



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

Case Reference : **LON/00BA/OCE/2019/0171**

Property : **26 Dryden Road, London SW19
8SG**

Applicant : **26 Dryden Road Freehold Limited**

Representative : **Thirsk Winton LLP & Mr. David
Toogood FRICS, IRRV, ACI Arb**

Respondents : **Spincrest Limited**

Representative : **Mr. Simon Brook MSc MRICS**

Types of Application : **Enfranchisement – section 42**

Tribunal Members : **Judge Tagliavini
Miss M Krisko FRICS**

**Date and venue of
hearing** : **17 December 2019
10 Alfred Place, London WC1E 7LR**

Date of Decision : **9 January 2020**

DECISION

Decisions of the tribunal

- I The tribunal determines that the premium payable for the acquisition of the freehold of the subject property and appurtenant property at 26 Dryden Road, London SW19 8SG is £18,700.**
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The application

1. This is an application made under the provision of section 42 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”) seeking to acquire the freehold of the subject property.

Background

2. By an Initial Notice served under section 13 of the 1993 Act dated 2 May 2019. A Ms Catherine Alison Law of 26a Dryden Road and Mr. Robert Gregory Cullen and Ms Kate Lina Arkless of 26 Dryden Road, the applicant and nominee purchaser sought to acquire the freehold of the subject property, gardens and other land appurtenant to 26 Dryden Road for a proposed premium of £13,500 and £100 respectively.
3. By a Counter Notice served under section 21 of the 1993 Act dated 25 June 2019, the respondent freeholder admitted the applicant’s right to acquire the freehold but asserted that the premium payable is £37,800 and £200 for the freehold and appurtenant property respectively.
4. Directions were given by the tribunal dated ___ in order to progress this application to a final hearing. Subsequently, the parties agreed in their signed Statement of Agreed Facts dated 6 and 9 December 2019 the following matters:
 - (i) The size of the accommodation – 530sqft/49.2m² (GIA) - GFF and 590 sqft/54.8m² (GIA) - FFF
 - (ii) The 117 years remaining on the lease of the ground floor flat
 - (iii) The 81 years remaining on the lease of the first floor flat
 - (iv) The valuation date of 2 May 2019
 - (v) The capitalisation rate at 6%
 - (vi) The deferment rate at 5%
 - (vii) Price for freehold and side extension and loft - £18,700.
5. Therefore, the only issue remaining between the parties was the compensation payable for change of the lease plan of the FFF changing it form a one bedroom to a two bedroom flat by the repositioning of the kitchen into the living room area with access to a loft area above.

The premises

6. The premises comprise two flats on the ground and first floors of a converted terraced house. The ground floor flat is subject to a lease dated 25 August 2017 made between Spincrest Limited and Dimitry Kurichkov for a term of 217 years from 8 June 1973. The first floor flat is subject to a lease date 8 May 2001 made between Spincrest Limited and Mathew Ian Bennet granted from 25 March 1973 to 11 May 2100. The ground floor flat is a one bedroom flat with a small rear garden and the first floor flat was a one bedroom flat with a kitchen to the rear which has been repositioned into the living room area to create a two bedroom flat.

The Applicant's evidence

7. As the parties were unable to reach agreement on the one outstanding issue a hearing was held at which the applicant nominee purchaser was represented by Mr. Toogood and the respondent freeholder by Mr. Brook (valuer). The latter provided the tribunal with his expert report dated 16 December 2019. The applicant did not provide the tribunal with any documentation or report on which it relied. Therefore, Mr. Toogood was unable to provide any substantive evidence in support of the applicant's case other than to submit that in his view there was no 'uplift' to the value of the flat for which the respondent should be compensated.

The Respondent's evidence

8. In his oral submissions to the tribunal Mr. Brook submitted that the lessee needed permission under the terms of the lease and as the lease plan specifically identified each room in the flat, to remove the kitchen fittings and to reposition it in the living area, thereby converting the flat from a one bedroom to a two bedroom flat. Mr. Brook submitted that there had been an uplift in value because of this work although was unable to say when this work had been carried out or by whom.
9. Mr. Brook asserted that a two bedroom flat was worth in the region of £60K more than a one bedroom flat in the same area and referred the tribunal to the comparable properties relied upon in his report. Mr. Brook state in his report that existing value of the FFF as a one bedroom is ££72090 and £435977 as a two bedroom flat thereby increasing its value by £63,887. Allowing for the cost of the works of re-siting the kitchen in the amount of £25,200 this provided a development value of £38,687; *Padmore v Barry and Peggy High Foundation [2013] UKUT 0646 (LC)*.

The tribunal's decisions and reasons

10. The tribunal finds that having agreed the GIA of the two flats and their values it is not now open for Mr. Brook to argue that there should be an added development value in respect of the repositioning of the kitchen.

The tribunal finds and it was accepted by Mr. Brook that there had been no structural work carried out in moving the kitchen from the rear of the flat to the front and therefore, it was agreed that it was not a structural alteration and one that did not entail the removal of the landlord's fittings. Further, the tribunal finds that the installation of the kitchen has added value in the same way as an other tenant's improvement would have done. The tribunal does not accept Mr. Brook's argument that the repositioning of the kitchen in the living room area has generated the increase in value for which he contends. Had Mr. Brook sought to properly assert that there had been an increase in value the tribunal would have expected this to have been noted by an agreement as to the value per square foot.

11. The tribunal finds the tenant has not altered or enlarged the flat but simply changed around the current use of the rooms. This could be changed back or the living room used as a bedroom or the rear room used as a living room. How the tenant currently chooses to use his accommodation should not be reflected in the reversion value.
12. Therefore, the tribunal finds that the price payable for the freehold and appurtenant property is £18,700 as agreed by the parties. The tribunal was also informed that the respondent's costs payable by the applicant had been agreed by the parties in the sum of £5,160 including VAT and fees.

Signed: Judge Tagliavini

Dated: 9 January 2020