

4548



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

Case Reference : CHI/00MS/OCE/2017/0021

Property : 72&7SA Alma Road, Southampton SO14 6UX

Applicant : Floyd Barnes and Alexander Freeland

Representative : Paris Smith LLP

Respondent : Missing

Representative :

Type of Application : Collective Enfranchisement (Missing Landlord)

Tribunal Member : Mr D Banfield FRICS

Date of Decision : 14 September 2017

DECISION

Summary of Decision

The Tribunal has determined for the reasons set out below that the appropriate premium is £16,044.00

The draft TR1 is approved

Background

1. The applicants are the registered leasehold proprietors of the two flats under Title Numbers HP344589 AND HP3318631 and made an application for an Order pursuant to Section 26(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for collective enfranchisement in respect of the freehold title to the premises known as 72 Alma Road Southampton SO14 6UX registered with the Land Registry Title Number HP129075.
2. As the Freeholder could not be found an application for a Vesting Order was made on 16 March 2017 District Judge Stewart sitting at the County Court at Southampton Ordered that the freehold was vested in the claimants and that the appropriate sum to be paid should be determined by the First Tier Tribunal who should also approve the Transfer.
3. Directions were made on 25 May 2017 indicating that the application would be determined on the papers and requiring a hearing bundle to be submitted and which has now been received
4. Contained in the bundle is a valuation report by Howard Gross FRICS dated 25 May 2017 valuing the interest at £16,044 on 6 March 2017.
5. The Tribunal did not consider an inspection of the property to be necessary.

Evidence

6. Mr Gross's Valuation Report provides comprehensive details of the property the tenure of each flat and the basis of his valuation. He gives details of the size and accommodation of each flat and their state of repair and modernisation producing capital values for each. He then explains why he has adopted his capitalisation and deferment rates used in his final valuation of £16,044.00. The details are as follows:-
7. The property is described as a semi-detached house constructed in the late 19th or early 20th century converted into two flats around 1986. Each flat has its own entrance door and there are no common parts. There is a small garden and rear yard.

Tenure

Both flats are held on leases dated October 31 1986 and are held for a term of 99 years from that date on ground rents of £25 per annum throughout the term.

Accommodation

Each flat comprises two bedrooms, Lounge, Kitchen and bathroom.

Gross internal areas and condition

- 72a 69 sq.m. Dated kitchen, single glazed timber windows except Upvc double glazing in lounge and bathroom, gas central heating.
- 72 78 sq.m. Dated kitchen, Upvc windows throughout, night storage heaters and electric water heating.

Tenants' Improvements

None are claimed

Comparables

71b Lodge Road, Sold 23/6/2017 for £130,000; 670sq.ft. 983 years unexpired

137b Earls Road, Sold 28/2/2017 for £135,000; 714 sq.ft. share of freehold

137 Avenue Road, Sold 7/12/2016 for £145,000, 656 sq.ft. share of freehold

137A Avenue Road, Sold 7/12/2016 for £140,000, 721 sq.ft. share of freehold

Flat 4, 3 Alma Road, Sold 11/10/2016 for £165,000, 828 sq.ft. 99 years unexpired.

147 Earls Road, Sold 17/8/2016 for £136,000, 775 sq.ft. 964 years unexpired

72 Alma Road, Sold 20/5/2016 for £135,000, 746 sq.ft. 69.44 years unexpired

Capitalisation Rate

7% appropriate in his experience.

Deferment rate

5% in accordance with Sportelli

Capital Values (FHVP)

Flat 72a £144,000 and Flat 72 £146,000

These values are based on the comparables referred to which have been adjusted for time, size and any physical factors.

Mr Gross then considered the potential for re-conversion to a house. He considered that allowing for the costs of works the value as a house was £218,049.

He also considered whether to make an adjustment for the potential risk of a tenant holding over with an Assured Tenancy under Schedule 10 of the Local Government and Housing Act 1989 and determined that it was unnecessary.

Relativity

Mr Gross has considered the 2016 "Mundy" Upper Tribunal decision which indicated that market evidence should be the starting point and, using the sale of 72 Alma Road and after deducting 2.49% for 1993 Act rights in accordance with the decision in *The Earl Cadogan (and others) v Cadogan Square Limited* [2011] UKUT 154(LC) derives a relativity of 92.69%

He then considers graph relativity using Nesbitt & Co, (90.19%) Austin Gray (92.34%) and Andrew Pridell (91.56%) and determines that whilst his market evidence transaction evidence is above graph relativity it nevertheless reflects the local market.

He therefore adopts a relativity of 92.69%

8. Applying the above figures to his calculation he arrives at a premium of £16,044 as shown on the attached Appendix 1.

Decision

9. The Tribunal has carefully considered Mr Gross's valuation and accepts that it gives a fair assessment of the freehold value. **The appropriate premium is therefore determined to be £16,044.00**

Form of Conveyance

10. The draft TR1 enclosed with the application and attached as Appendix 2 is approved.

D Banfield FRICS
14 September 2017

PERMISSION TO APPEAL

1. A person wishing to appeal the decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

ANNEX 2

TR1

HM Land Registry
Transfer of whole of registered title(s)

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Remember to date this deed with the day of completion, but not before it has been signed and witnessed.

Give full name(s) of all the persons transferring the property.

Complete as appropriate where the transferor is a company.

Give full name(s) of all the persons to be shown as registered proprietors.

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with HM Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

1	Title number(s) of the property: HP129075
2	Property: 72 and 72a Alma Road Southampton SO14 6UX.
3	Date:
4	Transferor: Jennifer Sanders (a solicitor in the firm of Paris Smith LLP, 1 London Road, Southampton, SO15 2AE) acting under the authority of an Order of the Southampton County Court dated 16 March 2017 under claim number D00SO280 ("the Court Order"). <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
5	Transferee for entry in the register: Floyd Derrick Guy Barnes and Alexander Vyvyan Stillwell Freeland <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
6	Transferee's intended address(es) for service for entry in the register: 51 Bedford Place Southampton SO15 2DT
7	The transferor transfers the property to the transferee

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 11.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

The registrar will enter a Form A restriction in the register *unless*:

- an 'X' is placed:
 - in the first box, or
 - in the third box and the details of the trust or of the trust instrument show that the transferees are to hold the property on trust for themselves alone as joint tenants, or
- it is clear from completion of a form JO lodged with this application that the transferees are to hold the property on trust for themselves alone as joint tenants.

Please refer to *Joint property ownership* and *practice guide 24: private trusts of land* for further guidance. These are both available on the GOV.UK website.

Insert here any required or permitted statement, certificate or application and any agreed covenants, declarations and so on.

8 Consideration

- The transferor has received from the transferee for the property the following sum (in words and figures):
- The transfer is not for money or anything that has a monetary value
- Insert other receipt as appropriate:
The Transferee has paid the sum of £[] to the Court Funds Office on [] as acknowledged in the Order of the Southampton County Court dated [] pursuant to the Court Order and to Section 27 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act").

9 The transferor transfers with

- full title guarantee
- limited title guarantee

10 Declaration of trust. The transferee is more than one person and

- they are to hold the property on trust for themselves as joint tenants
- they are to hold the property on trust for themselves as tenants in common in equal shares
- they are to hold the property on trust:

11 Additional provisions

11.1 The Transferee has paid into Court pursuant to Section 27 of the Act the Sum of £[] being the consideration payable pursuant to the Court Order referred to in paragraph 4 above and to the decision of the First Tier Tribunal (Property Chamber) dated [].

11.2 The Transferor by the direction of the Court and pursuant to the terms of the Court Order transfers the Property to the Transferee.

11.3 This transfer is made subject to the leasehold interests registered with title numbers HP318631 and HP344589.

11.4 This transfer is executed pursuant to Section 27 of the Act and in a form approved by the First Tier Tribunal (Property Chamber) on [] pursuant to Section 27(3) of the Act.

[Empty rectangular box]

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

12 Execution

Signed as a deed by Jennifer Sanders in the presence of:

Signature

Signature of witness

Name (in BLOCK CAPITALS)

Address

Signed as a deed by Floyd Derrick Guy Barnes in the presence of:

Signature

Signature of witness

Name (in BLOCK CAPITALS)

Address

Signed as a deed by Alexander Vyvyan Stilwell Freeland in the presence of:

Signature

Signature of witness

Name (in BLOCK CAPITALS)

Address

If there is more than one transferee and panel 10 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to *Joint property ownership and practice guide 24: private trusts of land* for further guidance.

Remember to date this deed in panel 3.

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.