

2811



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

Case Reference : DD/LON/00AW/OLR/2013/0824

Property : 7 Cornwall Gardens, 47-50 Cornwall Gardens,
London SW7 6AD

Applicant : Ms Claire Elaine Bradshaw

Representative : Piper Smith Watton LLP

Respondent : Lysville Limited

Representative : Hamlins LLP

Type of Application : Enfranchisement

Tribunal Members : Mr Robert Latham
Mrs Evelyn Flint FRICS

**Date and venue of
Hearing** : 8 October 2013
10 Alfred Place, London WC1E 7LR

Appearance for : Mr Wilson Dunsin FRICS

**Appearance for
Respondent** : Mr Maurice Berger FRICS

Date of Decision : 25 November 2013

DECISION

The Tribunal determines that the premium payable by the Applicant in respect of the extension of their lease at 7 Cornwall Gardens is £99,175. Our calculation is set out in the Appendix.

Introduction

1. This is an application made pursuant to Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993, as amended (“the Act”) for a determination of the premium to be paid for a new lease.

Background

2. The relevant background facts are as follows:
 - (i) The flat: 7 Cornwall Gardens, 47-50 Cornwall Gardens, London SW7 4AD.
 - (ii) Date of Tenant’s Notice: 23 January 2013.
 - (iii) Valuation Date: 23 January 2013.
 - (iv) Date of Application to the Tribunal: 23 June 2013.
 - (v) Tenant’s leasehold interest:
 - Date of Lease: 18 June 1975
 - Term of Lease: 99 years from 25 March 1974
 - Ground Rent: £75pa.
 - Unexpired Term at Valuation Date: 60.16 years.
 - (vi) Freeholder: Lysville Limited
 - (vii) Tenant’s Proposed Premium: £70,203
 - (viii) Landlord’s Proposed Premium: £125,000

Hearing and Inspection

3. The hearing of this application took place on 8 October 2013. Mr Dunsin, a chartered surveyor, appeared on behalf of the applicant tenant. Mr Berger, a chartered surveyor, appeared on behalf of the Respondent landlord. Neither firm of Solicitors attended the hearing.
4. On 10 July 2013, the Tribunal gave Directions (at Tab 3). On 4 October 2013, the parties agreed a Summary of Issues (at Tab 1), namely the

capitalisation rate and the unimproved condition extended leasehold value of the property. At the hearing, the parties agreed a capitalisation rate of 7.5%. The only outstanding issue for the Tribunal to determine is the unimproved condition extended leasehold value of the property.

5. The parties are agreed that tenant's improvements should be assessed at £100k
6. The parties are also agreed that there should be a 1% uplift for the unimproved freehold vacant possession value. A deduction of 1% must therefore be made to reach the unimproved extended lease value.
7. We heard evidence from Mr Dunsin on behalf of the Applicant. His report is at Tab 11. He largely relies on Flats 18 and 22 as comparables. Both of these flats are situated within the relevant building, namely 47-50 Cornwall Gardens Court. Flat 18 is on the third floor, whilst Flat 22 is on the fourth floor. He computes a modernised condition freehold value of £806.66 psf and £774.82 psf respectively.
8. He also relies on eight lower ground floor flats in Cornwall Gardens. He computes a modernised condition freehold value ranging from £661.94 psf to £817.34 psf. of £806.66 psf and £774.82 psf respectively. His average adjusted rate for the ten comparables is £763.10 psf
9. We also heard evidence from Mr Berger on behalf of the Respondent. His report is at Tab 11. He relies on nine ground floor flats in Cornwall Gardens. He does not deal with the two flats in the building at 47-50 Cornwall Gardens upon which the Applicant relies and which seem to the Tribunal to be particularly relevant. His preferred comparables are Flat 3 at No.69 and Flat 1 at No.29. Both of these flats look out directly onto Cornwall Gardens and have the benefit of access to these private gardens. They support a range of £1,402 to £1,473 psf. He has deducted a figure to represent the value of the improvement and the fact that the flat is at the rear of the block. He values the subject flat at £1,100 psf.
10. Mr Berger also relies on thirteen lower ground floor flats in Cornwall Gardens in response to the comparables which the Applicant has relied on in respect of lower ground floor flats. This support a range of £794 to £1,380 psf. He suggests that these support his valuation of £1,100 psf.
11. We completed the hearing by 13.15 and arranged to inspect the flat and the comparables during the afternoon. Neither of the experts was present.
12. Cornwall Gardens Court is a substantial building which originally consisted of 4 separate properties, namely Nos. 47, 48, 49 and 50. The properties were probably constructed in about 1890. At some stage,

possibly in the 1950s, the property was converted into a single block with a common staircase and lift. A second staircase, at the west end of the building was left in situ, presumably to provide a means of escape. This staircase runs adjacent to the subject flat. It seems to be little used, save as providing a means of access for builders.

13. There are now 26 flats on seven storeys. The conversion is not entirely satisfactory, probably because of the planning requirements imposed to secure adequate means of escape. The main staircase has been reduced in size to permit the installation of a small lift. Flats are situated in the lower ground floor, the ground floor, first, second, third and fourth floors. We are also told that there are two penthouse flats on the fifth floor, but these are not material to our determination.
14. The subject flat at 7 Cornwall Gardens is on the ground floor and at the rear of the building. There are two bedrooms. The property originally had one bathroom and one WC. Each bedroom now has an en-suite shower room and WC. There is also an additional separate WC in the property. These improvements have been carried out since the lease was granted. Mr Berger annexes plans to his report which show both the original and current lay out of the flat. The property now has an open plan and modern fully fitted kitchen. The former wall between the lounge and the dining area has been removed to create a larger lounge/dining area. The left hand side bedroom looks out onto an attractive mews area. A window in the kitchen looks out onto the second staircase which is not in regular use. The other rooms look out onto a walled area at the rear of the property. These outlooks are illustrated in the photographs annexed to Mr Dunsin's report.
15. Mr Dunsin suggests that the flat has the feel of a basement flat. We disagree. However, we accept that the outlook of the flat is less desirable than one at the front of the building. He also suggests that the privacy of the kitchen is compromised by the window which looks out onto the staircase. We do not consider this to be a serious detriment. This staircase is rarely used. It would be open to an occupant to cover the window.
16. A significant issue in dispute was whether the most desirable flats were on the ground, first, second, third or fourth floors. Mr Dunsin, for the tenant, argued that a flat on the fourth floor would have a premium of 40% over a flat on the ground floor, similarly, a third floor flat would have a premium of 30%. Mr Berger did not accept this. His view was that normally the flats on the lower floors would be the more desirable. However, he suggested that in this block, it is the flats on the first floor which would attract a premium, albeit of only 5 or 10%.
17. It was apparent to us that the flats at the front on the ground, first and second floors are the most desirable. These have attractive bay windows

and probably higher ceilings. However, they do not look out onto Cornwall Gardens, but rather other properties, including Braemer Mansions. The flats on the third and fourth floors appeared to have lower ceilings and no bay windows.

18. We were afforded access to the private gardens in Cornwall Gardens. A sign recorded that these are for the exclusive benefit of the following properties in Cornwall Gardens: Nos. 1-5; 9-43; 57-92; Garden House and Cornwall House.
19. We inspected the exteriors of Nos. 29 and 69 Cornwall Gardens. Both of these properties look directly out onto the gardens and have exclusive use of the same. They seem to have been constructed somewhat earlier than the subject property in the mid 19th Century. We are satisfied that these properties are substantially different from the subject premises and would attract a higher premium.

Our Decision

20. We are satisfied that the best comparables are Nos. 22 and 18 Cornwall Gardens. Both these are in the same building as the subject flat is situated.
21. We must consider the adjustments which we must make to reflect the fact that these are on the third and fourth floors and are at the front. Our assessment is that the psf for flats on the third and fourth floors would be similar. We would expect the psf for a ground floor flat to be 85% of these.
22. Flat 22 (4th floor front – 911 sq ft) was sold for £1.15m on 9.7.12. This has two bedrooms, a bathroom, a reception room and a kitchen. The adjusted figure for January 2013 is £1.1529m. The lease is 87 years. Mr Dunsin makes a 2% addition to reach a freehold value of £1.1764m. We accept these figures. This is a price psf of £1,291.
23. Flat 18 (3rd floor front – 883 sq feet) was sold for £0.881m on 2 May 2012. This is also a two bedroom flat. The adjusted figure for January 2013 is £0.9158m. The lease is 60 years. Mr Dunsin makes a 10% reduction for less benefits under the Act and then adds 19% for relativity. He reaches a freehold value of £1.0175m. We accept these figures. This is a price psf of £1,152.
24. There is a significant difference between the psf for these two properties. Flat 18 has a shorter lease and more adjustments have been made in respect of this. In these circumstances we give a 75% weighting to No.22 and a 25% weighting to No.18. We therefore reach a figure of £1,256 psf (namely £968 + £288).

25. We then make a 15% reduction to reflect the fact that the demised flat is at the rear and on the ground floor. We reach a figure of £1,068.
26. The agreed floor area of the subject flat is 892 sq ft. The current condition freehold vacant possession value is therefore £952,300, which we round down to £950,000.
27. From this, the agreed sum of £100,000 must be deducted in respect of improvements to give an unimproved freehold vacant possession value of £850,000.
28. Finally, an agreed 1% deduction must be made to compute an unimproved freehold vacant extended lease value of £841,500.

Conclusions

29. The parties are now agreed that the capitalisation rate is 7.5%. We have determined the unimproved condition extended lease value of the flat to be £841,500. In these circumstances, we determine that the premium payable by the Applicant in respect of the extension of their lease at 7 Cornwall Gardens is £99,175. Our calculation is set out in the Appendix.

Robert Latham
Tribunal Judge
25 November 2013

Valuation of 7 Cornwall Gardens Court 47-50 Cornwall Gardens London SW7 4AD

Appendix

Date of valuation	23-Jan-13
Agreed yield for term	7.5%
Agreed yield for reversion	5.0%
Expiry of leases	24-Mar-73
Term unexpired at date of valuation	60.16
Multiplier for 60.16years (YP single rate)	13.1614
PV in 60.16 years	0.0531
Value of unimproved extended lease	£841,500
Agreed Relativity	81.0%
Agreed value of improvements	£ 100,000
Uplift to freehold	1%

Freeholder's current interest

Ground rent	£75
YP 60.16	<u>13.161</u>

£987

Value of term £987

Freehold Reversion	£ 850,000
PV in 60.16 years	<u>0.05312</u>

45,152

Value of reversion

Landlord's current interest £46,139

Freeholder's proposed interest

Reversion to freehold	£ 850,000
PV in 150.16 years	<u>0.000658</u>

£ 559 £ 395

Diminution in Value

£45,744

Marriage Value

Freeholders proposed interest	£ 559
Value of extended lease	£841,500

£ 842,059

less			
landlord's current interest	£46,139		
existing lease value	£688,500	<u>£734,639</u>	
		£106,861	
Lessor's share		50%	
			<u>£53,430</u>
		Total payable	<u>£99,175</u>