treat the application to the County court as having been made under S26 of the Act means that the valuation date is the date of the application, 17 October 2016. This has an effect on the valuation albeit small.
16. The slightly later valuation date is unlikely to have a significant effect on the long lease values derived by Mr Chianumba from the sales evidence as the Land Registry House price Index for flats in Haringey that he used to adjust for time of sale actually shows a small fall in values in August (the extract in the bundle goes no further). However, while he is right to treat the second floor extension as a tenant's improvement the ability to carry out such works because the first floor flat's demise includes the roof and roof space does not fall to be ignored. The additional 217 square foot of space created would increase the value of the flat by some £100,000 plus on his figures and whilst the costs of such roof conversion works can be a high proportion of the value generated the tribunal would still expect a purchaser to pay at least 10% of this for the "site value". Accordingly the value of a long leasehold interest in the first floor flat is increased to £318,274 and the freehold to £321,456.

17. The reduction in the unexpired terms has no practical effect on the capitalization of the ground rents but does affect the reversionary values and slightly reduces the relativity percentages. Whilst his approach to taking the five graph average and then adjusting downwards by 2% is accepted the reduced length of the unexpired terms brings the relativities down to 91% for the ground floor and 91.1% for the first floor.
18. The tribunal's valuation is attached.

**Name:** Patrick M J Casey

**Date:** 18 August 2017

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case. The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

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**First Tier Tribunal  
Property Chamber (Residential Property)**

**S26 Leasehold Reform Housing and Urban Development Act 1993**

**Price payable for the Freehold Interest in 37 Fairbourne Road, London N17 6TP**

**Valuation date: 17 October 2016**

**A Ground floor flat**

**Value of Freehold Interest**

Term 70.95 years unexpired

Ground Rent Income £50 pa

£50

YP 70.95 years @ 7%

14.168

£708

**Reversion to F/H Vacant Possession Value**

£321,457

Deferred 70.95 years @ 5%

0.03139

£10,090

£10,798

**Marriage Value**

Proposed Interest

£321,457

Less

Existing interests @ 91% relativity

£289,311

Plus freehold Interest

£10,798

£300,109

£21,348

**Marriage Value to Freeholder @ 50%**

£10,674

£21,472

Say **£21,470**

**B First floor flat**

**Value of Freehold Interest**

Term 71.19 years unexpired

Ground Rent Income

£100

YP for 71.19 years @ 7%

13.3

£1,330

**Reversion to F/H Possession Value**

£321,456

Deferred 71.19 years @ 5%

0.0311

£9,965

£11,295

**Marriage Value**

Proposed Interest

£321,456

Less Existing interest @ 91.1% relativity

£292,846

Plus Freehold Interest

£11,295

£304,141

£17,315

**Marriage Value to Freeholder @ 50%**

£8,6575

£19,952

Say **£19,950**

**Ground floor** £21,470

**First floor flat** £19,950

**Total for Freehold Interest** £41,420