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

Case Reference : LON/00AF/OLR/2013/0183

Property : 1 Southlands Court, Southlands Road,
Bromley, Kent BR2 9QU

Applicant : Nicholas Jones & Ann M Jones (tenant)

Representative : Pritchard Joyce & Hinds
Bowditch & Sons

Respondent : Winchester Park investments Ltd
(landlord)

Representative : Teacher Stern LLP
Douglas Struth & Partners

Type of Application : **For the determination of the
premium payable under section 48**

Tribunal Members : Mrs Sonya O'Sullivan
Mrs S Redmond BSc (Econ) MRICS

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

Date of Decision : **29 August 2013**

DECISION

Background

Property: A ground floor purpose built flat known as 1 Southlands Court, Southlands Road, Bromley BR2 9QU

Date of tenant's notice: 29 May 2012

Date of landlord's counter-notice: 2 August 2012

Valuation date: Agreed at 29 May 2012

Details of tenant's leasehold interest -

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|--|--------------------------------|
| (i) Date of lease : | 30 April 1964 |
| (ii) Term of lease: | 99 years from 25 December 1963 |
| (iii) Ground rent: | £12 per annum |
| (iv) Unexpired term at valuation date: | 50.57 years |

Tenant's proposed premium: £25,925

Landlord's proposed premium: £36,592

Inspection

1. The tribunal inspected the property on 12 June 2013 the morning following the hearing. The subject property comprises a ground floor flat within a block of nine purpose built flats and maisonettes on three floors. All the flats and maisonettes are similar in size with access to the common areas and garage blocks to the rear.
2. The tribunal was not able to inspect the property internally. The purpose built 1960's block is of brick and tile hung construction under a shallow pitched roof. There is a narrow open-plan style 'garden' strip between the block and the busy road. The main access is from the communal area, with a parking area and garages, to the rear of the block. There is shared porch access to the upper maisonettes and

individual entrance doors to the ground floor flats. Some of the woodwork to one of the porches is in disrepair, and there is no recognisable garden area. The block appears to be in generally fair condition.

The Tribunal also carried out an external inspection of comparables relied upon comprising 50 and 64 Addison Road, 9 Tredwell Close and 16 Chatterton Road. Those in Addison Road are typical rendered interwar purpose built flats with gardens in a better situation off the main road. Tredwell Close are more modern and in a cul de sac with garage block nearby. Chatterton Road is a Victorian conversion.

The hearing

Evidence

- 1) At the commencement of the hearing the valuers acting for both parties confirmed that the only matters in dispute between the parties were the relativity to be adopted and the valuation of the freehold in possession.
- 2) Both parties relied on expert evidence. The Applicant relied upon an undated report of Mr Bowditch. The Respondent relied upon a report by Mr Struth dated 24 May 2013. Both experts attended the hearing to present their cases and give evidence.
- 3) The evidence heard and the Tribunal's decision is set out below. What follows is necessarily a summary of the evidence, the majority being in any event contained in the bundle before the parties.

The Estimated Value of the Freehold in possession

- 4) Both parties relied on comparable evidence and details of those comparables were set out in each expert's respective report. The extent of and quality of this information varied considerably. Neither expert had personal knowledge of any of the comparables and both were reliant on information provided by agents directly involved.
- 5) Both Mr Bowditch and Mr Struth relied on different comparables. They both acknowledged that neither had been able to obtain what they considered to be a direct comparable.
- 6) Mr Bowditch had not submitted his expert report in the standard form required; in particular it omitted a statement of truth and an acknowledgment that the duty of care was to the tribunal. However on enquiry from the tribunal he gave the necessary assurances.
- 7) Mr Bowditch's approach had been to rely sales within the block. He relied on the sale of Flat 6 in November 2009 which he adjusted from £169,000 to £180,000 at the date of valuation to take into account the intervening period and the condition. He also relied on the sale of the subject property in February 2010 in the sum of £130,000 which he said reflected the poor condition, he adjusted this sum to take into account the condition and the period to the date of valuation to reach a figure of £144,000. Reliance was also placed on Flat 9 which was sold in September 2010 for £231,000 with an extended lease in good condition. Mr Bowditch adjusted this figure downwards to take into account its very good condition and the fluctuations in the market to reach a price of £195,000 which he nevertheless considered to be a full and exceptional figure. Flat 9 was heard to remain on the market at an asking price of £215,000 which he said suggested the price was too high. He also relied on Flat 6 which was offered for sale at £205,000 with an extended lease in January 2013 which remained unsold which he said again suggested a high figure.
- 8) Lesser reliance was placed on sales of flats at the date of valuation in the period 2009-2010 of 64 and 50 Addison Road, 9 Tredwell Close, 16 Chatterton Road and 11 Hayes Road. The tribunal was not provided with

lease lengths for these properties and no adjustments were made to the valuation date. However the dates of sale and the price paid was agreed by both valuers.

- 9) Mr Bowditch had excluded sales of flats subsequent for the period 2010-2012 although he agreed that these may well have been of assistance.
- 10) Taking all these factors into account Mr Bowditch adopted an extended lease value of £180,000 and an existing lease of £144,000.
- 11) Mr Struth agreed that it had been difficult to obtain helpful comparable evidence. He pointed out that the block was fairly isolated on the street and that he considered the only good comparables were within the block.
- 12) Mr Struth's approach had been to rely solely on comparables within the block. He concentrated on an analysis of the sale of Flat 9. He made adjustments to the price to reflect that it was sold on a long lease, had regard to the Land Registry Price Indexation for Bromley for the period July 2010 to May 2012 to make an adjustment of 0.996% and made a further deduction of £10,000 for improvements. This produced an adjusted capital value of £309 per square foot.
- 13) He also gave credit for the benefit of the garden area and lateral accommodation which he considered the subject benefited from in comparison to the upper flat in reaching a figure of £215,000 for the unimproved freehold value.

The Tribunal's decision - FHVP value

- 14) Neither expert had provided the Tribunal with particularly robust evidence. Neither valuer had obtained any comparable evidence close to the valuation date instead preferring to rely on dated comparable evidence from within the block. Although Mr Bowditch did place some limited reliance on

comparables outside of the block again these were not close to the valuation date and the tribunal was not provided with any evidence of lease length.

- 15) As far as the further comparables relied on by Mr Bowditch were concerned the tribunal considered that 11 Hayes Road was too far away from the subject property to be helpful, 16 Chatterton was a different type of property being a period property, 9 Tredwell was again different being more modern, both 50 & 64 Addison Road appeared to be closer comparables although somewhat older, but we did not have particulars and the sales dates were 2009 and 2010. The Tribunal did not consider any of these comparables were helpful.
- 16) Neither valuer has provided the Tribunal with any evidence of more recent transactions which would have proved more reliable.
- 17) The Tribunal considered that the best evidence before it was the comparable evidence of Flat 9. It agreed that the adjustments made to the purchase price in respect of Land Registry indexation and improvements to reach a figure of £207,000 were appropriate. However it did not agree that this figure should be upwardly adjusted to reflect the outdoor space available to the subject property. This outside space formed part of a rough garden abutting the main road which did not appear to the Tribunal to be of any value. Rather the tribunal considered there should be a downwards adjustment of in the region of £5,000 to take into account the poor security aspect of a ground floor flat on an unsecured site. By doing so the Tribunal reached a figure for the freehold value of £202,000.

Relativity

- 18) The parties also disagreed on relativity.
- 19) The Tribunal considered that there was no helpful market evidence and thus in such circumstances reliance must be placed on relativity graphs.

- 20) Mr Bowditch simply relied on the Graph of Graphs to contend for a relativity of 80%. He also confirmed that some reliance had been placed on LVT decisions as he said they were fully argued and were public record. He also relied on his own local knowledge as his practice was within the area. He considered that the figures on individual graphs diverged widely.
- 21) Mr Struth had most regard to the Nesbitt & Co graph which indicated a relativity of 75.57%. This was because this graph was based on transactions within Greater London and did not involve tribunal decisions. He made a further downwards adjustment to this figure of 2% on the basis that the graphs were compiled some years ago to a rounded figure of 74%. Reliance was also placed on a tribunal decision on 41 Sunny Gardens Road in February 2011 reference LON/OOAL/OLR/2011/0001 in which a downwards adjustment of almost 3% was made for changes in the market since the credit crunch. Mr Struth therefore contended for a relativity of 74%.
- 22) Mr Struth did not explain why he excluded Andrew Pridell and South East Leasehold.

Relativity - the tribunal's decision

- 23) The tribunal considered that all graphs are open to some criticism. It did not consider that reliance should solely be placed on LVT decisions and the comments made in Arrowdell.
- 24) Mr Struth had relied on Nesbitt & Co. However the tribunal saw no reason to exclude South East Leasehold given that this focussed primarily on Bromley and Beckenham. Likewise it considered that Andrew Pridwell which focussed on flats in the south east and suburban London should not be excluded. The tribunal agreed that Austin Gray should be excluded as it focuses primarily on Brighton and Hove.

25)The tribunal did not consider that reliance should properly be placed on the LVT decision of 41 Sunny Gardens referred to above as this was an unargued paper case.

26)The tribunal considered that the best approach was to take an average of the graphs referred to above and reached a figure for relativity of 77.22%.

Costs

27)The landlord asked whether the tribunal would make a determination as to its costs but was advised to make a separate application for a determination of its reasonable costs under section 91(2)(d) of the 1993 Act. This was because the tribunal would wish to consider time spent and consider any submissions from the tenant in relation to those costs. The parties should also attempt to try and settle the issue of costs before recourse to the tribunal.

Summary of the Tribunal's Decision

- 1) The FHVP value is £202,000
- 2) The relativity to be adopted is 77.22%
- 3) The Leasehold Valuation Tribunal determines that the premium to be paid by the tenant on the grant of a new lease, in accordance with section 56 and Schedule 13 of the Leasehold Reform, Housing and Urban Development Act 1993 is £30,541.

A copy of the Tribunal's valuation is attached as Appendix 1.

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Judge

Sonya O'Sullivan

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Date

29 August 2013

VALUATION FOR PREMIUM FOR A NEW LEASE
Leasehold Reform & Urban Development Act 1993
1 Southlands Court, Southlands Road, Bromley, Kent BR2 9QU

Facts

Lease expires 47th December 2062
 Ground rent £12 per annum fixed
 Valuation date 29th May 2012
 Unexpired term 50.57 years

Matters agreed

Capitalisation rate 7%
 Deferment rate 5%
 Extended lease value relativity to Freehold value to is 99%
 Other compensation Nil

Determined by tribunal

Virtual freehold value £202,000
 Existing lease (unimproved) £155,984
 Existing lease relativity as %age of FHVP value 77.22%

Diminution in Value of Freeholder's interest

| | £ | £ | £ |
|--|----------|---------------|--------|
| Present value of Freeholder's interest | | | |
| Ground rent | 12 | | |
| YP 50.57 years @ 7% | 13,8191 | 166 | |
| Value of term | | | |
| Virtual freehold market value unimproved | 202,000 | | |
| Deferred 50.57 years @ 5% | 0.084811 | <u>17,132</u> | |
| Freeholder's present interest | | 17,298 | |
| Less, value of Reversion after extension | 202,000 | | |
| deferred 140.57 years @ 5% | 0.001051 | <u>212</u> | 17,086 |

Calculation of Marriage Value

| | | | |
|--|----------------|----------------|---------------|
| Value of proposed interests: | | | |
| Landlords' | 212 | | |
| Tenant's new 140.57 year lease at a peppercorn | <u>199,980</u> | 200,192 | |
| Less value of existing interests: | | | |
| Landlords' | 17,298 | | |
| Tenant's existing lease | <u>155,984</u> | <u>173,282</u> | |
| Marriage Value | | 26,910 | |
| 50% marriage value attributed to landlord | | | <u>13,455</u> |

TOTAL PREMIUM PAYABLE

£30,541