



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

**Case Reference** : **MR LON/OOAY/OLR/2015/0373**

**Property** : **15A Rita Road, London SW8 4JX**

**Applicants** : **Mr P Jones (leaseholder)**

**Representatives** : **Bishop & Sewell LLP, solicitors  
with valuation evidence from  
Barry Passmore Ltd, chartered  
surveyors**

**Respondent** : **Mr M Walsh (missing landlord)**

**Representatives** : **None**

**Type of Application** : **An application under sections 50  
and 51 of the Leasehold Reform,  
Housing and Urban Development  
Act 1993 for a determination of  
the terms on which a new lease  
will be granted under the Act.**

**Tribunal Members** : **Professor James Driscoll (Judge) ,  
Duncan Jagger MIRCS**

**Dates of Hearing** : **The tribunal met on 8 April 2015  
to consider a determination  
by considering the papers and  
without an oral hearing. It was  
not considered necessary for the  
tribunal to carry out an inspection  
of the property.**

**Date of Decision** : **8 April, 2015**

<b>DECISION</b>
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### **The Decisions summarised**

1. The premium payable for the grant of a new lease under the Act is the sum of £7,092 (seven thousand and ninety-two pounds).
2. The tribunal determines that the terms of the proposed lease submitted with this application are approved (subject to the comments in paragraph 16 below).
3. This matter is now to be transferred back to the Central London County Court for the execution of the new lease by a Chancery District Judge of that Court on payment into court of the premium from which the applicant's reasonable professional costs can be deducted.
4. These costs are to be assessed by the Court.

### **Background**

5. In this matter the applicant is the leaseholder of the subject premises which is a flat held on a long lease. He has a qualifying lease under the

1993 Act. His flat is one of three in the building. We will refer to him as the 'leaseholder'.

6. The respondent is or was the owner of the freehold of the building containing the three flats and the landlord under the lease. However, the leaseholder has had no contact with the landlord for several years and all enquiries his advisors have made have revealed no information on where the landlord resides.
7. As the leaseholder wishes to exercise his right to obtain a new lease under the 1993 Act, and as he cannot trace the landlord, an application was made to the County Court of Central London for a vesting order under section 50 of the Act.
8. On 11 February 2015 District Judge Langley made the following order: (a) dispensing with the requirement that a claim notice must be given to the landlord, (b) staying proceedings pending the determination of the terms of the new lease, (c) directing a transfer of the claim to the tribunal for such a determination, (d) that on payment appropriate sum into court that a new lease be executed by a Chancery District Judge of the Court and (e) that the claimant's costs be assessed if not agreed.

### **Our determinations**

9. Following receipt of the court file the tribunal gave directions on 18 February 2015. Those advising the leaseholder submitted a bundle of documents which the tribunal considered on 8 April 2015 in order to determine the premium to be paid and the terms of the lease drafted by the leaseholder's solicitors. Given the relatively modest premium, and relying on the valuer's report and the tribunal's own professional knowledge and experience, it was not thought necessary to have an oral hearing; nor was it thought necessary for the tribunal to carry out an inspection of the property. We were not asked to assess the leaseholder's professional costs (which once assessed are to be deducted from the premium to be paid into court).

10. On 8 April 2015 having read the papers we considered the premium by examining the report of Barry Passmore Ltd, chartered surveyors. It was prepared by Mr B Passmore BSc, MIRCS ACIrb and it is dated 25 March 2015.
11. Mr Passmore notes that at the valuation date the unexpired term of the lease was almost exactly 85 years. He relies on advice that the 'valuation date' is 16 December 2014. We have assumed from studying the court papers that this is the date on which the application to the court was made. We agree that this date is the valuation date in missing landlord cases (see section 51(8) of the Act).
12. After carrying out an inspection of the property on 12 March 2015 Mr Passmore considered the premium. To do this he applied a capitalisation rate of 8% to a ground rent of £25 per annum for the duration of the lease. He also applied a deferment rate of 5% to determine the current value of the landlord's interest. To determine the current unimproved value of the flat Mr Passmore has examined sales information from transactions for four flats in Rita Road (the same road as the subject premises) and one in Dorset Road which is a short distance from the subject flat.
13. From this information he concludes that the market evidence shows a range from £615 per square foot to £830. Allowing for the fact that the subject flat is on the second floor and that it is to be valued as unmodernised, he has taken a mean figure of £700 per square foot. This produces, he submits, a current value of £430,000.
14. As the unexpired term was more than 80 years at the valuation date he submits that no marriage value is payable.
15. We accept his evidence and agree that the appropriate capitalisation rate is 8% given the modest size of the ground rent. He is also correct to apply a deferment rate of 5% to the current value which we agree should be adjusted upwards by a factor of 1% to the sum of £434,300.

16. We agree that no marriage value is payable in this case (see the Act, schedule 13, paragraph 4[(2A).
17. We agree with his conclusions and we determine that the premium to be paid is the sum of £7,092. As the leaseholder is entitled to deduct his reasonable professional costs from the premium his advisors may wish to seek an assessment of these costs from the court.
18. Turning to the terms of the draft lease we considered the draft prepared by the leaseholder's solicitors at page 110 of their bundle. We have the following comments. The Act provides for the terms of the new lease in sections 56 and 57 which in summary is that the new lease is for a term of 90 years longer than the unexpired term of the existing lease at a nominal rent but otherwise on the same terms as the existing lease.
19. We note that the reference to the term of the new lease in LR6 (page 111 of the bundle) is incorrect and should read 175 years. The dates of the court orders should be inserted in (5) (page 114 of the bundle). The premium we have determined should be inserted in paragraph 3 of the draft lease and the reference to the new term must also be corrected to 175 years (also page 114 of the bundle). The attestation clause (page 118 of the bundle) should reflect the fact that the lease will be granted by a District Judge.

**James Driscoll and Duncan Jagger**

**8 April, 2015**