



## DECISION

### Introduction

- 1 By an application dated 25 July 2012 the Applicant Craig Douglas Goodall applied to the Tribunal for a determination of the premium payable for the extension of the lease of the property known as Flat 27 Mackeson Road London NW3 2LU ("the flat ") pursuant to Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 ("The Act").
- 2 Directions were given on 27 July 2012 and the matter first came before the Tribunal for hearing on 6th November 2012. The applicant was represented by Mr R Nelson FRICS and the respondent by Mr R Oakley FRICS valuers. Evidence for each of the parties was given by the valuers and a final submission made by both valuers.

### Inspection

- 3 The property which was inspected by the tribunal on 13<sup>th</sup> november 2012 is a first floor 2 bedroom flat in a 3 storey terraced block built circa 1950s in quiet residential street with permit parking close to Hampstead Heath and local amenities.
- 4 The common parts were carpeted but basics with wallpapered walls which were part soiled. There is no lift in the building.
- 5 The property itself lacked the character of the surrounding neighbourhood which comprises primarily Victorian three storey terraced properties.
- 6 The entrance door of the flat led directly into the living room and to an inner hallway. There were two double bedrooms a very small adequately fitted kitchen and an equally small shower room with hand basin and WC.
- 7 There was gas central heating and timber double glazed windows.
- 8 All comparables listed by the parties were inspected and it was concluded that Agincourt, Fleet and Mansfield Roads were all busier and some with inferior properties whilst the other surrounding roads could be taken as roughly similar.

## **Background**

- 9 . The notice of claim was served on the sixteenth March 2012 a counter notice admitting the claim and disputing the premium was served on 22<sup>nd</sup> May 2012\ . A further notice of claim was served on 25th July 2012 Accordingly the valuation date is agreed as 16<sup>th</sup> March 2012
- 10 The lease is dated 22nd February 1978 and is for a term of 99 years from 20 fifth December 1977. It was agreed between the valuers that there are 64.77 years remaining as at the valuation date.
- 11 The initial ground rent was £50 per annum rising every 33 years to £75 pounds per annum and then £100 per annum for the remainder of the term
- 12 The gross internal area of the flat was agreed in the sum of 537 square feet and there is no value deduction for improvements claimed by the tenant. Capitalisation was agreed six point five percent and the deferment rate at five percent.

## **Issues**

- 13 The items in dispute between the parties were the value of the freehold reversion ,the extended lease value and the value of the existing lease and the ultimate premium payable .
- 14 It also appears from the documents that the Applicants dispute the landlord's costs under section 60 the act. No argument was addressed to the Tribunal in relation to costs at the hearing and tribunal proposes to issue directions in relation thereto.
- 15 Mr Nelson the valuer for the applicant valued the freehold at £348,364 and Mr Oakley for the Respondent valued it at £430,000. Mr Nelson's value of the long leasehold at £345,563,being 99 %of the value freehold. Mr Oakley valued the extended lease at £430,000. The parties also disputed the relativity of the existing lease to the extended lease. Mr Nelson contended for a figure of 87.5percent and Mr Oakley for 85 percent although he did not rely upon any crafts as such but preferred to

correct. Most of the comparables related to properties which were flat conversions in the large Victorian and Edwardian properties. Those commanded a higher price because they were of higher quality than the subject property.

20 Mr Nelson's analysis was largely based on a theoretical rather than a practical basis and the properties on which he relied in Fleet Road, Agincourt Road and Mansfield Road were undoubtedly of inferior quality and in an area of high traffic which made them less acceptable as comparables than the properties in Lisburne Road, Roderick Road, Rona Road and Shirlock Road.

21 The Tribunal considered that the realistic figure for the freehold was £404,000 and the extended lease £400,000 at the valuers having agreed a 1% differential between the extended lease value and the freehold value.

### **Relativity**

22 Mr Nelson having based his assessment of relativity solely on the Nesbitt and Co-graph arrived at a figure which was too high in the view of the Tribunal. The Tribunal considered the various graphs including Beckett and Kay Austin Grey and the John D Wood/Gerald Eve Graph should be taken into account in arriving at a final figure.

23 It is always difficult to reach an exact assessment of relativity but the Tribunal considered that a figure of 86% would fairly represent the value of the existing lease. This would give a figure of £347,440 for the existing lease value of the property

24 The Tribunal calculated that the marriage value being the difference between the landlords present interest and his future interest and the similar figures in relation to the leaseholder, would amount to £34,687 and half the marriage value would amount to £17,339. This figure taken with the landlord's interests under the remainder of the lease at £18,096 produced a figure of about £35,435

### **Conclusion**

25 The Tribunal therefore assessed the value of the premium at £35,435 and rounded the figure to £35,500

### **Costs**

26 If the parties or unable to agree the costs of them the tribunal proposes to issue the following directions namely

- (1) The Applicant must set out his grounds of objection to the costs in a detailed submission served on the respondent by no later than 7<sup>th</sup> December 2012
- (2) The Respondent must reply to the applicant's objections giving full details including hourly rates and time spent by solicitors and valuers in support of the claim costs by no later than 21<sup>st</sup> December 2012

27 If the parties agree the tribunal will deal with the costs application by way of a paper determination in the week commencing 7th January 2013. In the event of either party requesting an oral hearing the application will be heard on Wednesday 9<sup>th</sup> January 2013 at 10 a.m. with an estimated length of one hour for hearing.

Chairman Peter Leighton

Date 16<sup>th</sup> November 2013

PROPERTY:  
VALUATION DATE:

Flat 2, Mackeson Road London NW3  
16 March 2012

**LEASE DETAILS**

Lease dated: 23 February 1978  
 Term start date: 25 December 1977  
 Term: 99 years  
 Expiry date: 24 December 2076  
 Unexpired term: 64.77 years  
 Capitalization rate: 6.5%  
 Deferral rate: 5%  
 Freehold share value (unimproved) £404,000  
 Extended lease value (unimproved) £400,000 (99%)  
 Existing lease value £347,440  
 Relativity: 86%  
 Ground rent: £50pa until 25 December 2010  
 £75pa 25 December 2043  
 £100pa until 24 December 2076

**1 Diminution of Landlords Interest**

Loss of ground rent term 1	75	
YP 31.77 years @ 6.5%	<u>13.305</u>	998
Term 2	100	
YP @ 33 years @ 6.5%	<u>13.459</u>	
	1,349.9	
PV £1 def. 31.77 years @ 6.5%	<u>0.135</u>	182
		1,180

**2 Reversion**

	Years	Yield			
Before Grant			404,000		
xPV	64.77	5%	<u>0.0424</u>	17,130	
After Grant			404,000		
xPV	154.77	5%	<u>0.00053</u>	214	<u>16,916</u>
Diminution of Reversion					18,096

**3 Marriage Value**

After Extension	Extended lease	400,000	
	Freeholders Int.	<u>£214</u>	£400,214
Before Extension	Existing lease	347,440	
	Freeholders Int.	<u>£18,096</u>	<u>£365,536</u>
			<u>£ 34,678</u>

<u>Marriage Value</u>	<u>17,339</u>
Take 50% Marriage Value	<u>£35,435</u>
<b>TOTAL PREMIUM</b>	