

4/16/18



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

Case Reference : **BG/LON/00AJ/OLR/2018/0085**

Property : **275 The Broadway, Southall, UB1
1NG**

Applicant : **Roque Munoz**

Representative : **McCorry Connelly**

Respondent : **Ernest Reuben Greenidge**

Representative : **N/A**

Type of Application : **S50/51 Leasehold Reform Housing
and Urban Development Act 1993,
Missing Landlord**

Tribunal Members : **P M J Casey MRICS**

**Date and venue of
Hearing** : **Paper hearing on 9 May 2018
10 Alfred Place, London WC1E 7LR**

Date of Decision : **25 May 2018**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the premium payable on the grant of a new lease of the ground floor flat at 275 The Broadway, Southall, UB1 1NG (“the property”) is the sum of £61,387 and also approves the proposed terms of the new lease.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

The application

1. The applicant seeks a determination by the tribunal pursuant to an order made under the provisions of S50(1) of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by District Judge Banks sitting at the County Court at Uxbridge on 21 December 2017 of the premium to be paid into Court and other terms on the grant of a new lease of the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 25 September 2017 by McCorry Connelly, Solicitors on behalf of the applicant in which it was said that the applicant was entitled to acquire a new lease of the property under the provisions of the Act but had been unable to exercise the right by serving the requisite notice under S42 on the landlords because their whereabouts were unknown.

The hearing

3. In response to the tribunal’s directions which provided for a determination on the papers to be submitted, the applicant’s solicitors provided a bundle of documents including a valuation report dated 10 April 2018 for use in tribunal proceedings addressed to the tribunal and prepared by Richard Galbraith MBA MRICS of Owen Grainger Associates. The report contained the requisite declarations required of a Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 9 May 2018. No inspection of the property was deemed necessary given the description, plans and photographs included in the report.

The evidence

5. From Mr Galbraith’s description of the property and the photographs it is a self-contained purpose built flat on the ground floor of a two storied terraced building dating from circa 1930. It comprises three rooms, kitchen and bath/wc. There is a garden to the rear. No want of repair is noted in the report and the kitchen and bathroom fittings are said to

be relatively modern but only the central heating system is claimed to be a tenant's improvement the value effect of which falls to be disregarded under the provisions of the Act. It has a gross internal area of 660 sq ft (61.3m²).

6. The property is held on a 99 year lease from 25 December 1960 subject to a ground rent payment of £8.00 per annum for the whole term.
7. At the Valuation Date, 25 September 2017, the lease had 46.25 years unexpired.
8. Mr Galbraith provides market evidence for the extended lease value of the property as at the Valuation Date by reference to five completed transactions involving similar properties at around that time the details of which are provided in the report. He makes adjustments to the sale prices achieved by these properties to reflect differences in size and to reflect superior condition to the subject property where he thinks it is appropriate to do so. From this evidence he forms the opinion that an extended leasehold interest in the subject property would be worth £260,000 the average adjusted sale price of his comparable transactions after allowing £10,000 for the central heating. He adds 1% to this figure for the benefit owning the freehold to give £262,600 as the freehold value.
9. To capitalise the ground rent income for the unexpired term of the existing lease in his valuation of the existing freehold interest in the property he adopts a rate of 8.5% and he defers the reversion on the expiration of the existing lease term at 5%.
10. To calculate the marriage value and the landlord's entitlement to 50% thereof he has assessed the value of the existing lease term in the property, disregarding the value of the rights conferred by the Act, by reference to what are generally referred to as graphs of relativity. He refers to the five graphs relating to outer London/England which were published in an RICS report into graphs of relativity. The averaging of these graphs suggests to him that in a "no Act world" the existing lease term would have a value of 65.6% of the freehold value looks at a graph produced by Savills in 2016 which shows a slightly lower relativity of 64.2%. He adopts the mean of these two figures, 64.9% as the appropriate relativity to freehold value to give an existing lease value of £170,421.
11. His valuation attached to his report produces a premium of £61,387.

The decision

12. The tribunal is satisfied that Mr Galbraith's valuation of the extended leasehold interest is supported by the evidence he provides in his report

and by his acceptable adjustments to the sale prices of the comparable transactions. The uplift from leasehold value to the freehold Mr Galbraith has made of 1% is a fairly normal addition in the outer London area for this length of lease and gives a freehold, VP value of £262,600 which the tribunal accepts.

13. Mr Galbraith's use of an 8½% rate to capitalize the passing ground rent and of 5% to defer the value of the reversion of the term date is also perfectly proper and accepted by the tribunal.
14. In the absence of sales evidence the use of so called graphs of relativity is a common practice and the five graphs referred to by Mr Galbraith are invariably used in any case outside the prime central London area because practitioners argue that the outer London market is less sophisticated and higher relativities result though none seem able to explain why lease length per se should affect values in different locations in this way. The graphs referred to all have their individual flaws and taking an average of the five that he prefers does not make them more reliable. They range from 58.3% to 75% for this length of unexpired term which is far too wide a spread to be covered by averaging, though his use in the mix of the Savill's 2016 graph is helpful. In the tribunal's experience whenever market evidence is introduced lower relativities result. The only graph to have been given some credence by the Upper Chamber is the Gerald Eve – John D Wood (1996) graph. This shows a relativity of leasehold to freehold value with 46.25 years unexpired of some 68.0% against Mr Galbraith's adoption of 64.9% which in all the circumstances the tribunal accepts as not being too low. Thus Mr Galbraith's valuation is approved.
15. It is confirmed there are no outstanding demands for ground rent or service charges which have been lawfully demanded and have not been paid.
16. District Judge Bank's Order of 21 December 2017 required also that the tribunal determines "the terms of the new lease ...". The tribunal has been provided with a draft of the deed of surrender and re-grant in the bundle and having carefully considered the document is satisfied that the proposed terms comply with the requirements of the Act.

Name: Patrick M J Casey

Date: 25 May 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case. The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).