



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

Case Reference : LON/00BJ/OLR/2014/2049

Properties : 23a Emu Road, SW8 3PS

Applicant : Bridget Mary Wollard

Representative : Streathers Solicitors LLP

Respondents : Arthur Donald Hunt & Archibald
Edwin Pulker

Representative : None

Type of Application : Grant of new lease (Section 48
Leasehold Reform, Housing and
Urban Development Act 1993) –
Missing Landlord

Tribunal Members : Mr M Martynski (Tribunal Judge)
Mr L Jarero BSc FRICS

Date of Decision : 5 March 2015

DECISION

Decision summary

1. The premium to be paid for the extended lease of the subject flat is £31,351.00. Our valuation is attached.

Background

2. The subject property is a two-bedroomed first floor flat in a 'Warner' house of approximately 59.5 square metres (internal floor area)¹.
3. The Applicant's lease of the flat is dated 23 September 1985 and is for a term of 99 years from 29 September 1984. The unexpired term is 68.82 years. The ground rent is currently £50 per annum rising in 2017 to £100 and then to £150 in 2050. The original parties to the lease are the Respondents as landlords and Grovemarch Limited as tenant.
4. In proceedings issued in the Wandsworth County Court on 5 November 2014, the Applicant applied for a vesting order of a new lease of the subject flat.
5. The witness statement of Rebecca Rinn in support of the application to the court describes the attempts to find the Respondent freeholders. No trace could be found of Mr Pulker. However, it appears that Mr Hunt died in a nursing home on 9 January 2014. Ms Rinn could find no record of a grant of probate for Mr Hunt. No further steps appear to have been taken to trace Mr Hunt's next of kin who would be entitled to represent his estate.
6. It appears that the County Court accepted the position, as by order of District Judge Mauger dated 3 December 2014, it was recorded that the Court was satisfied that the Claimant had taken all reasonable steps to locate the Respondents. The order went on to make a vesting order of the subject flat and to transfer the proceedings to this Tribunal to determine the price and the terms of acquisition of the new lease.
7. The matter was set down for a determination of the application on the papers alone. The Applicant did not request an oral hearing.

The Applicant's valuation

8. The Applicant relied upon the written valuation report of Mr Alex Ingram-Hill MRICS of John D Wood & Co dated 14 January 2005. The valuation date taken in the report is the date of the County Court vesting order, that being 3 December 2014.
9. In his report, Mr Ingram-Hill valued the unimproved freehold vacant possession interest at £535,000 and he dealt with the following matters.

¹ This is according to the Valuation Report of Mr Ingram-Hill. However the sales particulars for the subject flat produced by Mr Ingram-Hill's company give the internal area as 56.5 square metres.

Relativity

10. Mr Ingram-Hill took an average of the Greater London curves as specified in the RICS Research Paper on Relativity to arrive at an average figure of 91.97%.
11. Mr Ingram-Hill did not specify the exact graphs he relied upon and we have been unable to determine exactly how he arrived at his Relativity Figure.
12. We have therefore taken the most appropriate graphs to be the Nesbitt, Andrew Pridell and South East London graphs on the basis that Beckett and Kay is opinion based and Austin Gray is mainly Brighton and Hove to arrive at 91.5%.

Capitalisation and Deferment

13. Given that the ground rents payable under the terms of the lease are not dynamic, the valuation applies a Capitalisation Rate of 6.5% to the ground rent income stream.
14. As to the Deferment Rate for the reversionary interest, the valuation takes 5% in line with the decision in *Sportelli*.

Improvements

15. No deductions are made in respect of tenant's improvements.

Long lease value

16. Mr Ingram-Hill referred to four comparable properties, all in the same road as the subject property as follows:-

6 Emu Road: A ground floor flat (long leasehold) which sold for £605,000 on 27 October 2014. This flat is 61.8 square metres (internal). It had the benefit of a side garden at the rear of the building.

47 Emu Road: A ground floor flat (share of freehold) sold for £550,000 on 13 October 2014. The flat is a little larger than the subject flat at 61.6 square metres with additionally side and rear patio garden. According to Mr Ingram-Hill, this flat has a superior layout to the subject flat (we assume because both bedrooms are of a reasonable size compared to the subject flat which has a main bedroom and a study bedroom).

49 Emu Road: A ground floor flat (long leasehold) currently on the market for £525,000 (now sold at £500,000). The flat has a patio garden and has an internal area of 70 square metres.

49 Emu Road: The first floor flat (long leasehold) at number 49 reportedly exchanged at £570,000 on 19 December 2014. The flat has an area of 63 square metres (including outside space). Again this was said to have a better lay out.

17. In summary on this question, Mr Ingram-Hill adjusted for the condition of the ground floor flats at 6 and 49 Emu Road (presumably on the basis that they were in better condition although this is not entirely clear from the report or documents attached and we are unclear as to the adjustment made) to arrive for his valuation figure of £535,000 for the Unimproved Freehold Vacant Possession Value.

Our investigations

18. On first considering this matter, we went to the Zoopla Website and found there the subject flat which was for sale through Mr Ingram-Hill's own company for an asking price of £600,000 for a long leasehold. This did not appear to sit comfortably with a valuation (based on a date of valuation just a few weeks before our consideration of the matter) of £535,000. We therefore asked the Case Officer to write to Mr Ingram-Hill inviting his comment.

19. Mr Ingram-Hill helpfully responded on 19 February 2015 as follows:-

Comments on the disparity between the FHVP value and GUIDE price – The GUIDE price of £600,000 is largely based on expectations/discussions with the local John D Wood & Co. sales office from earlier in 2014 when a market appraisal was first given (assuming a long lease), prior to any lease extension advice or in depth research into values. The market has since weakened and we now have sales evidence to guide us.

Details about the marketing - It has been on the market since 26th January 2015 and has only had four viewings, with no offers or indication of interest arising from any of these viewings. Some of these applicants have commented the second bedroom is too small and the lack of viewings may be indicative of the guide price being too high.

In support of the FHVP value of £535,000, since my report dated 14th January 2015, the Ground Floor Flat at 49 Emu Road (mentioned in paragraph 3.5) exchanged on 29th January 2015 for £500,000 for a long leasehold interest. This flat is larger than the subject Property, in fair condition, providing two good-sized bedrooms and benefits from a rear garden.

20. Upon again checking the subject flat on the internet on 24 February 2015 we found that the asking price for the subject flat had been reduced to £575,000; that still does not fit easily with a valuation of £535,000 with no evidence of (significant) rising prices in the market place.

Conclusions and decision

21. Mr Ingram-Hill established his range by; (a) adjusting for condition (see our comments above) and; (b) converting the long lease values to square foot values.
22. In our view, if a purchaser is considering purchasing a flat of the type typically found in Emu Road (which is a road containing the same type of terraced houses on each side of the road), that purchaser is not going to make fine adjustments for the internal area of flats if the difference in internal area is not large. A small second bedroom may however weigh in the mind of a purchaser.
23. As far as we can see from the particulars for the comparables, there are no really significant differences in condition of the properties (apart possibly for the ground floor of number 49).
24. Of the four comparables, the ground floor flat at number 49 sits significantly outside of the range. It is clear from the particulars provided for this flat that it is in a dated condition.
25. The best comparable appears to be the first floor flat at number 49 because; (a) it is at first floor level rather than ground floor; (b) it has a similar sized (small) second bedroom; (c) its outside space is a rear roof terrace (smaller than the subject property); (d) if one compares the plans for this property and the subject flat (with measurements), they are in exactly the same types of building and are the same, or very nearly the same size; they have different but not completely dissimilar layouts; (e) the valuation/sale dates for the flats are within two weeks of each other.
26. We have kept in mind that the subject flat appears to be a little smaller than three of the comparables.
27. We consider that a ground floor flat with a garden will be worth more due to the fact of the garden.
28. Distilling the above, we arrive at our assessment of the long leasehold value by:
 - (a) Giving double weight to the sale of the first floor flat of number 49
 - (b) Deducting £10,000 from the ground floor flats at numbers 6 and 47 in respect of the gardens and size (as number 47 has a share of the freehold, we have discounted the price by 1% to give a long lease value – this gives a figure of £534,500)
 - (c) Making no adjustments to the ground floor at number 49 (offsetting the advantage of the garden with the flat against its condition)

This produces the following calculation:-

FFF 49:	570,000
FFF 49:	570,000
GFF 6:	595,000
GFF 47:	534,500
GFF 49:	500,000

 $2,769,500 / 5 = £553,900$ (rounded to £554,000)

29. We have then adopted Mr Ingram-Hill's valuation calculation save that we have substituted the figure of £554,000 for the long leasehold interest and re-calculated accordingly.
30. Our valuation is attached.

Mark Martynski, Tribunal Judge
5 March 2015

First Tier Tribunal (Property Chamber)

Appendix A

Ref: LON/00BJ/OLR/2014/2049

Valuation of 23a Emu Road, London SW8 3PS

Valuation Date 3 December 2014

Lease granted for 99 years from 29 September 1984
 Unexpired term 68.82 years
 Ground rent £50 pa until 2017
 £100 until 2050
 £150 for the remainder
 Unimproved vacant freehold value £559,600
 Extended lease value £554,000
 Capitalisation rate 6.5%
 Deferment rate 5%
 Value of existing lease £512,034
 Relativity 91.5%

Valuation of Freeholder's current interest

Ground rent - 1st period	£50		
YP 2.82 years @ 6.5%	2.5033		£125
Ground rent - 2nd period	£100		
YP 33 years @ 6.5%	13.4591		
Deferred 2.82 yrs @ 6.5%	0.8373		£1,127
Ground rent - 3rd period	£150		
YP 33 years @ 6.5%	13.4591		
Deferred 35.82 yrs @ 6.5%	0.1048		£212
Reversion to freehold value	£559,600		
Deferred 68.82 yrs @ 5%	0.0348		£19,474
Freeholder's current value			£20,938

Value after grant of extended lease

Ground rent for 158.82 years	£0		
Reversion to freehold value	£559,600		
Deferred 158.82 yrs @ 5%	0.000431		£241

Diminution in freeholder's interest

£20,697

Marriage Value

Value after enfranchisement			
Freeholders interest	£241		
Tenant's interest	<u>£554,000</u>	£554,241	
Value before enfranchisement			
Freeholders interest from above	£20,938		
Tenant's interest	<u>£512,034</u>	<u>£532,972</u>	
Marriage value		£21,269	
Divide equally between parties			<u>£10,654</u>

Premium payable to freeholder £31,351