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

**Case Reference** : **LON/00AG/OLR/2017/1022**

**Property** : **Flat 2 Chalcott Lodge , 100 Adelaide Road London NW3 3PY and parking space 2**

**Applicant** : **Dr G Choudhury**

**Representative** : **Jury O'Shea LLP**

**Respondent** : **Greentree Estates Ltd**

**Representative** : **Alison Sandler in-house solicitor**

**Intermediate Landlord** : **Cherrybase Properties Ltd**

**Representative** : **Stevensons**

**Type of Application** : **S.48 Leasehold Reform Housing and Urban Development Act 1993**

**Tribunal Members** : **Judge F J Silverman Dip Fr LLM  
Mrs H Bowers MRICS**

**Date and venue of Hearing** : **5 December 2017.  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **6 December 2017**

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**DECISION**

**The Tribunal determines that the premium payable by the Applicant for an extended lease is £42,765 of which £38,400 is payable to the Respondent and £4,365 to the intermediate landlord Cherrybase Properties Ltd.**

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## Reasons

1. The Applicant seeks a determination pursuant to s.48 Leasehold Reform Housing and Urban Development Act 1993.
2. The hearing of this matter took place before a Tribunal sitting in London on 5 December 2017 at which Ms Patel represented the Applicant tenant.
3. Neither the Respondent landlord nor Cherrybase Properties Ltd, the intermediate landlord, attended or were represented at the hearing and neither had submitted any evidence or valuations to the Tribunal.
4. The sole issue which the Tribunal was asked to determine was the price of the premium to be paid by the Applicant for a new lease. All other matters had been agreed by the parties' representatives prior to the hearing and these were accepted by the Tribunal.
5. In these circumstances the Tribunal decided that an inspection of the property was not needed. The Tribunal understands the subject property to be a small ground floor flat in a purpose built block of twelve similar flats together with an allocated parking space.
6. The Applicant's direct landlord is the intermediate landlord, Cherrybase Properties Ltd whose lease expires 10 days after that of the Applicant.
7. For the Applicant Ms Patel said that negotiations had taken place between the parties and as at the close of business on the day preceding the hearing she understood that the parties had reached agreement over the price including the proportion to be paid to the intermediate landlord. A letter had been sent to the Tribunal from her firm asking the Tribunal hearing to be stood down because terms of settlement had been agreed. The agreed figures were similar those which are now determined by the Tribunal (above). However, at approximately 19.00 on that evening Ms Patel was told by Mr Row, the Applicant's surveyor, that the intermediate landlord while agreeing to the apportionment, this was conditional upon the reversionary rents being lowered.
8. Ms Patel had attempted to contact both the Respondent's and the intermediate landlord's representatives without success and the Applicant's valuer was not present in Tribunal as he understood the matter to have been settled.
9. The Tribunal asked Ms Patel if she could locate Mr Row and ask him to attend the Tribunal. This was done, and after an adjournment to allow Mr Row to travel to the Tribunal, the Tribunal heard his evidence about the settlement agreement negotiations.
10. Having heard Mr Row, the Tribunal is satisfied that the Respondent had agreed to a price of £42,765 with an apportionment of £4,365 to the intermediate landlord and that the negotiations broke down solely because of

the latter's insistence that their acceptance of the terms was on condition that the Respondent revised the terms of the reversionary rents.

- 11 Although the Tribunal has some sympathy with the intermediate landlord's position in that on completion of the new lease they will remain liable for the rents under their own lease but will receive no income from the Applicant in return, it is not within the Tribunal's jurisdiction to alter the rents in the intermediate lease. It should be highlighted that the sum of money to be paid to the intermediate landlord is compensation to reflect the revised lease structures.
- 12 The Tribunal is satisfied that the intermediate landlord was otherwise satisfied with the monetary sum which was to be paid to him (in effect as compensation for loss of the rents) and in the absence of any valuation evidence from either the Respondent or the intermediate landlord adopts the figures proposed by the Applicant and determines the price payable by the tenant for the acquisition of a new lease to be £42,765 of which £38,000 is payable to the Respondent and the balance of £4,365 to the intermediate landlord.

### **The Law**

13. Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (The Act) provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable for other loss.
- 14 The value of the landlord's interests before and after the grant of the new lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the assumption that the tenant has no rights under the Act to acquire any interest in any premises containing the tenant's flat or to acquire any new lease.
15. Para 4 of the Schedule, as amended, provides that the landlord's share of the marriage value is to be 50%, and that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.
16. Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.
17. Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Judge F J Silverman

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As Chairman

.....6 December 2017 .....

Note:

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.