



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

**Case reference** : LON/00AQ/OCE/2015/0221

**Property** : Flats 10 and 10a Charlton Road,  
Harrow, Middlesex HA3 9HW

**Applicant** : (1) Mr Desmond Naughton  
(2) Mr M Moran  
(3) Mrs B Moran

**Respondent** : Mr Viktor Grofoyin Ejeye

**Type of application** : Absentee Landlord –  
determination of premium payable  
for new leases, sections 26 and 27  
Leasehold Reform, Housing and  
Urban Development Act 1993

**Tribunal members** : Judge Daley  
Mr L Jarero BSc FRICS

**Date and venue of  
paper determination** : 17 November 2015 at 10 Alfred  
Place, London WC1E 7LR

**Date of decision** : 02 December 2015

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**DECISION**

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## **INTRODUCTION**

1. This case involves an application for determination of the terms of acquisition of the freehold interest in Flats 10 and 10A Charlton Road Harrow, Middlesex HA3 9HW (the property”), pursuant to the provisions of section 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”). The case has been transferred to the Tribunal consequent upon the order of the Willesden County Court dated 10 August 2015. Steps having been taken, which were unsuccessful, to trace the whereabouts of the Respondent freeholder.

## **THE EVIDENCE**

2. The application is supported by an expert’s report and valuation dated 8<sup>th</sup> September 2015, prepared by Mr Hari Hirani BSc FRICS IRRV,MPVAI and Mr David Conlon of Anderson Wilde & Harris.
3. The report at paragraph 1.2 stated “ *We confirm that this valuation has been carried out in accordance with the Practice Statement in the Royal Institution of Chartered Surveyors Valuation Standards and that the Valuer is independent of any interested parties involved in this transaction and conforms to the requirements of the Practice Statements.*”
4. The property comprises a two storey semi- detached building built in the 1930s which was previously a house which has subsequently been converted into two self-contained flats. Both of the flats provided within the property are 1 bedroom flats. The report describes the first floor flat as being-: “... *presented in a reasonable condition internally with the ground floor flat being in a fairly poor condition...*”
5. Both flats are held pursuant to 99 year leases dated 1<sup>st</sup> January 1974, and have unexpired terms of 57.7 years respectively at the valuation

date – which is 20 April 2015. The ground rents for both flats are fixed at £15.00 per annum.

### **Unimproved Market Values**

6. The Tribunal were provided with two reports one sent in August 2015, and the other in October 2015, the Tribunal noted that there were errors in the October 2015 report, these errors have now been dealt with by the valuer, and the decision is based on additional information given by the Surveyor which clarifies the report.
7. The report refers to three comparables of sales dated between November 2014 and May 2015 of similar properties in the Kenton/Harrow area. The experts have used these comparable properties as a basis for their valuations appended to his report.
8. The comparables were *12 Woodlands Road, Harrow Middlesex*- This property comprised a ground floor 1 bedroom flat within a semi-detached 2 storey converted house, it was described as being in a tired condition. This flat was held on a share of the freehold and sold in February 2015 at £248,000.
9. *719 Honeypot Lane, Middlesex HA7 1JE* – This property comprised a ground floor 1 bedroom in “*average condition*” which benefits from a private rear garden. This flat sold in May at £249,950
10. *36Lowther road Harrow Middlesex*- This property was also a 1 bedroom flat which was held on a long lease.
11. The valuation report referred to other converted properties which had sold for between £225,000 and £249,950..On this basis they have arrived at the sum of £245,000 as the freehold value for each of the flats in the premises.
12. The Report which has been prepared in accordance with Schedule 13 to the act sets out the basis of the valuation by reference to three component factors (i) The diminution in the freeholder’s value (ii) the marriage value (iii) whether any other compensation is payable to the freeholder. The valuation report has assessed both flats 10 and 10A on an identical basis.

### **Relativity**

13. In considering the existing lease values the valuation report has referred to RICS Research Paper –Leasehold Reform Graphs of Relativity and the Beckett and Kay Graph of Graphs. The report has taken an average of all the main graphs cited in the report this has produced a relativity figure of 80% of the freehold value producing a figure of £196,000 for the existing lease.
14. The Tribunal noted that the report states that the unexpired term is 57.31 years, (however the valuation has been prepared on the basis of 57.7 years which is correct.

### **Capitalisation Rate**

15. In considering the capitalisation rate, In the Applicant's valuation report states that a current yield of 6.50% is appropriate as the capitalisation rate as this figure has recently been adopted by both the Lands Valuation Tribunal and the property investment market.

### **Deferment Rate**

16. So far as deferment rate is concerned, The report has followed The Court of Appeal Decision, in *Sportelli*, there being no compelling evidence to support any alternative approach. The Tribunal accepts and adopts the rate of 5% used.
17. We make the following observations on Applicants' report:  
The comparables cited have not been adjusted for time using a recognised index.
18. 12 Woodlands Road was sold in February with a share of the freehold, 2 months before the valuation date, for £248,000 and was in a tired

condition suggesting that the price obtained was not on the basis of Schedule 13

The long lease of 36 Lowther Road was sold in November 2014 for £236,000. The report suggests this comparable is inferior to the subject flats because of the lack of off street parking but does not indicate a value for this benefit. The sale was some 6 months before the valuation date.

The long lease of the comparable of 719 Honeypot Lane is reported to have sold in May 2015 for £249,950 which is very close to the valuation date and yet the report assumes freehold values some £5,000 below that.

19. *The relativity has been calculated with reference to the graphs cited in the RICS Research paper on Leasehold Reform. Some of these graphs are not appropriate to calculate the relativity in this case. The Beckett and Kay graph is mortgage dependent and opinion based, the John D Wood and Gerald Eve graph is for properties in Prime Central London and the one prepared by Austin Gray is based on settlements mainly in Brighton and Hove.*
20. *The tribunal is of the view that the appropriate graphs to use in this case are those of Nesbitt & Co, South East Leasehold and Andrew Pridell Associates Limited. Analysing these 3 graphs the Tribunal calculates that the average for 57.7 years is 84.57%.*
21. *Doing the best with the evidence provided the tribunal assesses the long leasehold value of these flats is £250,000. It is customary to add 1% to the long leasehold value to arrive at the freehold value which gives a freehold value of £252,525.*

## CONCLUSION

22. The Tribunal has set out above the difference in approach that we have taken to the Applicant's Valuation nevertheless we conclude that even with our adjustments the premium of £64,000 proposed in the report of Anderson Wilde and Harris is appropriate. We have set out our concerns about the approach adopted in the report. The Tribunal has noted that the report is prepared by Mr Hirani and Mr Conlon as independent experts put forward by the nominee purchasers. As such the Tribunal's role is to determine whether the premium proposed is a fair one for the missing landlord. We are satisfied that it is. Should the missing landlord be found, he should be assured that we have subjected the valuation submitted by the nominee purchaser to anxious scrutiny.
23. We are satisfied that the errors have not prejudiced him, but have rather been to his advantage.
24. The written determination of the Tribunal shall be sent to the Willesden County Court in accordance with the order of Deputy District Judge Hughes made on 10 August 2015.

Tribunal Judge Daley

Mr L Jarero BSc FRICS

Date: 02 December 2015