



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

Case Reference : LON/00AN/OLR/2014/0542

Property : Top Flat , 17 Ormiston Grove,
London W12 0JR

Applicants : Hong Xue

Representative : Mr C Hurst MRICS

Respondent : Mr & Mrs F Cherry

Representative : Mr P Harper LLB

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

Tribunal Members : Mrs F J Silverman Dip Fr LLM
Mr R Shaw FRICS

**Date and venue of
Hearing** : 12 August 2014.
10 Alfred Place, London WC1E 7LR

Date of Decision : 14 August 2014

DECISION

Decision of the tribunal

The tribunal determines that the price payable by the Applicant tenant of the Top Flat , 17 Ormiston Road London W12 0JR to acquire an extended lease shall be £39,000 .

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 12 August 2014 at which Mr C Hurst represented the Applicant tenant and Mr P Harper represented the Respondent landlords.
3. The parties' representatives gave evidence on behalf of their respective clients.
4. As at the date of the hearing the only matters which remained to be determined by the Tribunal were the value of the virtual freehold, the deferment and relativity rates and the amount of the resulting premium to be paid by the tenant. All other matters pertinent to the valuation had been agreed by the parties and are reflected in the annexed valuation but are not discussed in detail below.
5. The subject property comprises the upper floors of a Victorian mid-terrace house in a residential road in Shepherds Bush. The property was originally one single house but has now been divided into two self contained dwelling units, the ground floor remaining in the ownership of the Respondent landlords who retain the ownership of the freehold reversion . The Tribunal did not consider it necessary in this case to inspect the subject property.
6. The Respondents' representative stated that he felt that the appropriate deferment rate was 5% in line with Sportelli. The Applicant's valuer argued that the risk of obsolescence merited a 0.25% increase on Sportelli and that a further 0.25% increase was justified by the increased risk of investment in the W12 postcode area and finally that another increase of 0.25% should be added for the increased burden of administration giving a total of 5.75% as an appropriate deferment rate. The Tribunal was not persuaded by the Applicant's arguments and considered that the differences were amply reflected in the capital values of the property. It therefore determines that the deferment rate in the instant case will remain at 5%.

7. Both parties agreed that the current long leasehold value of the subject properties was £650,000.
8. In relation to freehold vacant possession value, during the hearing the Applicant's representative agreed with the Respondents' argument that there should be an 0.5% uplift on the long leasehold value stated in paragraph 7 above.
9. As far as the value of the tenant's existing interest is concerned, the Applicant rejected five RICS published graphs in favour of his own calculations and graphs. The Tribunal was not persuaded by his arguments and although acknowledging the imperfections in the RICS statistics prefers to follow the conventional analysis as reflected in many previous First Tier and Upper Tribunal decisions. Of the graphs put forward by both parties the Tribunal decided that the following were less relevant to the subject property:
Beckett & Kay (opinion based data)
South East Leasehold (mainly comprises data from Bromley and Beckenham)
Austin Gray (mainly Brighton & Hove)
John D Wood (deals mainly with houses in Prime Central London)
10. The Tribunal accepts the following graphs as most relevant to the subject property :
Andrew Pridell and Nesbitts both of which deal with outer London properties and Cluttons which, although dealing with Prime Central London mainly deals with flats and balances the other two graphs. We also note that the subject property is close to the boundaries of the Prime Central London area.
11. An average of the three graphs cited in paragraph 10 above gives a relativity of 91.4% which is the figure used by the Tribunal in the annexed valuation.

The Law

12. 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.
13. 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.

- 14 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.
- 15 Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.
- 16 Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Premium payable by Tenant on Grant of New Lease

- 17. The Tribunal determines that the premium to be paid by the tenant on the grant of a new lease, in accordance with section 56 and Schedule 13 of the Leasehold Reform, Housing and Urban Development Act 1993 is £39,000.

- 18. The Tribunal's valuation is set out in the attached Schedule.

Judge F J Silverman

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As Chairman

.....14 August 2014

Appendix

| | | | |
|----------------------|------------------------------|-----------------|----------|
| New lease claim | | | |
| Present lease | 99 yrs from 25 December 1986 | | |
| Valuation date | 02-Oct-13 | Years unexpired | 72.167 |
| Long lease value | £650,000 | Freehold value | £653,250 |
| Existing lease value | Relativity | 91.40% | |
| YP= | 6% | PV= | 5% |
| | | 594,100 | |

Diminution in value of Landlord's interest

| | | | |
|-------------------------------------|------------------|----------|----------|
| Value before grant of new lease | | | |
| Capitalisation of ground rents | Agreed at: | | £3,085 |
| Reversion | | | |
| Flat value | | £653,250 | |
| Deferred | 72.167 yrs @ 5% | 0.029569 | £19,316 |
| | | | £22,401 |
| Less value AFTER grant of new lease | | | |
| Ground rent = | | | |
| peppercorn | | | 0 |
| Reversion | | | |
| Flat value (FH) | | 653,250 | |
| Deferred | 162.167 yrs @ 5% | 0.000366 | £239 |
| | | | -£239.00 |

Diminution in value of Landlord's interest £22,162

Marriage value

| | | | |
|-----------------------------------------------------------|----------------|---------|---------|
| Aggregate of values of interests after grant on new lease | | | |
| Landlord's interest | | 239 | |
| Tenant's proposed interest | | 650,000 | 650,239 |
| Less aggregate of values prior to grant of new lease | | | |
| Landlord's interest | | 22,401 | |
| Tenant's interest | | 594,100 | 616,501 |
| Marriage value | | | |
| | | | 33,738 |
| | | 50% | 16,869 |
| | | | £39,031 |
| | Premium | Say | £39,000 |