



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

Case Reference : CHI/00HD/OLR/2016/0072

Property : 108 Great Meadow Road, Bradley Stoke
BS32 8DA

Applicant : Mr Ernest and Mrs Linda Brown

Representative : Ocean Property Lawyers

Respondent : Freehold Properties 250 Limited

Representative : J B Leitch

Type of Application : Application for determination of terms of
acquisition for a new lease. Section 48(1) of
the Leasehold Reform Housing and Urban
Development Act 1993 ("1993 Act")

Tribunal Member(s) : Judge Tildesley OBE
Mr J Reichel FRICS

**Date and Place of
Hearing** : 12 October 2016 Bristol Social Security and
Child Support Tribunal, Vintry House, 3rd
Floor, Wine Street, Bristol BS1 2BD

Date of Decision : 15 November 2016

DECISION

Summary of Decision

The Tribunal determines the premium payable for a new lease of 108 Great Meadow Road under section 48 of the 1993 Act at **£6,474**.

Background

1. The Applicants hold a lease of the current property for a term of 99 years from 1 April 1990. The lease is registered at HM Land Registry under Title Number AV201512.
2. The freehold title to the property is registered at HM Land Registry under Title Number GR224602. Freehold Properties 250 Limited is named as the proprietor with title absolute. The register records that Freehold Estates Limited transferred the freehold to Freehold Properties 250 Limited on 22 March 2013.
3. In April 2015 the Applicants commenced negotiations with Leasehold Property Management Limited of the same address as the freeholders over the premium and terms of a new lease. The negotiations ground to a halt.
4. On 24 November 2015 the Applicants served a section 42 notice claiming a new lease with an extension of 90 years from the expiry of the current lease with a peppercorn ground rent. The Applicants proposed a premium of £4,000. The section 42 Notice was served on Freehold Estates Limited of 353 Kentish Town Road, London NW5 2TJ.
5. On 4 January 2016 JB Leitch solicitors for the freeholder gave notice requiring the Applicants to pay 10 per cent of the sum payable proposed in the section 42 notice, which the Applicants duly did on 11 January 2016.
6. On 25 January 2016 the JB Leitch served a section 45 counter notice on the Applicants. The notice was from Freehold Properties 250 Limited of 353 Kentish Town Road London NW5 2TJ. In the notice the landlord admitted the Applicants had the right to acquire a new lease of the Flat on the date of the section 42 notice. The landlord also accepted the Applicants' proposals in respect of the terms of the lease. The landlord's counter proposals were for a premium of £9,798 and for the Applicants to pay the landlord's costs in accordance with section 60 of the 1993 Act. The section 45 Counter Notice was not qualified in any form whatsoever and was duly signed by J B Leitch as the Landlord's agent.
7. The section 45 counter notice was accompanied by a "without prejudice" letter signed by JB Leitch stating that

"This counter notice is served without prejudice to our client's contention that the Notice dated 24 November 2015 is invalid as it has not been served on the correct freeholder".

8. The Applicants' representatives then engaged in correspondence with JB Leitch. The Applicants' position was that the correct landlord had admitted their claim for a new lease, and as a result the Applicants were seeking to reach agreement in respect of the premium payable. JB Leitch, on the other hand, stated their client considered the section 42 notice invalid but JB Leitch would be prepared to forward a "without prejudice" offer to their client for comments.
9. On 25 April 2016 the Applicants submitted an application to the Tribunal for determination of the premium payable for the new lease.
10. In response to Tribunal directions JB Leitch on 8 June 2016 made representations to the effect that the section 42 notice was invalid because it had not been served on the correct landlord, and further the Tribunal had no jurisdiction to determine validity of a section 42 notice.
11. On 29 June 2016 the Tribunal struck out the application on the ground that it did not have jurisdiction to determine the validity of a section 42 notice.
12. The Applicants submitted an application for permission to appeal.
13. On 27 July 2016 the Tribunal reviewed its decision and revoked the strike out notice dated 29 June 2016. The Tribunal then decided to hold a preliminary hearing to determine whether it had jurisdiction to hear the substantive dispute regarding the premium payable. The Tribunal directed determination of the preliminary point on the papers without a hearing unless a party objected in writing. The Tribunal received no objections.

Preliminary Determination

14. On 30 August 2016 the Tribunal considered as a preliminary issue whether it had jurisdiction to determine the premium payable for the new lease.
15. The Tribunal referred to Section 91(2)(a)(ii) of the 1993 Act which enables the Tribunal to decide the premium payable for a new lease in accordance with schedule 13 of the 1993 Act.
16. The Tribunal then considered section 48 of the 1993 Act which sets out the procedural requirements that must be met before the Tribunal can hear the application for determination of premium.
17. The Tribunal identified the requirements as follows:
 - (a) Whether the Respondent has given the Applicants a section 45 counter notice admitting the Applicants' right to acquire a new lease?

- (b) Whether any terms of acquisition remain in dispute at the end of the period of two months beginning with the date when the counter notice was so given?
- (c) Whether the application for the premium payable was made not later than the end of the period of six months beginning with the date on which the counter notice was given to the Applicants?
18. The Tribunal was satisfied that the above three requirements had been met in connection with this application. On 25 January 2016 the Respondents served a section 45 notice admitting the Applicants' right to a new lease. The parties remained in dispute on the amount of premium payable for the new lease. The Application to the Tribunal was received on 25 April 2016 which was within the requisite six month period.
19. The Tribunal also took the view that any questions regarding the validity of the section 42 notice and the binding nature of the Respondent's admission on the Applicants' right to acquire a new lease were not live issues. The parties had not made application to the County Court under section 90(2) of the 1993 Act in relation to these matters.
20. The Tribunal decided that it had jurisdiction to hear the application. The parties were informed of their right to apply for permission to appeal the preliminary point. No party exercised its right to apply for permission within the prescribed time limit.
21. The Tribunal made the following directions:
- (a) The application shall be heard on 12 October 2016 at a time and venue to be notified.
- (b) The Tribunal gives permission for each party to call an expert valuer.
- (c) The parties must agree a bundle of documents relevant to the outstanding issues. The bundle must be indexed with numbered pages and the documents must, so far as possible, be in chronological order. The Applicant must prepare the bundle, and send one copy to the Respondent and three copies to the Tribunal by 28 September 2016. The bundle must include copies of the following:
- The application
 - These directions
 - The claim notice and counter notice
 - Up to date office copies of the entries at H M Land Registry of the freehold title, and the flat leasehold title, with plans
 - The existing flat lease and lease plan

- The new draft lease and lease plan
 - Each parties' valuation report with full details of all comparables and a memorandum of agreed facts
 - A brief summary of the issues in dispute to be determined by the Tribunal.
- (d) The Tribunal may wish to inspect the property prior to the hearing at a time to be notified. The Applicant must make the necessary arrangements for the inspection.
- (e) If a party makes application to the County Court in connection with the new lease for the property, it must serve a copy of the application on the Tribunal without delay.

The Hearing

22. On 16 September 2016 the Applicants' solicitor sent the agreed bundle to the Tribunal. The Applicants' solicitor, however, did not include the Respondent's case which was sent separately to the Tribunal on 27 September 2016, and a copy of its valuation report. The Applicants' solicitors subsequently provided three copies of a valuation on a single sheet of paper dated 18 November 2016, and was unsigned.
23. The Respondent's case comprised a statement entitled Respondent's Submissions and signed by Kimberley Erin Smith, Trainee Solicitor. The statement referred to a letter dated 23 September 2016 signed by "the appointed valuer" which provided a valuation of the premium and information on sales of four flats on Great Meadow Road. The Respondent indicated that it was not attending the hearing.
24. On 7 October 2016 Judge Tildesley sent an email to the parties inviting representations on the following matters:
- The Applicants have not supplied evidence to substantiate their valuation.
 - The Applicants and the Respondent have not provided witness statements from a valuer which has been signed in the capacity of an expert witness.
 - The Applicants have not indicated whether they are calling their expert witness at the hearing.
 - There was no memorandum of agreed facts.
 - The Respondent had not appealed the Tribunal decision on the preliminary matter. Given those circumstances Judge Tildesley expressed the view that the Respondent was not entitled to challenge the determination on the grounds of no jurisdiction.
25. The Applicants' solicitor responded by providing a valuation report prepared by Nigel K Freston BSc FRICS which predated the serving of the Applicants' section 42 Notice, and was clearly prepared for the purposes of negotiation. The report contained no expert witness statement. The

Applicants' solicitor indicated that Mr Freston would not be attending the hearing. The solicitor asked the Tribunal to have regard to the other premiums which have been accepted in the same vicinity to assist with a fair determination of the premium for the subject property.

26. The Tribunal sent a further e-mail to the Respondent seeking its views on the valuation report supplied by the Applicants' solicitor.
27. The Respondent noted the various points made by Judge Tildesley in the email of 7 October 2016. The Respondent did not argue against Judge Tildesley's ruling that it was not entitled to raise the question of jurisdiction. The Respondent did not object to the admission of Mr Freston's report. The Respondent requested the Tribunal to use its expertise to determine the applicable premium having regard to the contents of the letter from its appointed valuer.
28. Immediately before the hearing the Tribunal inspected the property in the presence of Mr and Mrs Brown. The Tribunal also with Mr and Mrs Brown viewed the exteriors of 68 and 203 Great Meadow Road, Bradley Stoke. Mr and Mrs Brown informed the Tribunal that these two flats were of the same design and build as the subject flat. The parties' valuers had used the sale of 68 Great Meadow Road as a comparable. They had made no mention of 203 Great Meadow Road in their "reports" which had been purchased by Mr Brown's brother about two years ago. Mr Brown's brother said he paid in the region of £129,000 for the flat on the understanding that the seller obtained an extension to his lease, which apparently cost the seller £5,000.
29. Mr and Mrs Brown attended the hearing. Their representative did not accompany them. The Respondent had previously indicated that its representative was not attending the hearing. Understandably Mr and Mrs Brown were not able to assist the Tribunal with its technical questions. They were able to confirm certain facts in relation to the comparables. The Tribunal did its best to explain the process that it had to follow in accordance with statute to determine the premium. The Tribunal said that it was not able to take into account the evidence of the sale of 203 Great Meadow Road because it had not been mentioned by the parties' valuers. The Tribunal also explained to Mr and Mrs Brown that evidence of premiums paid by other leaseholders on their own carried minimal weight because they arose from negotiations which may have had no regard to the statutory framework that governed the Tribunal's approach when determining the premium.
30. Mr and Mrs Brown's frustration was with the process for arriving at the terms of the new lease. The Tribunal explained that it had expedited the hearing following re-instatement of the application.

Reasons for the Decision

The Issue

31. The Tribunal proceeded on the basis that the Respondent had agreed to the Applicants' proposals in respect of the new lease. The proposals are that the lease would be granted on the same terms as the existing lease except that the new lease would be extended for 90 years from the expiry of the current lease term with a peppercorn ground rent.
32. The sole issue in dispute affecting the grant of the new lease is the premium payable. The grant of the new lease is not dependent on the question of the landlord's reasonable costs which, if remain in dispute, can be dealt with separately by either party making an application to the Tribunal.

The Law

33. The Tribunal is required to determine the premium in accordance with the provisions of paragraph 2, part 11 of schedule 13 of the 1993 Act. The premium is the aggregate of
- (i) The diminution in value of the landlord's interest in the tenant's flat.
 - (ii) The landlord's share of the marriage value.
 - (iii) Any amount of compensation payable to the landlord.
34. Paragraph 3(1) states that the diminution in value of the landlord's interest is the difference between:
- (i) The value of the landlord's interest in the tenant's flat prior to the grant of the new lease: and
 - (ii) The value of his interest in the flat once the new lease is granted.
35. Paragraph 3(2) spells out the factors to be taken into account when valuing the landlord's interest. Essentially the valuation equates with the value of an open market sale by a willing seller of an estate in fee simple subject to the existing lease but which ignores the right to acquire a new lease and disregards any value attributable to tenant's improvements.
36. The value of the landlord's interest comprises two elements:
- a. The right to receive rent under the existing lease for the remainder of the term (*The term*).
 - b. The right to vacant possession at the end of term subject to the tenant's right to remain in occupation (*The reversion*).

37. Paragraph 4 of schedule 13 deals with marriage value which is calculated by aggregating the values of the landlord's and tenant's interests after the new lease had been granted, and deducting the corresponding values prior to the grant of the new lease. The landlord is entitled to a 50 per cent share of the marriage value.
38. Paragraph 5 of schedule 13 enables compensation to be paid to a landlord for any loss or damage arising out of the grant of a new lease. The question of loss or damage is not an issue in this Application.
39. The Tribunal will apply the statutory framework to the evidence to arrive at the appropriate premium for the new lease. In these cases, the parties' evidence normally comprises valuations supported by sales of comparables and prepared by expert witnesses who usually attend for cross-examination by the other side and to answer questions of the Tribunal. In this case the evidence of both parties was found wanting in material respects, which was compounded by the non-attendance of the "expert" witnesses.
40. The Tribunal decided to proceed with the hearing and do its best on the evidence before it. The Tribunal considered that an adjournment would not further the overriding objective and would be disproportionate having regard to the low values involved, the limited scale of difference between the parties, and the time taken to reach this point in the process.

The Evidence

41. The property is a small two bed purpose built flat on the top floor of a three storey block of six flats with two flats on each floor. Access to the flats is gained through a communal entrance and staircase. There is no lift in the block. The property has an allocated car parking space but no garden although there are communal areas at the rear of the block.
42. The property comprises an entrance hall, an open plan lounge and diner, a kitchen with a hatch to the lounge/diner, a bathroom with three piece suite with an electric shower over the bath, a double bedroom and single bedroom or study.
43. The property is heated by means of electric storage heaters and panelled radiators. Domestic hot water is from a hot water cylinder. The Applicants have installed uPVC double glazing in the property and recently fitted a new kitchen and bathroom suite.
44. The property is located on a modern estate within the established area of Bradley Stoke which is on the Northern outskirts Bristol with good road and rail links. The estate had a mixture of building types including purpose built flats of the same design and construction as the subject property.
45. The lease for the property is for a term of 99 years from 1 April 1990 with a rent of £50 per annum for the first 33 years of the term rising to £75 per

annum for the next 33 years of the term and finally to £100 per annum for the final 33 years.

46. The valuation date is 24 November 2015 which corresponded with the date of the section 42 Notice.
47. Mr Freston for the Applicant proposed a premium of £5,452 which was based on a value of £130,000 for the extended lease with capitalisation rate of 7 per cent and deferment rate of 5 per cent. Mr Freston applied a relativity of 95 per cent to determine a value of £123,500 for the existing lease with no rights of renewal under the 1993 Act. Mr Freston stated that the unexpired term of the existing lease was 73.4 years.
48. The Respondent's valuer who was unnamed proposed a premium of £8,253 based on a value of £150,000 for the extended lease with capitalisation rate of 6 per cent and deferment rate of 5 per cent. The valuer applied a relativity of 92.5 per cent to determine a value of £138,750 for the existing lease with no rights of renewal under the Act. The valuer stated that the unexpired term of the existing lease was 73.35 years.
49. The parties referred to the following comparables:

Property	Description	Sale Price	Date of Sale
167 Great Meadow Road Bradley Stoke	Flat same design as the subject property	£142,500	11 March 2016 (73 years left on lease)
120 Great Meadow Road, Bradley Stoke	Flat same design as the subject property	£137,500	26 February 2016 (73 years left on lease)
68 Great Meadow Road, Bradley Stoke	Flat same design as the subject property. First floor property.	£134,450	3 December 2015 (73 years left on lease)
184 Great Meadow Road, Bradley Stoke	Flat same design as the subject property	£135,000	30 November 2015 (73 years left on lease)
66a Elm Close, Little Stoke	Two bed purpose built flat in an older development with a garage in a block	£142,500	Offer price at £142,500

50. The Respondent also referred to Zoopla as an estimate of value which gave a range of value of £130,000 to £158,000 with an estimate of £144,000 for the subject property.

Determination

Diminution in the Respondent's Interest

51. In determining the premium for the new lease, the Tribunal is required first to calculate the diminution in value of the Respondent's interest in the Applicants' flat.
52. This consists of two elements. First it is necessary to calculate the term which represents what a property investor would pay for a fixed income of the ground rent per annum for the remaining term of the lease. There are three elements to this calculation, the ground rent which is the figure given in the lease, the length remaining on the lease as from the date of the section 42 Notice given by the Applicants to purchase the new lease, and the capitalisation rate.
53. The date of the section 42 notice is 24 November 2015.
54. The Tribunal decides that the period remaining on the lease is 73.34 years. The Applicants' valuer used a figure of 73.4 years as compared to the figure of 73.35 years used by the Respondent.
55. The capitalisation rate is the critical part of the calculation, and is derived from an expert assessment of the expected yield from the ground rent investment. The value of the term increases with a decreasing capitalisation rate.
56. The Applicants' valuer argued for a capitalisation rate of 8 per cent. He suggested that the market would construe a ground rent of £50 per annum rising to £100 per annum over the lease term as low, "undynamic", and a relatively unattractive investment. The Applicant's valuer suggested that a capitalisation rate of 7 to 10 per cent would normally be adopted for this type of investment. The valuer used 7 per cent rate not 8 per cent in his calculation.
57. The Respondent disagreed with the assessment of the Applicants' valuer. The Respondent considered that this lease with a rising ground rent during the term and doubling in just over seven years would represent an attractive investment. The Respondent, therefore, advocated a capitalisation rate of 6 per cent.
58. The Tribunal notes that the Applicant's valuer has given no explanation for opting for 7 per cent in his calculation rather than the 8 per cent advocated in his written narrative. Equally the Tribunal notes the Respondent's error of the ground rent doubling in the next seven years. The percentage increase is 50 per cent from £50 to £75.
59. The Tribunal accepts that a rising ground rent throughout the term is more attractive than a fixed ground rent. The Tribunal, however, considers the values of £50 rising to £100 per annum were still relatively

small. The Tribunal finds a capitalisation rate of 7 per cent is about right for this type of investment.

60. The Tribunal, therefore, determines a value of **£944.79 for the term.**
61. The second element of the diminution in the value of the landlord's interest is the deferred value of the reversion. This involves an assessment of what the flat could be sold for at the end of the expiry of its current term to which a multiplier is applied in order to calculate what an investor today would pay for the promise of the value of the flat in 73.35 years' time when the current lease expires.
62. In calculating what the Flat could be sold at the end of the lease it is assumed that the most favourable lease would be granted to the hypothetical purchaser in order to maximise value, namely a 999 year lease with a nominal ground rent. For the purposes of this decision this value is referred to as the extended lease value.
63. Any improvements by the Applicants to the Flat have to be disregarded in calculating the value of the extended lease. The Tribunal understands that the windows in the Flat have been replaced with uPVC ones. The Applicants' valuer, however, gave no deduction for improvements in his valuation.
64. The Applicants' valuer proposed an extended lease value of £130,000. The Respondent, in contrast, suggested a value of £150,000.
65. The parties produced no evidence of sales of comparable properties with extended leases. The parties relied on the sales evidence of properties with existing leases set out in the table at paragraph 49. The Respondent also referred to the estimate of value for the subject flat on the Zoopla website, which was £144,000. The parties made no representations for a notional uplift to reflect the attributes of a freehold.
66. The Tribunal places weight on the evidence of 68 and 184 Great Meadow Road where the sales were completed close to the valuation date of 24 November 2015. The premiums proposed by the parties were £5,452 and £8,243 respectively, which suggest a value of no more than £143,000 for an extended lease when the proposed premiums were added to the sale prices for 68 and 184 Great Meadow Road.
67. Having regard to parties' evidence and submissions the Tribunal determines an extended lease value of £140,000.
68. The parties agreed a deferment rate of 5 per cent from which the appropriate multiplier can be identified.
69. The Tribunal, therefore, determines, the value of the reversion at **£3955.85** which when added to the value of the term of £944.79 produces a figure of **£4,900** for the diminution in value of the Respondent's interest in the Applicants' flat.

The Marriage Value

70. The marriage value is the increase in the value of the Flat following the completion of the lease extension. The increase reflects the additional value of the long lease. This potential profit arises from the landlord's obligation to grant the new lease. The legislation requires the potential profit associated with the extension of leases with less than 80 years on the term to be split equally between freeholder and the leaseholder. The legislation stipulates that where the unexpired term exceeds 80 years the marriage value shall be taken as nil.
71. The legislation provides that the marriage value is the difference between the value of the leaseholder's interest under the new lease (value of the extended lease) plus the value of the landlord's interest once the new lease is granted and the value of the leaseholder's interest under the present lease plus the value of the landlord's interest prior to the grant of the new lease.
72. The Tribunal has already determined the value of the extended lease and the value of the landlord's interests. The sole calculation remaining is the value of the leaseholder's present interest. In respect of this calculation the legislation imposes a complication which is that the present interest must be valued on the basis that there is no right by the leaseholder to a new lease. This assumption is commonly referred to as the "No Act World".
73. The effects of the "No Act World" is that a lease with no right to a new lease would be worth less than a lease with that right. Further as virtually all leases have the right to a new lease, there is no or limited direct market evidence of sales of leases with no right to renew. In such situations valuers have relied on relativity graphs to calculate the value of the leaseholder's present interest.
74. The Royal Institution of Chartered Surveyors (RICS) has published a document containing relativity graphs compiled by various organisations (for example the Leasehold Advisory Service (LEASE)) and by firms of valuers practising in leasehold enfranchisement. The graphs show the value of the existing lease at any given unexpired term as a percentage of the value of the same dwelling in possession to the freeholder. The organisations and the valuer firms have used different types of data to compile their graphs: settlement evidence, evidence of non-enfranchisable sales, Tribunal decisions and opinion.
75. The Applicants' valuer used a relativity of 95 per cent which was based on the Leasehold Advisory Service graph (relativity of 93.5-95 per cent for unexpired term of 70 - 75 years). The Respondent's valuer applied a relativity of 92.50 per cent which was derived from Nesbitt & Co graph for Greater London and England (relativity of 91-93.5 per cent for unexpired term of 70 - 75 years). If the respective relativities are applied to the extended lease value of £140,000, the value of the existing

leasehold interest would be £133,000 (Applicants) and £129,500 (Respondent).

76. The use of relativity graphs was approved of by the then Lands Tribunal in *Arrowdell Ltd v Coniston Court (North) Hove Limited* [2007] RVR 39:

“The difficulty that confronts every LVT¹, as it now confronts us, in seeking to determine the appropriate relativity to apply in a particular case is the inadequacy of the available evidence. If no assistance is to be derived from earlier LVT decisions for the reasons we have just given, the same will go for settlements that have themselves been based on such decisions. In such circumstances, in our view, it is necessary for the tribunal to do the best it can with any evidence of transactions that can usefully be applied, even though such transactions take place in the real world rather than the no-Act world. Regard can also be had to graphs of relativity, as we say below, and later on we suggest that greater guidance could be derived from this particular type of evidence”.

77. The recent Upper Tribunal decision in *The Trustees of the Sloane Stanley Estate v Adrian Howard Mundy* [2016] UKUT 0223 LC has given further guidance on the valuation of existing leases with no right to a new lease, and on the use of relativity graphs.

78. The Upper Tribunal’s starting point in *Trustees of the Sloane Stanley Estate* is that the use of the term “No Act World” is misleading and should be avoided. According to the Upper Tribunal, the statutory assumption is to direct a valuation on the basis that the existing lease does not have rights under the 1993 Act. The assumption, however, does not apply to leases of other flats. Thus the notional sale of the subject flat has to be considered in the context of the real market and not a hypothetical market. It follows from this line of reasoning that when assessing the valuation of existing leases more weight should be given to sales evidence of existing leases with rights to a new lease under the 1993 Act rather than relying on relativity graphs.

79. The Upper Tribunal in *The Trustees of the Sloane Stanley Estate* at paragraph 168 said

“In some (perhaps many) cases in the future, it is likely that there will have been a market transaction at around the valuation date in respect of the existing lease with rights under the 1993 Act. If the price paid for that market transaction was a true reflection of market value for that interest, then that market value will be a very useful starting point for determining the value of the existing lease without rights under the 1993 Act. It will normally be possible for an experienced valuer to express an independent opinion as to the amount of the deduction which would be appropriate to reflect the statutory hypothesis that the existing lease does not have rights under the 1993 Act”.

¹ LVT stood for the leasehold Valuation Tribunal one of the predecessors to the First Tier Tribunal

80. The Upper Tribunal also suggested at paragraph 169 that the relativity graphs should be reserved for those cases where there is no reliable market transaction concerning the existing lease with rights under the 1993 Act:

“The more difficult cases in the future are likely to be those where there was no reliable market transaction concerning the existing lease with rights under the 1993 Act, at or near the valuation date. In such a case, valuers will need to consider adopting more than one approach. One possible method is to use the most reliable graph for determining the relative value of an existing lease without rights under the 1993 Act. Another method is to use a graph to determine the relative value of an existing lease with rights under the 1993 Act and then to make a deduction from that value to reflect the absence of those rights on the statutory hypothesis. When those methods throw up different figures, it will then be for the good sense of the experienced valuer to determine what figure best reflects the strengths and weaknesses of the two methods which have been used”.

81. In this case the Tribunal has sales evidence of flats with rights under the 1993 Act, namely, 68 and 184 Great Meadow Road which were completed close to the valuation date of 24 November 2015. 68 Great Meadow Road sold for £134,450 on 3 December 2015, whilst 184 Great Meadow Road sold for £135,000 on 30 November 2015.

82. The relativities used by the parties' valuers produced values for the existing leasehold interests of £133,000 (Applicants) and £129,500 (Respondent) when applied to the extended leasehold value of £140,000.

83. The parties' valuers did not explain their choice of relativity graph. On balance the Tribunal prefers the Applicants' valuers' choice of relativity graph, which was the one produced by LEASE. The Tribunal favoured the LEASE graph because it was derived from previous Tribunal decisions, and also the one preferred by the Upper Tribunal in *Re Coolrace Ltd and others* [2012] 2EGLR 69

84. The Tribunal determines a value of £132,000 for the existing lease. The Tribunal has arrived at this figure after consideration of the sales evidence for 68 and 184 Great Meadow Road and the calculation produced from the LEASE relativity graph.

85. The Tribunal determines a marriage value of **£3,147.76** of which the Respondent's share is **£1,573.88**.

Decision

86. In view of its findings The Tribunal determines the premium payable for a new lease of 108 Great Meadow Road under section 48 of the 1993 Act at **£6,474**.

87. The Tribunal's calculations are set out in the Appendix.

Appendix: Premium Calculation

1. Diminution of value of Landlord's interest

24/11/2015 Ground Rent				£50	pa	
YP for	7.35	years at	7%	5.5975		
						£279.88

01/04/2023 Ground Rent				£75	pa	
YP for	33	years at	7%	12.7538		
PV £1 in	7.35	years at	7%	0.6082		
						£581.74

01/04/2056 Ground Rent				£100	pa	
YP for	33	years at	7%	12.7538		
PV £1 in	40.35	years at	7%	0.0652		
						£83.18
						£944.79

2. Loss of reversion

31/03/2089 Reversion to				£140,000		
PV £1 in	73.35	years at	5%	0.0279		
						£3,907.45

Reversion to				£140,000		
PV £1 in	163.35	years at	5%	0.0003		
						£48.40
						£3,955.85

Diminution in Value, say **£4,900**

3. Landlord's share of Marriage Value

Value of Tenant's interest under a new lease				£140,000		
Value of Landlord's new interest				£48.40		
						£140,048.40

Less						
Value of Tenant's existing lease				£132,000		
Value of Landlord's existing interest				£4,900.64		
						£136,900.64

Marriage Value **£3,147.76**

Landlord's share at 50% **£1,573.88**

Premium say **£6,474**

Notes

Value of New Lease £140,000

Value of Existing Lease £132,000

Date of Section 42 Notice: 24 November 2015

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.