



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

Case reference : **LON/00AC/OLR/2018/0787**

Property : **11 Cambrian Green, Snowdon Drive,
London NW9 4RH**

Applicant : **Ms S Wright**

Representative : **Mr Andrew Cohen FRICS**

Respondent : **Sinclair Gardens Investments
(Kensington) Ltd**

Representative : **Mr G Holden FRICS**

Type of application : **Section 48 of the Leasehold Reform,
Housing and Urban Development Act
1993**

Tribunal members : **Judge S Brilliant
Mr L Jarero BSc FRICS**

**Date of
determination and
venue** : **30 October 2018
10 Alfred Place, London WC1E 7LR**

Date of decision : **27 December 2018**

DECISION

Summary of the Tribunal's decisions

- (1) The market value of the extended lease is £192,500.
- (2) The appropriate premium payable for the new lease is £17,510 (in accordance with the calculation annexed to this decision).

Background

1. This is an application made by the applicant lessee pursuant to section 39 and 48 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid for a new lease of 11 Cambrian Green, Snowdon Drive, London NW9 4RH (“the flat”).
2. The flat is a purpose-built top second floor flat. It forms part of a three-storey block of 24 flats situated on the Welsh Harp Village estate which was developed in the late 1980s. There is no lift. The demise includes a parking space. The flat comprises an entrance lobby, bathroom/WC, studio room and kitchen.
3. The applicant holds the flat under a lease dated 6 February 1990 for a term of 99 years from 1 March 1987 (“the lease”). The lease is registered at Land Registry under title number NGL657149. The respondent’s freehold is registered at Land Registry under title number NGL703453.
4. By a tenant’s application notice dated 21 August 2017, served pursuant to section 42 of the Act, the applicant applied to acquire a new lease of the flat. The applicant proposed a price of £9,450 for the new lease.
5. On 20 December 2017, the respondent served a counter notice admitting the claim to acquire a new lease of the flat. The respondent proposed a price of £21,308 for the new lease.
6. By an application dated 12 June 2018, the applicant applied to the Tribunal for a determination of the premium due to the respondent.
7. Directions were given on 28 June 2018.

The hearing

8. The hearing in this matter took place on 30 October 2018. The applicant was represented by Mr Andrew Cohen FRICS. Mr Alan Cohen FRICS gave expert evidence on behalf of the applicant in accordance with an undated written report.
9. The respondent was represented by Mr G Holden FRICS, who also gave expert evidence on behalf of the respondent in accordance with a written report dated 8 October 2018.
10. The Tribunal did not find it was necessary to conduct an inspection.

The issues

Matters agreed

11. The following matters were agreed between the respective experts in a memorandum dated 8 August 2018:

Date of valuation	24 October 2017
Unexpired term at valuation date	68.35 years
Capitalisation rate	7%
Deferment rate	5%

Matters in dispute

12. The following matters remained in dispute:

The long leasehold vacant possession value of the flat on the valuation date.
The freehold vacant possession value of the flat on the valuation date.
The marriage value (50/50).
Appropriate premium to be paid.

Value of the flat with the extended lease

13. Both valuers arrived at the long leasehold values with reference to comparable sales in the area, which is a large estate of 160 similar studio flats in 9 blocks.
14. Mr Holden relied on 5 comparables. Mr Cohen relied on 2, arguing that the other 3 were too old to be of use because of the passage of time and that nothing was known about their condition (though the description provided by Mr Holden was as informative as that provided by Mr Cohen on his comparables).

15. They both adjusted comparables for time, using the Land Registry Index for the London Borough of Barnet.
16. Mr Holden averaged his adjusted figures to give a figure of £197,505 and then deducted 2.5% for unidentified improvements, to give a long leasehold value of £192,500.
17. Mr Cohen argued that the comparables he relied on were larger than the subject flat and arrived at a long leasehold value of £180,000, without an explanation for his deductions.
18. We preferred the analysis of Mr Holden to that of Mr Cohen, being based on a large number of comparables.

Existing Leasehold Values

19. Again, both valuers relied on comparable sales. Mr Holden provided 6 similar properties. Mr Cohen used only 3 of these, after discounting the other 3 for similar reasons he used in respect of air the long leasehold values.
20. They both adjusted for time. Mr Holden deduced an average value of £172,511 with a real world relativity. But he then relied on the LEASE graph of relativities to adjust the relativity of the lease length of the subject flat to that of the average lease length of his comparables. He applied this adjusted relativity to his long leasehold value to give an existing leasehold value of £167,629.
21. Mr Cohen compared his adjusted existing leasehold values of his comparables with his derived long leasehold value, uplifted by 1% to give the freehold value, to give his relativity. This he compared with the non PCL graphs of relativity as a check. This gave a figure of £167,292 for the existing leasehold value.
22. Mr Holden did not agree with the uplift to the long leasehold value with a share of the freehold, as in his experience the market evidence did not show that. In the Tribunal's view a freehold is worth more than a share of the freehold.
23. The Tribunal was of the view that all the comparables provided by Mr Holden were sufficient so as not to have the need to rely on relativity graphs, even though some of the comparables were up to 18 months before the valuation date. They only had to be adjusted for time.
24. As stated above, the Tribunal preferred Mr Holden's analysis of the long leasehold value of £192,500, but increased this by 1% to give the freehold value of £194,444.

25. We also preferred his table of the existing leasehold values, giving a value of £172,511. Both valuers adjusted for “Act” rights using Savills Enfranchiseable Graph. Mr Holden used the 2002 version, comparing it with the Gerald Eve Graph, and averaging that with the latest Savills Graph.
26. Mr Cohen used the updated Savills 2015 Graph. The Tribunal preferred the Savills Enfranchiseable and Unenfranchiseable Graph (2015), and makes a deduction of 3.8% for these rights. This gives an existing leasehold value without rights of £165,956. Applying these figures to the valuation gives a premium of £17,510. The valuation is at appendix A.

Name:	Judge Simon Brilliant	Date:	27 December 2018
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Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix A

First Tier Tribunal (Property Chamber)

Ref: LON/00AC/OLR/2018/0787

11 Cambrian Green, Snowdon Drive, London NW9 7RH

Valuation Date 24 October 2017

Lease granted for 99 years from 1 March 1987	
Unexpired term	68.35 years
Ground rent 1st period of 33 years	£60
2nd period of 33 years	£120
3rd period of 33 years	£180
Unimproved vacant freehold value	£194,444
Extended lease value	£192,500
Capitalisation rate	7%
Deferment rate	5%
Value of existing lease	£165,956

Valuation of Freeholder's current interest

Ground rent	£60	
YP 2.35 years @ 7%	2.1000	£126
Ground rent	£120	
YP 33 years @ 7%	12.7537	
Deferred 2.35 yrs @ 7%	0.8530	£1,305
Ground rent	£180	
YP 33 years @ 7%	12.7537	
Deferred 35.35 yrs @ 7%	0.0915	£210
Reversion to freehold value	£194,444	
Deferred 68.35 yrs @ 5%	0.0356	£6,922
Freeholder's current value		<u>£8,563</u>

Value after grant of extended lease

Reversion to freehold value	£194,444	
Deferred 158.35 yrs @ 5%	0.00044	£86

Diminution in freeholder's interest

£8,477

Marriage Value

Value after enfranchisement		
Freeholders interest	£86	
Tenant's interest	<u>£192,500</u>	
		£192,586
Value before enfranchisement		
Freeholders interest from above	£8,563	
Tenant's interest	<u>£165,956</u>	
		<u>£174,519</u>
Marriage value		<u>£18,067</u>
Divide equally between parties		<u>£9,033</u>

Premium payable to freeholder £17,510