



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

Case Reference : LON/00AE/OCE/2015/0132

Property : 19 James Avenue, London NW2
4AJ

Applicant : 19 James Avenue Limited

Representative : Ringley Legal

Respondents : Mr John Keirns
Ms Bernadette Mary Plunket

Representative : None

Type of Application : Section 27(1)(b) Leasehold Reform,
Housing and Urban Development
Act 1993 – determination of terms
of acquisition – missing landlord

Tribunal Members : Judge John Hewitt
Mr Luis Jarero BSc FRICS

**Date and venue of
Determination** : 25 June 2015
10 Alfred Place, London WC1E 7LR

Date of Decision : 29 July 2015

DECISION

Decisions of the tribunal

1. The tribunal determines that:
 1. The terms of acquisition shall be that:
 - 1.1 the interest to be acquired is the freehold of the Property registered at Land Registry under title number NGL235729;
 - 1.2 the extent of the Property and the rights granted over any property are those included or referred to in the said registered title of the Property;
 - 1.3 the amount payable as the purchase price of those said interests and thus the appropriate sum to be paid into court is £48,069.00; and
 - 1.4 the transfer to be executed on behalf of the transferor shall be in the form TR1 annexed hereto; and
 2. The proceedings and the file be transferred back to the County Court at Willesden pursuant to order of District Judge Bloom made 27 March and drawn 24 April 2015.

The reasons for our decisions are set out below.

NB Later reference in this Decision to a number in square brackets ([]) is a reference to the page number of the hearing file provided to us for use at the hearing.

Procedural background

3. The subject property was originally constructed as a house in or about 1900 and subsequently was adapted to comprise three self-contained flats. During October and November 1989 each of those flats was sold off on a long lease [19].
4. Each long lessee is a qualifying tenant within the meaning of section 5 Leasehold Reform, Housing and Urban Development Act 1993 (the Act).
5. Two of the three qualifying tenants wish to exercise the right to collective enfranchisement and the applicant was incorporated for that purpose. The applicant was named as nominee purchaser in a draft initial notice prepared pursuant to section 13 of the Act [31].
6. The freehold interest of the Property is registered at Land Registry allocated with title number NGL235729. On 18 March 1986 the respondents were registered as proprietors of the freehold interest [19].
7. Each of the three long leases referred to in paragraph 3 above was granted by the respondents.

8. The applicant asserts that the respondents are missing landlords within the meaning of section 26 of the Act.
9. In November 2014 the applicant lodge a Part 8 claim with the County Court at Willesden – Claim Number A02W1723 seeking a vesting order.
10. By an order made 27 March and drawn 24 April 2015 District Judge Bloom determined that the claimant had been unable to serve on the defendants an initial notice pursuant to section 13 of the Act and he ordered that the claim be stayed and the proceedings be transferred to this tribunal under section 26 of the Act for the purposes of determination of the price and other terms of acquisition of the freehold.
11. The tribunal gave directions dated 7 May 2015. Pursuant to those directions the tribunal was provided with a hearing file containing copies of:

The claim form and other documents filed with the County Court;
The order made 27 March and drawn 24 April 2015;
A valuation report prepared by Mr David Field FRICS dated 1 June 2015;
Up to date official copies of material entries at Land Registry; and
Draft form TR1.
12. In response to a query raised by the tribunal Mr Field has provided a supplemental report dated 22 June 2015.

Discussion of the evidence

13. We have gone through Mr Field's evidence carefully. It strikes a chord with the experience of the members of the tribunal and we accept it.
14. The arithmetic is not wholly accurate in every respect but that does not have any material effect and overall we find that the premium payable – and hence the amount to be paid into court is £48,069.
15. The draft form of transfer at [108] is approved. For ease of reference a copy is annexed to this decision.
16. Given issues and the nature and extent of the evidence before it the tribunal concluded that an inspection of the Property would not be of assistance in arriving at its determination.

Judge John Hewitt
29 July 2015

Land Registry
Transfer of whole of registered title(s)

TR1

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'.

Give full name(s).

Complete as appropriate where the transferor is a company.

Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with 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.

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.

1	Title number(s) of the property: NGL235729
2	Property: 19 James Avenue, London NW2 4AJ
3	Date:
4	Transferor: John Keirns and Bernadette Mary Plunkett <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: 19 James Avenue Limited <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 09080089 <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: 19 James Avenue, London NW2 4AJ
7	The transferor transfers the property to the transferee
8	Consideration <input type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): <input type="checkbox"/> The transfer is not for money or anything that has a monetary value <input type="checkbox"/> Insert other receipt as appropriate: The sum of £[] (in words) has been paid into Court pursuant to an Order made under section 26(1).

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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 Land Registry's Public Guide 18 – *Joint property ownership* and Practice Guide 24 – *Private trusts of land* for further guidance. These guides are available on our website www.landregistry.gov.uk

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

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:

For themselves as tenants in common in the following shares.

11 Additional provisions

The transferee covenants by way of indemnity only, on the transferees behalf and on behalf of the transferees successors in title, to observe and perform the obligations, encumbrances, covenants and restrictions contained or referred to in the Charges Register of title number NGL235729 and to be liable for any future breach or non-observance thereof.

This transfer is executed for the purposes of Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993.

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.

If there is more than one transferee and panel 10 has been completed, each transferee may 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 Land Registry's Public Guide 18 – *Joint property ownership* and Practice Guide 24 – *Private trusts of land* for further guidance.

12 Execution

Signed as a deed by

Signed as a Deed by the officer of the Court nominated to execute this deed on behalf of John Keirns and Bernadette Mary Plunkett in accordance with the Order of the Court dated [] 2015.

.....

in the presence of:

Signature of witness.....
Name (in BLOCK CAPITALS)
Address.....
Occupation.....

Signed as a deed by the said 19 James Avenue Limited rating by

.....

director in the presence of:

Signature of witness.....
Name (in BLOCK CAPITALS)
Address.....
Occupation.....

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.

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