



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

Case reference : **LON/OOAS/OLR/2015/1275**

Property : **Ground Floor Flat, 18 Hallowell
Road, Northwood, Middlesex HA6
1DW**

Applicants : **Mr Donald Chisholm (1)
Mr Nathan Chisholm (2)**

Representative : **Mr A Bastin of Counsel**

Respondents : **Mr Henry Hart (1)
Mrs Sandra Hart (2)**

Representative : **Mr Henry Hart**

Type of application : **For the determination of the
premium payable for the grant of a
new lease**

Tribunal members : **Ms N Hawkes
Mrs S Redmond BSc(Econ) MRICS**

**Date and venue of
Hearing** : **24th November 2015 at 10 Alfred
Place, London WC1E 7LR**

Date of Decision : **25th November 2015**

DECISION

Decision of the Tribunal

The Tribunal determines that the total premium payable by the applicants for the grant of a new lease is £26,625.

Background

1. This is an application under section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”) for the determination of the premium payable for the grant of a new lease.
2. By a notice dated 18th December 2014 pursuant to section 42 of the 1993 Act, the applicants claim to exercise the right to acquire a new lease of the property. The respondents have served a counter notice under section 45 of the 1993 Act dated 16th February 2015.

The hearing

3. The applicants were represented by Mr Bastin of Counsel at the hearing and the respondents were represented by Mr Hart acting in person.
4. Mr Hart had, on behalf of the respondents, filed and served a document headed “Lease Extension Valuation Report 18 Hallowell Road, Northwood, Middlesex, HA6 1DW. Prepared by H R Hart. The Freeholder – Self Representing”.
5. This document did not include any assertion that Mr Hart is suitably qualified to give expert valuation evidence. Accordingly, at the commencement of the hearing, the Tribunal asked Mr Hart whether or not he was proposing to give expert evidence. Mr Hart informed the Tribunal that he did not have the appropriate qualifications and that he was therefore not proposing to give expert evidence. He did, however, ask the Tribunal to consider the factual evidence contained in his report.
6. The Tribunal heard oral expert evidence from Mr Stephen Cornish FRICS who was instructed by the applicants.
7. The Tribunal adjourned from 11.25 am to 11.45 am, part-way through Mr Hart’s cross-examination of Mr Cornish, in order to enable Mr Hart to review his notes and to ensure that he had put the entirety of his case to Mr Cornish.
8. The Tribunal also adjourned from 12.10 pm to 1.40 pm and, during this adjournment, the Tribunal obtained Land Registry Index Data for Hillingdon for the period from January 2014 to December 2014 because it was within the Tribunal’s knowledge and experience that average flat prices had risen during this period.

9. The parties were provided with copies of a print-out of this data; Mr Cornish was questioned about the data both by the Tribunal and by the parties; and the parties were given the opportunity to address the Tribunal on the issues which were raised during their closing submissions.
10. Neither party requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
11. The parties informed the Tribunal that, save for the premium, the terms of the acquisition are not in dispute. There had previously been a dispute solely in relation to clause 8 of a proposed deed of variation. The parties asked the Tribunal to note that Clause 8 has now been agreed.

12. Clause 8 provides as follows:

8. The Landlord hereby gives retrospective consent pursuant to clause 3(c) of the Lease to the removal and replacement by the Tenant of an internal partition wall in the hall that separates the Property from the First Floor Flat

13. As regards the premium, the issues in dispute are the applicable relativity percentage and the long lease value.

The law

14. Schedule 13 to the 1993 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 to the landlord.
15. The diminution in value of the landlord's interest is the difference between (a) the value of the landlord's interest in the tenant's flat prior to the grant of the new lease and (b) the value of his interest in the flat once the new lease is granted. The value of the landlord's interest is the amount which at the relevant 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) applying the assumptions and requirements set out in clause 3 of Schedule 13 to the 1993 Act.
16. Paragraph 4 of Schedule 13 to the 1993 Act provides that the landlord's share of the marriage value is to be 50%, but that where the unexpired

term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.

The Tribunal's determination

Relativity

17. Mr Cornish gave evidence that the appropriate relativity percentage is 84.40%. Mr Hart challenged this evidence asserting that it was based simply upon "instinct" and pointing out that reliance upon the myleasehold graph and the Pure Tribunal graph produces an average relativity of approximately 81%.
18. Mr Cornish disputed that he had relied purely on instinct and gave evidence that he had relied upon four RICS graphs of relativity for the Greater London area.
19. He stated that he had relied upon the graphs produced by Beckett and Kay, Nesbitt and Co, South-East Leasehold and Andrew Pridell and Associates Limited. He explained that he had not referred to the graph produced by Austin Gray because this graph has been produced from sources primarily in Brighton and Hove.
20. Mr Cornish drew the Tribunal's attention to the fact that the Beckett and Kay obtain data from landlords (which is unlikely to be favourable to his clients) and stated that, in obtaining a cross-section of graphs and taking an average, he considered that he was adopting a realistic approach.
21. Mr Cornish stated that the two graphs referred to by Mr Hart include Prime Central London properties; that this distorts the figures because relativity in Prime Central London is lower than relativity elsewhere; and that these graphs are therefore not a safe source to rely upon in the present case which concerns a property outside Prime Central London.
22. The Tribunal accepts that Mr Cornish has relied upon four RICS graphs rather than simply on instinct. It also accepts that the two alternative graphs which Mr Hart put to Mr Cornish include data relating to Prime Central London; that relativity in Prime Central London is lower than relativity elsewhere; and that it is therefore not appropriate to rely upon those graphs in the present case. Accordingly, the Tribunal accepts the expert evidence of Mr Cornish on this issue and finds that the relativity percentage to be applied in the present case is 84.4%.

Long Lease Value

23. Mr Cornish gave evidence that he has been undertaking valuations in the Northwood area since 1984. He has also lived in the area for 12 years.
24. Mr Cornish stated that he has adopted a hypothetical long lease value, as at the valuation date of 21st December 2014, of £250,000. He stated that there was a lack of suitable comparable sales evidence for converted one bedroom maisonettes and that he therefore obtained evidence relating to purpose built properties.
25. Mr Cornish gave evidence that he had obtained valuation evidence from the estate agents Robsons and Savills who he states are the two most prominent firms operating in Northwood at the time of the valuation. He stated that his proposed figure of £250,000 is above the average of the six comparables which are referred to in his report. Three of these comparables are one bedroom units and two of them are two bedroom units.
26. Mr Hart challenged Mr Cornish's evidence on the basis that he should have relied upon sales evidence relating to 14 Hallowell Road. Although 14 Hallowell Road has been converted into a two bedroom flat, Mr Hart pointed out that Mr Cornish has himself relied upon sales evidence relating to two bedroom properties in his report.
27. Mr Hart put to Mr Cornish that 14 Hallowell Road sold for £395,000 in November 2014 and that the sale price can be adjusted (a) by deducting the sum of £26,550 in respect of "deduction allowance 18 Hallowell Road one bedroom flat" and (b) by deducting the sum of £3,450 in respect of miscellaneous costs to give an adjusted figure of £365,000, representing the value of 14 Hallowell Road "without extension as a one bedroom flat".
28. Mr Hart put to Mr Cornish that 14 Hallowell Road has the same amenities, location, architecture and period of construction as 18 Hallowell Road and that therefore the sale of 14 Hallowell Road represents by far the most relevant comparable evidence.
29. Mr Hart also referred to 14a Hallowell Road, a two bedroom first and second floor flat, which was sold by Robinsons Estate Agents for £457,450 in October 2014.
30. Mr Cornish responded by stating that he had initially only considered comparable sales evidence relating to one bedroom properties because 18 Hallowell Road is a one bedroom property. However, when he saw that Mr Hart was relying upon a two bedroom property he reconsidered 14 Hallowell Road and he also considered the sales evidence relating to the two bedroom properties which are referred to in his report. He indicated that the sales evidence relating to two bedroom properties is, in his view, less relevant than that relating to one bedroom properties.

31. Mr Cornish stated that he did not consider 14 Hallowell Road to be a relevant comparable because the sale formed part of a refurbishment and redevelopment scheme undertaken by a developer and he does not know what potential the property had prior to the development or what percentage of the value per square foot comprises the developers' profit.
32. He also stated that the sales details for 14 Hallowell Road do not specify room size but that, whether one takes his estimate or Mr Hart's figures, the value per square foot of 14 Hallowell Road is high and out of line with the sales evidence relating to other two bedroom properties.
33. Mr Cornish gave evidence that he does not recognise the valuation method adopted by Mr Hart.
34. The Tribunal recognises that, as rightly pointed out by Mr Hart, 14 Hallowell Road has the same amenities, location, architecture and period of construction as 18 Hallowell Road.
35. However, the Tribunal is of the view that comparable sales evidence relating to two bedroom properties is less helpful than that relating to one bedroom properties.
36. Further, because it was not disputed that the sale of 14 Hallowell Road formed part of a refurbishment and redevelopment scheme undertaken by a developer; it is not known what potential the property had prior to the development or what percentage of the value per square foot comprises the developers' profit; and the price per square foot is out of line with the other comparable evidence, the Tribunal finds that it is not appropriate to rely upon the sales evidence relating to 14 Hallowell Road in the present case.
37. The Tribunal noted that Mr Cornish has not made any adjustments to reflect the differences between the valuation date and the dates of the comparable sales upon which he relies and that he has not addressed the issue in his report.
38. It was within the Tribunal's knowledge and experience that average flat prices in Hillingdon rose between January 2014 and December 2014 and the Tribunal therefore gave Mr Cornish the opportunity to comment upon Land Registry Index Data for Hillingdon for this period.
39. Mr Cornish gave evidence that Hillingdon is a diverse area with differing "microcosms" within it and he stated that the Land Registry data is not sufficiently localised to be of assistance in the present case. He stated that, for example, the borough contains multimillion pound properties but also much less expensive properties close to Heathrow with a high turnover and that the subject property is close to a local authority housing estate.

40. Mr Cornish gave evidence that he is personally very familiar with the area; that he has also consulted local estate agents; and that the sale prices for properties similar to 18 Hallowell Road did not change significantly during the relevant period.
41. Although initially concerned by the lack of any adjustments to the comparable sales evidence, the Tribunal accepts Mr Cornish's evidence on this point.

Conclusion

42. As stated above, the Tribunal accepts Mr Cornish's expert evidence. However, the Tribunal obtained a slightly different figure from Mr Cornish when applying that evidence to the valuation calculation.
43. A copy of the Tribunal's valuation is attached to this decision.

Judge N Hawkes

25th November 2015

VALUATION FOR PREMIUM FOR A NEW LEASE
Leasehold Reform & Urban Development Act 1993
118 Harrowell Road, Northwood, Mdds HA6 1DW

Facts and matters agreed

Lease 99 years commences
 5/9/1974

Ground rent £20 per annum

Valuation
 date 21st December 2014

Unexpired
 term 58.75years

GIA 49.28 sq m

Capitalisation
 rate 10%

Deferment
 rate 5%

Improvements none

Matters determined

Virtual freehold value	£250,000
Existing lease (unimproved)	£211,000
Existing lease relativity as %age of FHVP value	84.40%

Diminution in Value of Freeholder's interest

	£	£	£
Present value of Freeholder's interest			
Ground rent		20	
YP 58.75 years @ 10%		9.9960	200
Value of term			
Reversion			
Virtual freehold market value unimproved		250,000	
Deferred 58.75 years @ 5%		0.056902	<u>14,226</u>
Freeholder's present interest			14,426
less Value of Reversion after extension		250,000	
deferred 148.75 years @ 5%		0.000705	<u>176</u>
			14,250

Calculation of Marriage Value

Value of proposed interests:

Landlords'	176	
Tenant's new 148.75 year lease at a peppercorn	<u>250,000</u>	250,176

Less value of existing interests:

Landlords'	14,426	
Tenant's existing lease	<u>211,000</u>	225,426

Marriage
Value

24,750

50% marriage value attributed to
landlord

say 12,375

**TOTAL PREMIUM
PAYABLE**

£26,625