



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

**Case Reference** : **BIR/00CN/OLR/2013/0083**

**Property** : **26 Eldon Drive Sutton Coldfield West  
Midlands B76 1LT**

**Applicant** : **Mrs Patricia Ann Everton**

**Representative** : **Mr Kevin Anderson MRICS**

**Respondent** : **Stanley N. Evans (Properties) Limited**

**Representative** : **Mr Kenneth Frederic Davis FRICS**

**Type of Application** : **An application to determine the  
premium payable and the terms of a  
new lease under section 48 of the  
Leasehold Reform, Housing &  
Urban Development Act 1993 and the  
landlord's reasonable costs in respect of  
the tenant's lease renewal under section  
91(2)(d) of the said Act**

**Tribunal Members** : **Judge Roger Healey and Mr David  
Satchwell FRICS**

**Date and venue of  
hearing** : **Priory Court, 33 Bull Street Birmingham  
on 6 February 2014**

**Date of Decision** : **18<sup>th</sup> March 2014**

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**DECISION**

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## **Introduction**

1. This is a decision on an application under section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 ('the Act') made to the Tribunal for the determination of the premium payable under section 56 and Schedule 13 to the Act and for the determination of the landlord's costs under section 91 of the Act in respect of the grant of a 90 year lease extension of the lease of a maisonette known as 26 Eldon Drive Sutton Coldfield West Midlands B76 1LT.

## **Background**

2. **Mrs Patricia Ann Everton ('the Applicant')** holds the leasehold estate in the subject property by virtue of a lease dated 5 September 1963 made between George Wimpey & Co. Limited of the one part and Reginald Frank Ewbank of the other part ('the Lease') whereby the subject property was demised for a term of 99 years from 1 April 1962 subject to a yearly ground rent of £20.00. **Stanley N. Evans (Properties) Limited ('the Respondent')** are the freeholders.

3. On 3 July 2013 the Applicant served a Notice of Claim under section 42 of the Act claiming the right to a new lease. On 11 July 2013 the Respondent served a counter notice admitting the right of the Applicant to a new lease.

4. The Applicant subsequently made the present application to the Tribunal on 9 December 2013.

## **Inspection of the subject property**

5. The Tribunal was able to gain access on the morning of 14 January 2014 and inspected the subject property in the presence of the Applicant and Mr Anderson. The Respondent was not represented at the inspection.

6. The subject property is a ground floor purpose built maisonette comprising hallway, living room, kitchen two bedrooms and bathroom together with a garage in a separate block. Communal land laid to lawn surrounds the subject property.

7. The Tribunal observed the subject property has the benefit of double glazing, central heating and upgraded bathroom and kitchen.

## **Hearing**

8. At the hearing on 14 January 2014 the Applicant was represented by Mr Kevin Anderson MRICS and the Respondent by Mr Kenneth Davis FRICS both of whom appeared as expert witnesses in accordance with the Royal Institution of Chartered Surveyors Practice Statement.

9. Standard directions were issued by the Tribunal on 13 December 2013. The directions provided (inter alia) for the parties to exchange documents and in accordance therewith both parties exchanged skeleton arguments.

### **Agreed Matters**

10. The following matters are agreed by the parties -
- The date of the valuation is 3 July 2013
  - The unexpired term at the date of valuation is 47.75 years
  - A capitalisation rate of 6.5% for the ground rent of £20.00 per annum producing an agreed figure of £292.00.
  - A deferment rate of 5.75%.
  - There is sufficient market evidence to avoid the need to refer to Graphs of Relativity
11. The matters agreed by the parties as set out in the preceding paragraph are accepted by the Tribunal.

### **Disputed Matters**

12. The matters requiring resolution are –
- The extended leasehold value and
  - The existing lease value.

### **Extended lease value**

13. Mr Anderson refers the Tribunal to eight comparable extended lease sales. Four of these are sales of duplex properties. Mr Davis submits that these are larger and of a different layout. The Tribunal prefers the evidence provided by the ground floor maisonettes. Of these the sale of 45 Eldon Drive is six months after the valuation date and the sale of 38 Eldon Drive is in excess of 12 months before the valuation date. The Tribunal prefers 50 Eldon Drive sold on 12 July 2013 and 271 Penns Lane sold on 17 July 2013 as more helpful comparables.

14. Mr Anderson submits 50 Eldon Drive as a comparable extended lease with a sale price of £119,950 on 12 July 2013. Unlike the subject property it does not have a view of the cricket pitch. Mr Anderson submits that improvements to the property comprise décor (£250), kitchen (£500), bathroom (£250), fixtures (£250), double glazing (£500) and central heating (£500) making a total for improvements of £2,250. The property does not have a garage which Mr Anderson values at £5,000. The lease has been extended and a modern ground rent agreed which Mr Anderson submits would lead a hypothetical buyer to pay £3,750 less. After indexation Mr Anderson submits for a comparable value of £124,421 in respect of this property.

15. Mr Davis submits that there is an obligation within the terms of the lease to maintain the property. He submits the cost of double glazing is no more than single glazing. Mr Davis questions whether the garages are suitable for a modern day motor car. Mr Davis does not accept the existence of improvements. He accepts a hypothetical

buyer would pay less for a property with a modern ground rent. Mr Davis submits for a comparable valuation of £124,200.

16. Mr Anderson submits 271 Penns Lane as a comparable extended lease with a sale price of £120,000 on 17 July 2013. There is no view of the cricket pitch. Mr Anderson again submits a valuation of £2,250 for improvements. After taking account of indexation Mr Anderson submits for a comparable valuation of £116,721.

17. Mr Davis places no value on the improvements and makes no provision for indexation. He relies on the sale price of £120,000.

18. Mr Anderson submits for an extended lease value of the subject property of £115,670. Mr Davis submits for £122,100. The Tribunal determines an extended lease value of £122,100.

### **Existing lease value**

19. The parties submit the following comparables all of which relate to ground floor flats –

21 Elmdon Drive	Date of sale 1 September 2012	Sale price £98,000
47 Elmdon Drive	Date of sale 28 June 2013	Sale price £97,000
41 Elmdon Drive	Date of sale 31 July 2013	Sale price £76,500
17 Elmdon Drive	Date of sale 9 March 2012	Sale price £77,000
4 Elmdon Drive	Date of sale 21 March 2013	Sale price £82,000
7 Elmdon Drive	Date of sale June 2013	Sale price £70,000

20. The Tribunal determines numbers 21 and 17 Elmdon Drive to be distant from the valuation date and therefore of limited value.

21. Mr Anderson challenges the relevance of 7 Elmdon Drive and submits it was a forced sale and therefore below market value. Mr Davis submits the sale to be relevant. The Tribunal determines that the sale be given consideration in its deliberations.

22. Mr Anderson submits that the comparables be varied to take into account the addition of the value of a garage in respect of numbers 47 and 41 and in all cases indexation and improvement as appropriate and submit for an existing lease value of £94,840.

23. Mr Davis places no value on the improvements and allows for indexation in respect of numbers 41 and 4 Eldon Drive. He submits for an existing lease value of £81,700.

24. The Tribunal does not accept the sums submitted by Mr Anderson for improvements. The Tribunal determines the existing lease value at £85,000.

## Costs

25. The parties agree that legal costs be determined at £800 plus VAT and disbursements if applicable and Valuation fees of £600 plus VAT and disbursements if applicable.

## Determination

26. The Tribunal's calculation of the premium payable based on the preceding determinations is as follows –

### Term

Agreed 292

### Reversion

Extended lease value	122,100		
PV £1 @5.75% def 47.75 years	<u>0.0692</u>		
		<u>8,449</u>	
			8,741

### Marriage value

Current leasehold value	85,000
Current freehold value	<u>8,741</u>
	93,741

Future leasehold value	122,100
Future freehold value	<u>0</u>
	122,100

<b>Marriage value</b>	28,359	x 50%	<u>14,178</u>	
<b>Premium</b>				<b><u>22,919</u></b>

27. The Tribunal determines the premium at £22,919.

28. In addition the Applicant shall pay the Respondent's legal fees of £800 plus VAT and disbursements (if applicable) and valuation fees of £600 plus VAT and disbursements (if applicable).

29. In reaching its determination the Tribunal had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert tribunal but not any special or secret knowledge.

## **Appeal**

30. A party seeking permission to appeal this decision must make a written application to the Tribunal for permission to appeal. The application must be received by the Tribunal no later than 28 days after the date the Tribunal sends this decision to the party making the application. Further information is contained within Part 6 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013 No. 1169).

Roger Healey

Judge