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V2



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

Case Reference : LON/00AQ/OLR/2013/0110

Property : Flats 2,3,5,and 7 High Mead Harrow Middlesex
HA1 2TX

Applicant : Flats 2 and 7 : R Joshi & I Joshi
Flat 3: R Mistry
Flat 5: A Rawla & B Rawal

Representative : Mr J Hennessy BSc MRICS

Respondent : Zambra Investments

Representative : Mr L Nesbitt BSc FRICS MCIA

Type of Application : S48 of the Leasehold Reform Housing and
Urban Development Act 1993

Tribunal Members : Mrs F J Silverman Dip Fr LLM
Mr L Jarero BSc FRICS

**Date and venue of
Hearing :** London 23 September 2013

Date of Decision : 23 September 2013

Decision

The Tribunal determines that the premium payable by the Applicant tenants for an extended lease of Flat 2 is £22,966 , of Flat 3 is £25,051 , of Flat 5 is £24,725 , and Flat 7 is £22,966 , in all cases exclusive of statutory costs.

- 1 The Applicants filed their respective applications with the Tribunal on the 8 January 2013 asking the Tribunal to determine the price payable for an extended lease of the properties known as 2,3,5, and 7 , High Mead Harrow Middlesex HA1 (the properties) under section 48 Leasehold Reform Housing and Urban Development Act 1993 and other matters relevant to that transaction. Directions were issued by the Tribunal on 13 May 2013. The above listed cases are conjoined and were heard together. This Decision therefore applies in full to all the flats listed above.
- 2 The hearing of the matter took place before a Tribunal sitting in London on 23 September 2013 at which Mr J Hennessy represented the Applicants and Mr L Nesbitt represented the Respondent. Mr Hennessy and Mr Nesbitt are the surveyors representing the respective parties and the Tribunal heard evidence from each of them.
- 3 The parties agreed that the Tribunal did not need to inspect the property.
- 4 The Tribunal therefore adopts description of the property as set out in Mr Hennessy's evidence.
- 5 At the date of the hearing the only matter in dispute between the parties ,and therefore the only matter upon which the Tribunal was required to deliberate was relativity.
- 6 Mr Hennessy for the Applicants argued for a relativity of 84.5% which figure he contended was reflected by similar figures derived from well known graphs. For example, the Austin Grey graph produced a figure of 86.61% , Andrew Pridell produced a figure of 86.9% , John D Wood gave a result of 83.55% and finally, Mr Nesbitt's own well respected graph produced a relativity of 84.5% for the unexpired term of 61.58 years.
- 7 Mr Nesbitt preferred to rely on market evidence to produce his own relativity figure. He based this on a single transaction being the only known sale of a flat with a short lease in this development (no 13) which had taken place at almost exactly the valuation date applicable to this case (sale dated May 2012). The relativity figure produced from the sale of flat 13 was 72%. Mr Nesbitt then chose to split the difference between that (72%) and the figure produced by his own graph (84.5%) yielding a final relativity figure on which he relied of 78.25% .

- 8 Mr Hennessy said that he was aware of the sale of flat 13 but had few details of it apart from the fact that it had been a sale by a receiver at auction . Nothing was known about the condition of the property. He asserted that the relativity figure produced by this one transaction was clearly out of line with all the available graph evidence , including that resulting from Mr Nesbitt's own researches. Further, he felt it was unwise and unsafe to rely on a relativity figure derived from one single transaction.
- 9 In this respect the Tribunal endorses Mr Hennessy's view that reliance on a single transaction is not a preferred method of assessing relativity. The Tribunal had due regard to the Nailrile case (referred to by both representatives) and, in the absence of reliable market evidence has done the best it can to ascertain relativity. For that reasons it rejects Mr Nesbitt's arguments and adopts Mr Hennessy's figure of 84.5%
- 10 Using the above figure and adopting the other figures agreed by the parties' surveyors the Tribunal's valuations for each of the flats under discussion are attached as Schedule A.
- 11 The Valuation date for Flats 2, 3, and 5 was agreed as being 24 May 2012. Flat 7 had a valuation date of 29 May 2012. The difference between these two dates is insignificant and has for valuation purpose been ignored.
- 12 In preparing its valuations the Tribunal finds that the value of the freehold reversioner's interest after enfranchisement is £250.

The Law

13 Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (The Act) provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable for other loss.

The value of the landlord's interests before and after the grant of the new lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the assumption that the tenant has no rights under the Act to acquire any interest in any premises containing the tenant's flat or to acquire any new lease.

Para 4 of the Schedule, as amended, provides that the landlord's share of the marriage value is to be 50%, and that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.

Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.

Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Judge F J Silverman
as Chairman
23 September 2013

Schedule A : Valuations

Leasehold Valuation Tribunal

Ref

GJ1/BD1/ZAM005/005/006/007/008

5 High Mead, Harrow Middlesex, HA1 2TX

Valuation Date	24 May 2012
Commencement date for lease	99 years from 25 December 1974
Unexpired term	61.58 years
	Flat 5
	£35 pa for 1st 25 years, £70 pa for 2nd 25 years, £140 pa for 3rd 25 years, £280 pa for remainder

Deferment rate	5%
Capitalisation rate	7%
Relativity (long lease to existing lease)	84.5%

Long lease value	Flat 5	£235,000
Existing lease value	Flat 5	£198,575

Freeholder's interest		
Existing, Flats 3 & 5		
Ground rent receivable	£70	
YP 12.58 yrs @ 7%	8.1868	£573
Reversion to revised ground rent in 12.58 years	£140	
YP 25 yrs @ 7%	11.6536	
PV £1 in 12.58 yrs @ 7%	0.4269	£696
Reversion to revised ground rent in 37.58 years	£280	
YP 24 yrs @ 7%	11.4693	
PV £1 in 37.58 yrs @ 7%	0.07866	£253
Reversion to freehold value	£235,000	
PV of £1 in 61.58 years @ 5%	0.04956	£11,647
Freeholder's existing interest		<u>£13,169</u>

Proposed		
Reversion to freehold value	£235,000	
PV of £1 in 151.58 years @ 5%	0.0006139	£144
Diminution to freehold interest		£13,025

Marriage Value		
Proposed interest		
Freeholder	£144	
Tenant	£235,000	
	£235,144	

Existing interest		
Freeholder	£13,169	
Tenant	£198,575	
	£211,744	
Marriage value	£23,400	
Marriage value @ 50%	£11,700	£11,700
	Premium payable for Flat 5	<u>£24,725</u>