



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

Case Reference : LON/00AH/0CE/2017/0282

Property : 49 and 49A Hythe Road, Thornton Heath,
Surrey CR7 8QR

Applicants : 1. Celeste Leonor Henderson
2. Kaream Kimba Henderson
3. Beva Staple

Representative : Amphlett Lissimore, solicitors

Respondent : 1. Christopher Anthony Jennings
2. Sonia Marie Archer
3. Brent Conner Archer

Representative : None

Type of application : To determine the terms on which the freehold
is to be acquired where the landlord is
missing

Tribunal members : Angus Andrew
Luis Jarero BSc, FRICS

**Date of
determination** : 15 May 2018

DECISION

1. This is an application under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") to determine the price to be paid for and other terms of acquisition of the freehold of 49 and 49A Hythe Road, Thornton Heath, Surrey CR7 8QR. The property comprises two flats: one on the ground floor and the other on the first floor. Included in the demise of each flat is a section of the

rear garden. The leases are somewhat unusual in that they are both full repairing and insuring leases with minimal obligations being undertaken by the lessor.

2. Both flats were originally held on leases for terms of 99 years from 24 March 1974. Both leases reserved initial yearly ground rents of £20. The yearly rent of the grounds floor flat rose to £80 and that of the first floor flat to £100.
3. In 1999 the original leases were surrendered and new leases granted for terms of 125 years from 29 September 1998. Both leases reserve yearly ground rents of £40 rising to £80.
4. The landlord could not be found and the applicants issued proceedings in the County Court under section 26 of the Act for an order dispensing with service of the claim notice. The applicant's solicitors tell us that the court did send a Notice of Issue. Although we find that surprising we accept their assertion that the claim was issued on 21 June 2016, which is the valuation date.
5. The court did not make an order until 8 August 2017 and the reason for the delay is not explained. However, by an order made on that date District Judge Bishop made an order effectively dispensing with service of the claim notice and transferred the case to this tribunal for a determination of the premium to be paid and "*to approve the new lease in favour of the Claimants*". We have taken the liberty of assuming that that was intended to be a reference to the terms of the transfer.
6. The applicant leaseholders rely on a valuation report prepared by Ringley, Chartered Surveyors. It is signed by two registered valuers, Robert Bath MRICS and Mary Anne Bowring FRICS, FIRPM, FCABE, FARLA.
7. The valuation as originally presented was inadequate and did not comply with the tribunal's directions. On 26 February 2018 the tribunal directed the applicants to provide a revised report by 18 March 2018 that complied with the tribunals directions.
8. The application was again considered by a tribunal on 24 April 2018 but was again found to be inadequate. In particular the lease lengths of the comparable properties were not given, no explanation was given for various adjustments and a free-standing valuation was not attached to the report. The applicants were directed to provide a revised report dealing with these deficiencies by 9 May 2018 with a view to the application being determined this week.
9. We have considered the revised report that contends for a premium of £4,400. It is still unsatisfactory. No explanation for adjustments has been provided. The type face of the valuation is so small that it is impossible to read it. The report calculates marriage value and

relativity neither of which are required, because both leases have more than 80 years left to run. The report speaks to a deferment rate of 6% relying on the "Zuckerman case". That case turned on its own facts and related to a West Midlands property. There are no grounds for departing from a rate of 5% approved in *Earl Cadogan v Sportelli* [20017].

10. Under normal circumstances we would have listed the case for an oral hearing and directed the attendance of the applicants' professional team. However, the premium to be paid is small and we are required by the overriding objective to deal with cases proportionately. We have therefore completed our own valuation which indicates a slightly lower premium than that contended for by the applicants. We have therefore adopted the applicants' valuation of £4,400 which we determine as the price to be paid for the freehold interest in the property.
11. It is for the applicants to decide whether the quality of their valuer's work merits payment of a full or indeed any fee.
12. The form of transfer is at pages 133 to 137 of the document bundle. It is with limited title guarantee as required by paragraph 2(2)(b) of Schedule 7 to the Act and it contains the statement required by section 34(10) of the Act. The declaration of trust at panel 10 has not been completed but that is a matter for the applicants. Consequently, we approve the draft transfer.

Name: Angus Andrew

Date: 15 May 2018