



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

Case Reference : **LON/00BH/OLR/2015/0666**

Property : **Ground Floor Flat, 101a St John's
Road, London E17 4JH**

Applicant : **Johanna Kristi Imeson**

Representative : **Cavendish Legal Group**

Respondent : **Persons Unknown**

Representative : **N/A**

Type of Application : **S 51 Leasehold Reform Housing &
Urban Development Act 1993
Missing Landlord**

Tribunal Members : **P M J Casey MRICS**

**Date and venue of
Hearing** : **Paper hearing on 18 May 2015
10 Alfred Place, London WC1E 7LR**

Date of Decision : **31 May 2015**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the premium payable on the grant of a new lease of the Ground Floor Flat 101a St John's Road, London E17 4JH ("the property") is the sum of £12,950
- (2) The tribunal makes the determinations as set out under the various headings in this decision

The application

1. The applicant seeks a determination by the Tribunal pursuant to a vesting order made under the provisions of S50(1) of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act") by District Judge North sitting at the County Court at Bow on 10 March 2015 of the premium payable on the grant of a new lease of "the property" under the relevant provisions of the Act.
2. The vesting order was made in response to a claim made to the Court on 28 November 2014 by Cavendish Legal Group on behalf of the applicant in which it was said that the applicant was entitled to acquire a new lease of the property under the provisions of the Act but had been unable to exercise the right by serving the requisite notice under S42 on the landlord because that person could not be found or his identity could not be ascertained.

The hearing

3. In response to the Tribunal's directions, which provided for a determination on the papers to be submitted, the applicants' solicitors provided a bundle of documents including a valuation report dated 1 May 2015 addressed to the Tribunal and prepared by Genevieve Mariner BSc (Hons) FRICS. The report contained the requisite declarations required of a Chartered Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 18 May 2015. No inspection of "the property" was deemed necessary.

The evidence

5. From Ms Mariner's description of the property it is a one bedroomed converted flat on the ground floor of two storey Victorian end of terrace house. It has been modernized and maintained to a reasonable standard including gas fired central heating but the only tenant's improvements claimed are the double glazed windows.

6. The property is held on a 99 year lease from 8 October 1986 subject to an annual ground rent payment of £50.00.
7. At the Valuation Date, 28 November 2014, the lease had 70.86 years unexpired though Ms Mariner had calculated this as 71.14 years.
8. She provided market evidence for the extended lease value of the property as at the Valuation Date by reference to four sales of similar properties at around that time the details of which are provided in the report and its Appendix 4.
9. From this evidence adjusted for differences in time between the sale and valuation dates she says the value of an extended lease in the subject property for a term extended by 90 years at a peppercorn ground rent and on the lease terms proposed is £259,000 (after deducting £1,000 for tenant's improvements) and then uplifts this figure by 1% to give a virtual freehold value of £261,590.
10. To capitalise the ground rent income for the unexpired term of the existing lease in her valuation of the existing freehold interest in the property she adopts a rate of 7% based on settlements she has reached in similar cases whilst to arrive at the present value of the freeholder's right to possession on the expiration of the existing lease term she adopts the "Sportelli" deferment rate of 5%. Because the lease particulars give the ground rent as "£50 per annum rising" but makes no provision as to how or when the sum is to be varied she provided alternative calculations; the first simply capitalized £50 for the remainder of the term, the second was similar but assumed the rent would increase by £50 every 33rd year of the term.
11. For the calculation of the marriage value payable in addition to the diminution in value of the freehold which results from the extension of the lease term, she says that she has been unable to find any comparable open market sales' evidence on which to base a valuation of the existing leasehold interest. In the circumstances she has, as so many other practitioners in this field do, had resort to the guidance provided by various "graphs of relativity" published by several firms undertaking this type of work. These graphs express the value of unexpired lease terms of varying lengths as a percentage of freehold value. Ms Mariner refers to five such graphs all of which relate to Outer London or the South East which average out at a relativity for a lease with 71.14 years unexpired of 93.13% of freehold value.
12. Her valuations attached to the report produce a premium of £12,050 with the Ground Rent at £50 per annum and £12,325 if the Ground Rent rises.

The decision

13. Whilst settlement evidence has been much criticised by Courts and Tribunals over the years Ms Mariner's adoption of a capitalization rate of 7% based on such evidence cannot in the present case be faulted where there is a relatively low ground rent and again, in the absence of extensive evidence to the contrary, her adoption of the "Sportelli" deferment rate of 5% is accepted. Her calculation based on an assumed rising ground rent is though unnecessary as with the lease silent on the point no such increase could be imposed.
14. The comparable sales evidence provided fully supports an extended lease value of £260,000 with vacant possession and the £1,000 for improvements is accepted as is the proposed 1% uplift to the virtual freehold value. In the Tribunal's experience of cases involving outer London properties where the extended lease will be for a term exceeding 150 years the most that is ever suggested as the difference between the value of a lease of that length and the virtual freehold is 1%. The virtual freehold is accordingly determined at a value of £261,950.
15. In the absence of better evidence relativity graphs have a long history of use in Tribunal proceedings to determine the value of the existing lease term in the "No Act world" and despite much concern over their reliability have been widely accepted. In the circumstances of this case the relativity proposed of 93.13% is an average of the values shown by the only five published graphs which do not include prime central London properties and whilst each has its drawbacks averaging does to some extent deal with that. However, the unexpired term is some 3 months less than calculated by Ms Mariner and the South East Leaseholds graph is of relativities to a 999 year lease not the freehold. Accordingly the relativity needs to be reduced to say 92.5% of the freehold value to give the value of the existing lease in the property in the sum of £241,970.
16. The Tribunal's valuation in accordance with the provisions of Schedule 13 to the Act is attached showing the premium payable on the grant of the new lease in the sum of £12,950.
17. A draft of the Deed of Surrender and Grant of New Lease was forwarded to the Tribunal. The term of the lease shown at LR6 and 1.3 of the Definitions is incorrect. The new lease will be for a term of years expiring 90 years after the original lease expiry date and all references to the original lease should include reference to the Deed of Rectification dated 20 June 2001. Only limited title guarantee can be given. The draft lease when revised as above and completed with the entry of the premium payable should be referred to the Court for execution.

Name: Patrick M J Casey

Date: 31 May 2015

**Leasehold Reform Housing and Urban Development
Act 1993 (as amended)
101A St John's Road, Walthamstow, London E17 4JH
Calculation of Premium Payable on Grant of New Lease**

Freeholder's present interest			
Ground rent (pa)	£50		
YP 70.86 years @ 7%	<u>14.16</u>	£708	
Reversion to	£261,590		
PVE1 def. 70.86 years @ 5%	<u>0.0315</u>	<u>£8,240</u>	£8,948
LESS			
Freeholder's proposed interest			
Reversion to	£261,590		
PVE1 def. 168.86 years @ 5%	<u>0.00039</u>	<u>£102</u>	£8,846
PLUS 50% marriage value			
Long lease value	£259,000		
Freeholder's proposed interest	<u>£102</u>	£259,102	
LESS			
Short lease value (92.5% reversion)	£241,970		
Freeholder's present interest	<u>£8948</u>	<u>£250,918</u>	
		<u>£8184</u>	<u>£4,092</u>
50% Marriage Value			<u>£12,938</u>
			But say £12,950