



Case Reference : LON/00AC/OLR/2018/0491

Property : Flat 26 and Garage 30
 Barrydene, Oakleigh Road
 North, Whetstone, London
 N20 9HG

Applicant : Claudio Zucconi & Mirella
 Zanre

Representative : Derrick Bridges & Co
 Solicitors & Mr. Peter
 Loizou MRICS of Appraisal
 Surveyors Ltd

Respondent : Trustees of the Barry and
 Peggy High Foundation

Representative : Anthony How FRICS IRRV
 (Hons) of Davis Brown
 Chartered Surveyors

Type of Application : Lease extension

Tribunal Members : Judge Tagliavini
 Mr. Jagger

Date and venue of hearing. : 10 Alfred Place, London Ec1
 31 July 2018

Date of Decision : 18 September 2018

DECISION

The tribunal's decision:

- A. The freehold vacant possession value of the subject property is £558,586.
- B. Relativity is 78.93%.
- C. The premium payable for the subject property is £77,907

The application

- 1. This is an application for the determination of the premium payable for the grant of a lease extension for the subject property under the provisions of the Leasehold Reform, Housing and Urban Development Act 1993 ('the 1993 Act').
- 2. The subject property is subject to a lease dated 15 February 1972 granting a term of 99 years from 24 June 1971 and comprises a two-bedroom first floor flat forming part of a four storey 1960's purpose-built block and with the exclusive use of a garage.
- 3. By a Notice dated 29 November 2017 the Applicants exercised their right to the grant of a new 90-year lease at a premium of £70,000. A Counter-Notice dated 11 January 2018 admitted the Applicants' right to acquire a new 90-year lease but proposed a premium payable of £90,000.

The issues

- 4. A Statement of Agreed Fact dated 8 June 2018 identified the only issues remaining in dispute as:
 - (i) The freehold vacant possession value.
 - (ii) Relativity.
 - (iii) The premium payable.

The hearing

- 5. An oral hearing of the application was heard by the tribunal at which, the parties were represented by their respective valuers, Mr. Loizou for the Applicants and by Mr. How for the Respondents. An agreed bundle of documents was also provided to the tribunal by the parties.

The Applicants' case

6. The tribunal was provided with oral evidence by Mr. Loizou who spoke to his report dated 17 July 2018. Relying on a schedule of two-bedroom purpose-built flats sold within 1 kilometre of the subject property within a five-month period either side of the agreed valuation date of 29 November 2017, Mr. Loizou proposed that the listed sales support his adoption of a Freehold Value with Vacant Possession (FHVP) of £535,000.
7. Mr. Loizou told the tribunal he had reached an appropriate relativity of 79.21% by taking the exact average of all seven CEM Graphs published by RICS in October 2009 resulting in a short lease value of £423,779.
8. Adopting these figures of FHVP and relativity, Mr. Loizou told the tribunal that the premium payable was £76,877 (£77,000 rounded).

The Respondent's case

9. Mr. How also gave oral evidence to the tribunal and spoke to his report dated 5 July 2018. He told the tribunal that the subject property was in a good but 'dated' condition and that he had relied on the sales of a number of comparable sales both in the subject property/ development (Flats 6, 25 and 9) as well as the nearby development of Highlands, Oakleigh Road North (Flat 30). He told the tribunal that Flat 25, a much large flat on the same floor as the subject property which sold in January 2017 for £625,000. Flat 9 in Phase I of Barrydene was at the time of his report under offer for £475,00 being a much smaller flat. Flat 6, a three-bedroom flat with garage sold in September 2017 for £580,000 with a lease extended in 2006. Mr. How told the tribunal that other comparables he relied on were situated the nearby Highlands block of flats, where a 2-bedroom flat sold in November 2017 for £450,000. In reliance on these sales, Mr. How adopted a FHVP value of £565,650 having made an adjustment of 1% to reflect the difference between a long leasehold interest and the notional freehold interest.
10. Mr. How submitted that in considering the issue of relativity in respect of the 52.26 years unexpired as at the valuation date, the tribunal should have regard to the approach taken by the Lands Tribunal in *Arrowdale Limited v Coniston Court (North) Hove Limited* - LRA/72/2005, where graphs of relativity were considered as capable of providing the most useful guidance. Following the guidance provided by the Upper Tribunal in *Munday v The Trustees of the Sloane Stanley Estate* C3/2016/2864. Mr. How told the tribunal he had considered the Gerald Eve 1996 graph (without rights); the Gerald Eve Table 2016 (without rights); the Savills 2002 graph and table (with rights) and the Savills Graph and Table 2016 (both with and without rights). From these figures for relativity of 79.5 (Gerald Eve) and 72.8% Savills) were elicited. Mr. How told the tribunal he had reached a figure for relativity

of 74.8% by adopting a deduction of 6% for 'no act rights' from the higher figure in accordance with the approach of and examples set out in *Sinclair Investments Ltd LRA/27/2017*. Mr. How told the tribunal that although these graphs relate to flat in Prime Central London (PCL), he considered the historically higher relativity to no longer be applicable as demonstrated in *Sinclair Investments Ltd*.

11. Mr. How told the tribunal that by applying the above figures he had calculated that the premium payable is £92,500 (say £90,000 as stated in the Counter-Notice).

The tribunal's decision and reasons

12. The tribunal preferred the valuation evidence of Mr. How to that of Mr. Loizou in connection with assessment of the freehold value, as it found the latter to be vague and lacking in detail. Further, the tribunal were able to understand the methodology used by Mr. How in his report and in his oral evidence and accepted his reasoning for his approach to this valuation. The tribunal accepted that Mr. How's reliance on sales both at the subject property and Highlands provided good comparable evidence in the current application. In arriving at the calculation for freehold value, the tribunal, provided a weighting of Mr How's comparable evidence, insomuch, 50% was allocated to the key comparable No 6, 30% to Highlands Court, and 10% to both No 25 and No 9. This produced a long lease value of £553,000 when rounded up and therefore a freehold value of £558,586 once a 1% uplift was added.
13. The tribunal preferred Mr.Loizou's approach to that of Mr. How in respect of relativity. The property is not located in prime central London and for this reason the Gerald Eve and Savills graphs are not relevant here and the Tribunal preferred the use of the five RICS Greater London and England graphs. The tribunal took the average of these five graphs, discounting the two published research graphs prepared by College of Estate Management and LEASE as these are purely research based. This provided a relativity of £78.93%
14. Therefore, the tribunal calculates the premium at £77,907 in accordance with the attached valuation (Appendix A)

Signed: Judge LM Tagliavini

Dated: 18 September 2018

APPENDIX A

26 Barrydene 53 Oakleigh Road North, London N20 9HG

GM/LON/00AC/0LR/2018/0491

Components

Valuation date:	29/11/2016		
Deferment rate:	5%		
Capitalisation rate:	6%		
Freehold value:	£558,586		
Long lease value	£553,000		
Existing leasehold value	£440,892		
Relativity	78.93%		
Unexpired Term	52.56 years		
Ground rent currently receivable	£70		
Capitalised @ 6.0% for 19.56 years	11.335	£793	
Rising to:	£95		
Capitalised @ 6.0% for 33 years	14.230		
Deferred 19.56 years @ 6.0%	0.3199	£432	
Reversion to freehold value:	£558,586		
Deferred 52.56 years @ 5%	0.077	<u>£43,011</u>	
		£44,236	
Less Freeholder's proposed interest	£558,586		
PV £1 in 142.56 years	0.00095	<u>£531</u>	
		£43,705	

Marriage Value

Value of Proposed Interests

Extended lease Value	£553,000		
Freehold in reversion	£ 531	£553,531	

Value of Existing Interests

Landlord's existing value	£44,236		
Existing leasehold value	<u>£440,892</u>	<u>£485,128</u>	
		£68,403	

Freeholders share @ 50% **£34,202**

LEASE EXTENSION PREMIUM £77,907