

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**Southern Rent Assessment Panel
Leasehold Valuation Tribunal**

Case Number: CHI/43UD/OLR/2008/0112
Section 48 Leasehold Reform, Housing and Urban
Development Act 1993

Property: Flat 1, Guildown Road, Guildford, Surrey, GU2 4ET

Applicant: Nightingale Asset Management Limited

Respondent: Mr G.Oversby

Appearances

For the Applicant: T.N.Davis FRICS

For the Respondent: A.G.Davis BSc FRICS

Date of Directions: 7th November 2008

Date of inspection: 19th February 2009

Date of Hearing: 19th February 2009

Date of Decision: 12th March 2009.

Members of the Tribunal

C.H.Harrison Chairman
D.Lintott FRICS
J.N.Cleverton FRICS

Background

1. This is a determination under section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 (the '1993 Act') concerning the premium payable by the Applicant for the grant of a new lease of the property by the Respondent under Chapter II of the 1993 Act.
2. The Applicant's notice under section 42 of the 1993 Act, dated 8th May 2008 which is, therefore, the valuation date, proposed a premium of £7,648.
3. The Respondent's counter-notice, dated 16th July 2008, admitted the Applicant's right to acquire a new lease of the property but proposed a premium of £14,428.
4. The Applicant's current lease was granted on 17th June 1987 for a term and at a rent which accord with the matters agreed between the parties as stated in paragraph 5 below.
5. Pursuant to Directions made on 7th November 2008, the parties' valuation representatives produced a joint statement, concluded on 23rd December 2008, of matters then agreed and remaining in contention between them, as follows:

a) **Matters agreed**

- | | |
|---|--|
| i) <u>Demise:</u> | A self-contained two bedroom ground floor flat, all as shown on the lease plan together with one car parking space |
| ii) <u>Lease:</u> | 99 years (less 3 days) from 1 st January 1986 |
| iii) <u>Ground Rent:</u> | £50pa 01.01.1986 – 31.12.2018 £90pa 01.01.2019 – 31.12.2051 £130pa 01.01.2052 – 28.12.2084 |
| iv) <u>Unexpired lease term:</u> | 76 years 7.5 months |
| v) <u>Investment rate:</u> | 7% |
| vi) <u>Reversion rate:</u> | 5% |
| vii) <u>Market value:</u> | £245,500 (as at 8 th May 2008) |
| viii) <u>Value of tenant's Improvements:</u> | £5,000 |
| xiv) <u>Market value less tenant's improvements:</u> | £240,500 |
| x) <u>Value of ground rent:</u> | £1,013 |

b) **Matters remaining in contention**

- i) The only matter which is not agreed is the level of relativity that should apply.
- ii) Mr T.N.Davis (for the Applicant) has taken a rate of 96% for the unexpired term of 76 years 7.5 months based upon the comparable evidence (three previous LVT decisions) forming part of the Applicant's evidence and also the graph of previous LVT decisions 1994-2007, published by the Leasehold Advisory Service.
- iii) Mr A.G.Davis (for the Respondent) has taken a rate of 92.55 for the same unexpired term based on the "Graph of Graphs" produced by Beckett and Kaye.
- iv) Based on the above matters, the respective valuations of the premium are:
 - (1) Mr A.G.Davis, for the Respondent, £13,350
 - (2) Mr T.N. Davis, for the Applicant, £8,500.

Inspection

6. The tribunal inspected the property in the presence of the parties' valuation representatives and, and with the consent of, Mr Semple, a director of the Applicant.
7. The property is a two bedroom ground floor apartment in a four storey red brick Victorian building under a tiled roof. By reference to a date on the building, it was constructed in 1889.

The Applicant's evidence

8. Mr T.N.Davis made submissions and adduced evidence about the sources of information regarding relativity, as follows:
 - a) Sales of freeholds at auction and lease extensions agreed without reference to the 1993 Act. Mr Davis produced two valuations and letters of advice he had, himself, produced in September 2008 concerning what were described as enfranchisement valuations relating to several flats in buildings in Broadstairs. In the absence of clear or any market and factual evidence surrounding this submission, the tribunal did not find it helpful.
 - b) A general submission, not supported by evidence which the tribunal was able to examine or test, that leasehold enfranchisement and lease extensions agreed subsequent to the service of notices under the 1993 Act but without reference to the LVT. Mr T.N.Davis submitted that such evidence cannot be relied on without adjustment, taking into account the applicant's wish to avoid the cost of a referral to the LVT and, therefore, resulting in a consequential increase in the agreed premium.
 - c) In his opinion, arguably the best evidence as to the correct quantum of relativity can be obtained from previous LVT determinations, notwithstanding they are not market tested. The tribunal was referred to three previous LVT decisions concerning:
 - i) 20 Napier Road, London 78 years unexpired, relativity 96%
 - ii) 39 Cambridge Road, Bromley 68.5 years unexpired, relativity 92%
 - iii) 45B Hampden road, London 78.5 years unexpired, relativity 96%

Again the tribunal did not find those isolated and pre-selected decisions of assistance. As Mr T.N.Davis himself acknowledged, it is possible to select any previous decision in isolation; and he considered it safer to rely on the broader statistical evidence of the graph of previous LVT decisions 1994-2007, published by the Leasehold Advisory Service.

- d) Taking that graph in particular and also the specific decisions referred to in paragraph (c) above into account, he considers the correct rate of relativity for an unexpired term of 76 years and 7.5 months is 96%.
9. Mr A.G.Davis had no questions about Mr T.N.Davis' submissions.
10. In answer to a question from the tribunal, Mr T.N.Davis considered that the leasehold mortgage market was just beginning to pay regard to unexpired terms in May 2008. He would not have anticipated that a term of 76 years would have had a significant or any effect on the mortgage market at that time. He considers the market might have quipped at an unexpired term of 55 years in May 2008. Now, there might be concern at 65 or 70 years.
11. Mr A.G.Davis made submissions and adduced evidence about the sources of information regarding relativity, as follows:

- a) He has not encountered sufficient comparable market evidence in the Guildford area, in terms of a large volume of transactions, comparable flats, and identical condition and so on, to gauge with accuracy the relativity in the market between the sale prices of flats with extended and unextended leases. He has, therefore, dismissed what he has been able to deduce in the local market and relies on graphic evidence.
- b) In particular, Mr A.G.Davis has considered the graph of graphs published by Beckett & Kay, 2008 revision. He deduces from those graphs, for the unexpired residue in this case, a spread between 87% and 96%. In his opinion, it is appropriate to take a figure just above the mid-range in that spread, at 92.5% which in part reflects his experience that LVT determinations tend to be slightly above the figures researched by the large surveying firms. Mr A.G Davis considers that 92.5% is a fair and proper relativity to determine in this case. In arriving at that conclusion he has done the best he can, having regard to his view of the market and having spoken to the estate agency branch of his firm.
- c) Mr A.G.Davis also adduced his own graph analysing relativities in all Surrey LVT determinations, in thirteen of which he was personally involved.

12. In response to questions from Mr T.N.Davis:

- a) Mr A.G.Davis does consider his Surrey graph provides credible evidence.
- b) He does not consider there is anything about this case which points to high or low relativity. He considers 'about the middle' is right, as he put it.
- c) Notwithstanding that three of the samples taken from the Surrey graph (Gower House Weybridge, 19 Hale Road, Farnham and a property in Thames Ditton) which appear to be the closest on unexpired residue to this case produced relativities of 98%, 94.3% and 93.5% respectively, he is content to put that graph in as evidence. However, he relies more on the collective evidence of the graph of graphs to which he has referred.

13. In answer to questions from the tribunal:

- a) Mr A.G.Davis has no observations on the actual comparables produced by Mr T.N.Davis;
- b) he is content to submit his Surrey graph, despite the apparent conclusion that it rather seems to go against him on comparables in the mid 70's unexpired range; and
- c) he considers that mortgages were becoming more difficult to negotiate at the beginning of 2008 and that by May of that year, when a mortgage famine had begun to develop, the market was more concerned about loan to value ratios and covenant strength than with lease length. He does not believe that between, say, May 2007 and May 2008 there was a noticeable difference in the market's perception of lease length; or that any such comparison assists on questions of relativity.

The tribunal's decision

14. After carefully considering, and based only on, the submissions made by the parties' valuation representatives, the tribunal determines that the appropriate relativity percentage in this case is 95%. On that basis and on the basis of the other valuation components

which are agreed by the parties, the tribunal determines a premium payable by the Applicant for a new lease of the property under Chapter II of the 1993 Act at nine thousand four hundred and forty pounds (£9,440). The tribunal's detailed calculation, which forms part of the decision, is attached.

Signed:..........

C.H.Harrison – Chairman

Dated 12th March 2009

(1) The Ground Rent Income

| | | |
|--|-----------|--------|
| 10 years 7.5 months @ £50 p.a. @ 5% x 7.3205 = | | £386 |
| 33 Years @ £90 p.a. @ 7% @ 12.7538 = | 1.147.84 | |
| defer 10 years 7.5 months | 0.487563 | £560 |
| 33 years @ £130 p.a. @ 7% x 12.7538 = | 1658.00 | |
| defer 43 years 7.5 months | 0.0522833 | £87 |
| | Total | £1,013 |

(2) The Reversion

| | |
|---|-------|
| P.V. of £245,500 in 76 years 7.5 @ 5% x 0.0237952 | £5842 |
| Total | £6855 |

(3) The Marriage Value

| | | |
|--------------------------|---------------|-----------------|
| The Lessees new interest | £240,500 | |
| The Lessors new interest | <u>Nil</u> | £240,500 |
| The Lessees old interest | £228,475 | |
| The Lessors old interest | <u>£6,855</u> | <u>£235,330</u> |
| Total Marriage Value | £5,170 | |
| 50% | | £2,585 |
| Add freeholders interest | | <u>£6,855</u> |
| Value of premium = | | £9,440 |

The figure of £228,475 is based on 95 % of the agreed figure of £240,500 being the agreed figure between the parties of the unimproved value.



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Respondent: Mr G.Oversby

Appearances

For the Applicant: T.N.Davis FRICS

For the Respondent: A.G.Davis BSc FRICS

Date of Directions: 7th November 2008

Date of inspection: 19th February 2009

Date of Hearing: 19th February 2009

Date of initial Decision: 12th March 2009

Date of corrected Decision 3rd April 2009

Members of the Tribunal

C.H.Harrison Chairman
D.Lintott FRICS
J.N.Cleverton FRICS

Background

1. This is a determination under section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 (the '1993 Act') concerning the premium payable by the Applicant for the grant of a new lease of the property by the Respondent under Chapter II of the 1993 Act.
2. Following an oral hearing on 19th February 2009, the tribunal determined a relativity figure, which was the only issue before it, of 95%. The tribunal issued its decision on 12th March 2009. The decision determined a valuation of £9,440 which, however, reflected a clerical error in the tribunal's calculation. That error is corrected by paragraph 3 below.

The tribunal's decision

3. On the basis of the tribunal's determination of a relativity of 95% and on the basis of the other valuation components which are agreed by the parties, the tribunal determines a premium payable by the Applicant for a new lease of the property under Chapter II of the 1993 Act at nine thousand eight hundred and forty-eight pounds (£9,848). The tribunal's corrected calculation, which forms part of the decision, is attached.

Signed:.....

C.H.Harrison – Chairman

Dated 3rd April 2009

FLAT 1, 26 GUILDOWN ROAD, GUILDFORD, SURREY GU2 4ET

THE CALCULATIONS

(1) The Ground Rents Income

| | | |
|--|-------------|---------|
| 10 years 7.5 months @ £50 p.a. @ 7% X 7.3205 = | | £366.00 |
| 33 years @ £90 p.a. @ 7% X 12.7538 = | 1,147.84 | |
| Defer x 10 years 7.5 months | X 0.487583 | |
| | <hr/> | £560 |
| 33 years @ £130 p.a. @ 7% x 12.7538 = | 1,658.00 | |
| Defer x 43 years 7.5 months | X 0.0522833 | |
| | | <hr/> |
| | | £87 |
| | | <hr/> |
| | | £1,013 |

(2) The Reversion

| | | |
|---|--|--------|
| P.V. of £253,158 in 76 years 7.5 months x 0.0237952 | | £6,024 |
| | | <hr/> |
| Freeholder's Interest | | £7,037 |

(3) The Marriage Value

| | | |
|--|----------|-----------|
| The Lessee's new interest | £253,158 | |
| The Lessor's new interest | NIL | |
| | <hr/> | £253,158 |
| The Lessee's old interest | £240,500 | |
| The Landlord's old interest | £7,037 | |
| | <hr/> | £247,537 |
| | | <hr/> |
| Total Marriage Value | | £5,621 |
| 50% | | £2,810.50 |
| | | <hr/> |
| Value of the premium for leasehold extension | | £9,847.50 |
| | Say | |
| | | £9,848.00 |

