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

Case Reference : CHI/24UL/OLR/2016/0121

Property : Flat 2, 64 Church Lane East, Aldershot,
Hampshire GU11 3HB

Applicant : Alexandra Louise McLoughlin

Representative : Brooks and Partners, solicitors

Respondent : Mohammed Yaqoob Khan (Missing)

Representative :

Type of Application : Leasehold Reform Housing and Urban
Development Act 1993 (Missing Landlord)

Tribunal Member : Mr D Banfield FRICS

Date of Decision : 11 August 2016

DECISION AND FURTHER DIRECTIONS

Summary of Decision

- **The Tribunal has determined for the reasons set out below that the appropriate sum to be paid is £17,300**
- **The draft lease is not approved**

Background

1. The applicant is the lessee of Flat 2, 64 Church Lane East, Aldershot and wishes to extend her lease. The freeholder could not be traced and an application was therefore made to the Court for a Vesting Order pursuant to s. 50 of the Leasehold Reform Housing and Urban Development Act 1993.
2. District Judge King sitting at the County Court at Aldershot and Farnham made an order dated 8 June 2016 transferring the matter to the First-tier Tribunal (Property Chamber) for a determination under section 51 of the Act.
3. In summary Section 51 requires the Tribunal to ;
 - a. Determine the terms of the new lease
 - b. Determine the appropriate sum to be paid into court being;
 - Such amount as may be determined to be the premium which is payable under Schedule 13 in respect of the grant of the new lease
 - Such other amount as may be payable
4. Directions were made on 21 June 2016 indicating that the application would be dealt with on the papers unless an objection was received.
5. No objection has been received and the matter is therefore determined on the bundle provided by the applicant which includes an expert report dated 7 July 2016 from A P Gribbon MRICS which values the premium to be paid at £16,000 as at the date of the Tribunal's Directions.
6. The Tribunal has not inspected the property but has examined the details provided in the above report.

Evidence

Valuation

7. Mr Gribbon's expert report describes the property as a converted ground floor flat with gas fired central heating forming part of a three storey semi-detached building now divided into four flats.

8. The accommodation has a Gross Internal Floor Area of 72m² and comprises an entrance hall, bathroom, living room, two bedrooms and kitchen. There is said to be a garden to the rear but no parking space or garage.
9. The leaseholder has undertaken the following improvements;
 - a. Replaced boiler
 - b. Re-fitted kitchen and bathroom
 - c. Provided decking to back garden
 - d. Partial fencing of back garden
10. Mr Gribbon says that he understands that a sale of the Leasehold interest has been agreed at £211,000 and after deducting for the Lessee's improvements referred to above in accordance with Para.3(2)(c) of Schedule 13 he arrives at a value of £195,000.
11. Mr Gribbon also refers to the following comparables:
 - a. The sale of Flat A in the same property which sold with an extended lease for £215,000 in June 2016.
 - b. 21 Church Lane East sold March 2016 for £220,000
 - c. 1a Church Hill sold September 2015 for £214,950
 - d. Flat 2, The Lawn, 24 Cargate Hill sold January 2016 for £205,995
12. No further details of the lease lengths were provided for the comparables other than for c. which is said to have a share of the freehold.
13. He adopts a capitalisation rate of 7% and a deferment rate of 5% both figures being "generally the standard position" and a relativity of 88.31% which he derives from the average of the Beckett & Kay, South East Leasehold, Nesbitt & Co, Austin Gray and Andrew Pridell graphs of relativity.
14. Mr Gribbon describes the lease as for 88 years from 1 January 1992 at a fixed ground rent of £25 per annum.

Form of new lease

15. A draft of the new lease is in the bundle at pages 71 to 83.
16. The existing lease term is as described in 14 above. However, at clause 1 of the lease the premises are described as including "the garden edged green on the said plan". The plan attached to the lease shows the green edged area situated between the flank wall of the building which contains the entrance door to the flat and the boundary fronting Northbrook Road. Mr Gribbon's description of a "garden at rear" therefore appears to be inaccurate.

17. The property is described as “Flat 2” however, there is another Flat 2 on the second floor. For postal purposes therefore Flat 2 (ground floor) is correctly known as 64a.

DECISION

Premium

18. The correct date for the valuation is the application to the Court i.e. 14 March 2016. Although this is some 3 months before the valuation date adopted the Tribunal does not consider there has been a material change in the market and accepts Mr Gribbon’s capitalization rate of 7%, his deferment rate of 5% and relativity of 88.31%.
19. With regard to the long leasehold value however whilst he does not say so it is presumed that he adopts what is said to be the agreed sale price for the extended lease of the subject flat at £211,000. The Tribunal is prepared to do likewise.
20. The Tribunal is not however prepared to make the deductions for improvements suggested. Items a and b appear to be replacing of existing fittings in accordance with the lessee’s obligations under clause 1.9 of the lease whereas items c and d appear to relate to works outside of the lessee’s demise as referred to in paragraph 16 above.
21. **The Tribunal’s valuation is therefore £17,300** calculated as follows:

Ground rent		352	
Reversion to VP	211,000		
PV £1 @5%	0.045	9,495	
L'lords current interest		9,847	
L'holder's current interest @	88.31%	186,334	
L'lords current interest		9,847	
Total current interests		196,181	
Value after lease extension			
L'holder's interest		211,000	
L'lords interest		0	
Marriage Value		14,819	
Divide by 2		7,409	
Plus l'lord's interest		9,847	
Total price		17,256	
	Say		£17,300

Lease

22. The draft lease does not adequately reflect that the grant follows the making of a vesting order under section 50(1) and the Tribunal's approval cannot therefore be given.

FURTHER DIRECTIONS

23. The Applicant will re-draft the proposed lease in compliance with the requirements of S.50 and 51 Leasehold Reform, Housing and Urban Development Act 1993.
24. In particular the lease must reflect that the Landlord is missing and therefore unable to "agree", that the premium will be paid into Court, that full title guarantee cannot be given and that the correct premium should be shown.
25. The completed draft will be submitted to the Tribunal for approval within 21 days of the date of this decision.

D Banfield FRICS

11 August 2016

PERMISSION TO APPEAL

1. A person wishing to appeal the 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.