



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

**Case Reference** : LON/00AC/OLR/2014/0170

**Property** : First floor 61 Wilberforce Road  
London NW9 6AT

**Applicant** : Yvonne Sylvia Pia Loss

**Representative** : Housing and Property Law  
Partnership

**Respondent** : Iskhara Hewage Shelton Silva

**Representative** : -

**Type of Application** : Application to determine the  
premium payable and terms of the  
lease where the landlord is missing.

**Tribunal Members** : Mrs E Flint DMS FRICS

**Date and venue of  
Hearing** : 18 March 2014  
Determination without an oral  
hearing in accordance with the  
procedure  
in regulation 13 of the Leasehold  
Valuation Tribunals (Procedure)  
(England) Regulations 2003

**Date of Decision** : 25 March 2014

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**DECISION**

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## **Decision**

1. The premium payable is £10,130. The lease is approved subject to the amendment below. The case is remitted to the Willesden County Court to effect the Vesting Order (Claim No 3W103100).

## **Background**

2. This case relates to an application made under section of the Leasehold Reform, Housing and Urban Development Act 1993 (as amended) for a determination of the price to be paid for a statutory lease extension of a flat, where the landlord is missing. The application was made in the Willesden County Court on 18 July 2013. The case was transferred to this Tribunal to determine the price and terms of the lease pursuant to an Vesting Order of Deputy District Judge Bennet dated 1 November 2013 under section 50(1) of the Act providing for the surrender of the Claimant's lease and the granting of a new lease as if a valid notice under Section 42 of the Act had been served.
3. The Tribunal issued Directions on 3 February 2014 and considered the matter on 18 March 2014.
4. Myron Green BSc (Hons) MRICS MIRPM of KFMG Chartered Surveyors was instructed to prepare a report and valuation relating to the lease extension. He described himself as acting as an independent valuer owing his primary duty to the Tribunal.

## **Evidence**

5. The Tribunal considered the Report and Valuation of Mr Green dated 26 February 2014. It contained the necessary statement of truth and declaration of independence as required by his professional body and in accordance with CPR Practice Direction 35 relating to Experts and Assessors.
6. The subject property which is situated on the west side of Wilberforce Road is within 0.2 miles of Hendon main line station; Hendon Central underground station is approximately 0.8 miles distant; there are local buses and shops nearby; Brent Cross shopping Centre is 1.2 miles.
7. The property is a first floor flat in an end of terrace converted house of traditional construction with a pitched roof. The accommodation comprises an entrance lobby on the ground floor, and stairs to a reception room, dining room leading into a small kitchen, two bedrooms and bathroom/wc on the first floor. The flat is in a good modernised condition with aluminium double glazed windows and gas central heating. Part of the rear garden is demised with the flat.
8. The flat is subject to a lease dated 12 September 1986 for a term of 99 years from 24 June 1986 at for the first 33 years either 2/3rds of the Rateable Value less £1 or £50 pa, £100 pa for the next 33 years and

£200 pa for the remainder of the term; the unexpired term at the valuation date is 71.93 years.

9. Mr Green adopted a capitalisation rate of 7% based on other tribunal decisions and negotiated settlements and a deferment rate of 5% based on the Sportelli decision.
10. Mr Green relied on sales of flats nearby to arrive at the value of the extended lease. The comparables were described very briefly:
  - a. 49 Wilberforce Road - A two bedroom modernised ground floor flat with garden having approximately 100 years unexpired sold January 2013 for £184,950.
  - b. 49a Wilberforce Road - A two bedroom modernised first floor flat with garden having approximately 100 years unexpired sold January 2013 for £197,000.
  - c. 24b Russell Road NW9 - A large three bedroom modernised first floor flat with a share of the freehold sold July 2013 for £250,000.
  - d. 51b Station Road NW4 - A two bedroom modernised maisonette with a shower room ensuite and a garden sold with a long lease August 2013 for £238,800.
  - e. 68 Edgeworth Close NW4 - A two bedroom raised ground floor flat in reasonable condition with a long lease sold may 2013 for £230,000.
  - f. 7 Edgeworth Close NW4 - A two bedroom modernised maisonette with parking space having 96 years unexpired sold February 2013 for £249,999.
11. Mr Green adjusted the comparables for time by reference to the Nationwide and Lloyds indices (not included with the report); further adjustments were made to reflect condition, location and presence or otherwise of communal areas etc. Having made these adjustments he took an average to arrive at a long leasehold value for the subject premises of £200,000. He made a 1% addition to give a freehold value of £202,000.
12. As there was no evidence of short leasehold values Mr Green derived the value by taking into account the RICS research "Leasehold reform: Graphs of Relativity" which he stated supported a relativity of 93.53%. He also took into account Leasehold Valuation Tribunal determinations by considering the LEASE figures in the RICS document which suggested a relativity of 94.08%. Having considered both these sets of data he adopted a relativity of 93.53%.

13. His valuation was appended to the report and produced a premium of £10,090 which he rounded to £10,000.

#### **Decision**

14. The Tribunal is critical of the lack of a floor plan of the subject premises; the limited information regarding the comparables and that there was no information regarding the settlements used to support the capitalisation rate of 7%.
15. **Valuation date.** The valuation date has been correctly identified as the date of the application to the court 18 July 2013.
16. **Valuation of the extended lease.** The best comparables are those located closest to the subject premises, all are within a short distance. The tribunal accepts the value proposed of £200,000.
17. **Valuation of existing lease.** It is regrettable that Mr Green did not provide any extracts or tables to which he referred in his report. Based on the evidence and the tribunal's knowledge and experience it accepts the relativity of 93.53% as proposed.
18. **Capitalisation and Deferment Rate.** The Tribunal accepts both the capitalisation rate of 7% and deferment rate of 5%.
19. **Enfranchisement Price.** The Tribunal determines the premium to be paid at £10,130 and the valuation is attached to this decision.
20. **Terms of the lease.** Para LR6 should read one hundred and eighty nine years, the remaining terms are approved.

Evelyn Flint  
Chairman

25 March 2014

**First Floor 61 Wilberforce Road London NW9 6AT**

Valuation date 18 July 2013

Lease 99 years from 24 June 1986 at £50 pa for 1st 33 years, £100 pa next 33 years and £200 pa remainder

Capitalisation rate 7%

deferment rate 5%

**Landlord's present interest**

Ground rent		50		
YP 5.93 years at 7%		<u>4.721</u>	£236	
Ground rent		100		
YP 33 years at 7%	12.754			
x PV for 5.93 years	<u>0.669</u>	<u>8.532426</u>	£853	
Ground rent		£200		
YP 33 years at 7%	12.754			
x PV for 38.93 years	<u>0.0718</u>	<u>0.9157372</u>	£183	
Reversion to frehold		202,000		
Deferred 71.93 years at 5%		<u>0.0299</u>	<u>£6,040</u>	£7,312
less proposed interest		202000		
Deferred 170.93 years at 5%		<u>0.00024</u>		48
Diminution in Landlord's interest				£7,264
Marriage Value				
Proposed interests				
landlord			£48	
Extended lease			<u>200,000</u>	£200,048
less Present Interests				
landlord			£7,312	
Exisitng lease (93.53%)			<u>£187,000</u>	<u>£194,312</u>
Marriage Value				£5,736
50% marriage value				<u>£2,868</u>
				<u>£10,132</u>
				<b>£10,130</b>

**Premium payable**

**£10,130**