

4168



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

Case Reference : LON/OOAM/OCE/2016/0072

Property : 5 Dunlace Road, London E5 ONF

Applicants :
1. Guy William Ainsworth
2. Matthew Thomas Daw
3. Joseph Michael Dawes
4. Joanne Elizabeth Hallett
5. Alice Sarah Pearson

Representative : Housing & Property Law
Partnership, solicitors

Respondent : Kumal Dhanjee

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
Marina Krisko BSc (EstMan) FRICS

Date of determination : 11 April 2016

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 5 Dunlace Road, London E5 ONF. The property comprises three flats. One on the basement floor, the second on the ground floor and the third on the first and second floors. The two lower flats each have a

section of the rear garden. The upper flat provides the only means of access to the loft space that is not included in the demise.

2. All three flats are held on leases for terms of 125 years from 2 October 1986. The lease of the basement flat reserves an initial rent of £100 per year, the of the ground floor flat a rent of £10 per year and the lease of the first and second floor flat a rent of £15 per year. In each case the rent doubles every 25 years. Thus the rents reserved rise eventually to £1,600, £160 and £240 per year.
3. The landlord could not be found and on 29 December 2015 the applicants issued proceedings in the County Court for an order dispensing with service of the claim notice. By an order made on 19 February 2016 the county court transferred the claim to this tribunal for a determination of the terms of acquisition of the freehold in accordance with sections 26 and 27 of the Act.
4. The applicant leaseholders rely on a valuation report prepared by Mathew Price BSc (Hons) MRICS of Peter Barry Surveyors. It is a refreshingly thorough report and Mr Price's integrity in valuing the development potential of the loft space gives us confidence in its accuracy. He has inspected the property and describes it as having been built in the Victorian era and set over four floors with solid walls, suspended timber floors and a butterfly roof.
5. Mr Price correctly identifies the valuation as 29 December 2015 being the date of issue in the County Court. Thus at the valuation date each lease had an unexpired term of 95.76 years and marriage value is not payable.
6. Mr Price values the basement flat at £409,898, the ground floor flat at £467,335 and the first and second floor flat at £536,062. He bases those values on a number of local comparable long lease flat sales that he has adjusted for time using the HM Land Registry House Price Index for Hackney. He makes realistic adjustments for condition and up-rates the adjusted sale prices to freehold values by applying the relativity adopted by the Upper Tribunal in *Earl Cadogan v Betul Erkman* [2011] UKUT 90 (LC). His valuations are supported by the available evidence and we accept them.
7. Mr Price considers that a hypothetical development of the loft space would add an additional 275 square feet of Gross Internal Area. To that area he applies the unit price per square foot used to value the three flats discounted by 50% to reflect the addition of a third floor bedroom, which is not as valuable as the existing space that includes the main living areas. This methodology increases the value of the flat by £100,169 from which falls to be deducted the development cost that he puts at £50,000, leaving a potential profit of £50,169.
8. However no application for planning consent has been made and even if made there is no certainty that it would be granted. The only access

to the roof space is through the first and second floor flat and consequently only one person would be in the market to acquire the loft space. At this time the development is purely speculative. We agree Mr Price's methodology and also his assessment of the hope value at 10%. We therefore adopt his valuation of the potential development at £5,017.

9. We agree with Mr Price's deferment rate of 5% which is consistent with *Earl Cadogan v Sportelli* [20017]. Equally we accept his capitalisation rate of 7% that is within generally accepted parameters and realistic having regard to the increasing ground rents.
10. Mr Price appears to have made a small mistake in his valuation. For the first and second floor flat he puts the ground rent following the first review at £50 increasing to £400 whereas it should be £30 increasing to £240. Correcting that mistake but otherwise adopting Mr Price's valuation reduces the value of the freeholder's interest in the first and second floor flat to £5,819 and the price to be paid for the freehold from £24,233 to £23,714.
11. Consequently we determine the price to be paid for the freehold interest in the property at £23,714.
12. We are asked to approve the form of transfer at pages 201 to 204 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. Our understanding has always been that the legal interest in property cannot be registered in more than four names but that is largely a matter for the applicants. That apart we are content with the draft form.

Name: Angus Andrew

Date: 11 April 2016