



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

**Case Reference** : **LON/00AS/OLR/2018/0536**

**Property** : **10 Stanley Close, Uxbridge, Middlesex UB8  
2NE**

**Applicant** : **Diana Jacqueline Mary Luxton**

**Representative** : **Mr Harj Padda MRICS of Buntings Chartered  
Surveyors instructed by Messrs E D C Lord &  
Co Solicitors**

**Respondent** : **Ault Investments Limited**

**Representative** : **Mr Wilson Dunsin FRICS of Dunsin Surveyors**

**Type of Application** : **Application under section 48 of the Leasehold  
Reform Housing & Urban Development Act  
1993**

**Tribunal Members** : **Tribunal Judge Dutton  
Mr K J Ridgeway MRICS**

**Date and venue of  
Hearing** : **10 Alfred Place, London WC1E 7LR on 7th  
August 2018**

**Date of Decision** : **24th August 2018**

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**DECISION**

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## **TRIBUNAL DECISION**

The Tribunal determines that the premium paid for the lease extension in respect of 10 Stanley Close, Uxbridge UB8 2NE (the Property) is £72,657 as set out on the attached valuation sheet.

### **BACKGROUND**

1. On 19<sup>th</sup> September 2017 the Applicant Diana Jacqueline Mary Luxton (Ms Luxton) served on the Respondents Ault Investments Limited (Ault) a notice under section 42 of the Leasehold Reform Housing and Urban Development Act 1993 (the Act). This notice sought to extend the lease of the Property and proposed a premium of £59,330. It also proposed that the new lease should continue on the same terms as the previous one save that the annual rent should be reduced to one peppercorn.
2. On 2<sup>nd</sup> November 2017 the Respondent Ault served on Ms Luxton a counter notice under section 45 of the Act confirming her right to extend the lease was admitted. The notice also confirmed that the rent would be a peppercorn and that the terms would remain as set out in the existing lease. However, the landlord rejected the tenant's proposal for the premium and instead indicated that it would be seeking a premium of £86,982.
3. Agreement could not be reached and accordingly an application was made to the Tribunal under section 48 of the Act for premium and other terms of acquisition to be determined.
4. The matter came before us for hearing on 7<sup>th</sup> August 2018. Prior to the hearing we were provided with copies of the notice, the freehold and leasehold title and the lease to the flat. We were also given a copy of a draft lease said to be agreed subject to the premium and experts' reports from Mr Harj Padda MRICS for Ms Luxton and from Mr Wilson Dunsin FRICS on behalf of the Respondent Ault.
5. We had the opportunity to consider these reports.
6. Some items were agreed between the valuers and those are as follows:
  - The lease is for a term of 99 years from 25<sup>th</sup> December 1962 meaning that there is an unexpired term at the valuation date of 19<sup>th</sup> September 2017 of 44.26 years. We were told also that the deferment rate had been agreed at 5% and the capitalisation rate at 7%.
  - It was left, therefore, for us to determine the freehold vacant possession value, the relativity giving rise to the short lease value and thus the premium payable.
7. We do not propose to repeat at any length the evidence contained in the reports of Mr Padda and Mr Dunsin.
8. Mr Padda gave evidence first and confirmed that there were three notable transactions to which he gave the greatest weight, these being at numbers 1, 7 and

9 Stanley Close. In his report he listed a good deal of other properties under the comparable heading but did not expand upon those before us. Initially it was unclear whether the property at 7 Stanley Close was actually a transaction. However, we were told he had received an email from the estate agents confirming an exchange on 25<sup>th</sup> July 2018 at a price of £320,000. He confirmed that he had used the house prices index relevant to the area, although did concede that did not always reflect the true position. He had also introduced a valuation on a price per square foot basis but conceded that for flats in Uxbridge they were not in reality sold on that premise.

9. He had produced an analysis of the various comparable properties which on his estimation gave an estimated premium of £321,524.54.
10. However, he was of the view that the subject Property could not achieve more than Flat 1 Stanley Close that had sold in April of 2017 for £338,000. He had adjusted this and taking into account his preferred comparables at Nos 9 and 7 Stanley Close, came to the conclusion that the long lease market value for the subject Property should be £315,000 at the valuation date. A 1% uplift which was agreed by both valuers caused the notional freehold value to rise to £318,150.
11. On the question of relativity, he had relied on the average of the RICS research graphs which he set out at paragraph 11.8 of his report. This average was 67.92% which he concluded was the appropriate relativity to be applied in this case. When questioned by us on the issue of relativity, he accepted that it was dropping and told us that in the market he tended to use a blend of the Nesbitt, Pridell and Moss Kaye graph percentages, which in fact gave a lower figure to that which he contended before us. He was, however, satisfied that it was a fair reflection of the relativity attributable to a property with this lease length.
12. He was asked by us why he had not mentioned the comparable put forward by Mr Dunsin at 6 Stanley Close. This included development of the roof space, which it was agreed was not demised to Ms Luxton under her lease, although could be purchased at a cost unknown to us, subject of course to the costs of any conversion works. He did not consider that the roof space had any potential because it was not demised. He also confirmed he had made no adjustment for improvements.
13. Applying his relativity and taking into account the calculations with regard to ground rent, the rates applied for a deferment and capitalisation, he came to the conclusion that the premium payable for the lease extension should be £67,690.
14. We then heard from Mr Dunsin who, like Mr Padda had provided a report which we had had the opportunity of considering. One point we wanted to clarify before his evidence got underway was the relativity figure that he had set out in his report compared to that which appeared in his valuation. Apparently, at paragraph 5.03.30 the relativity figure adopted of 71.24% was erroneous and that paragraph should not have appeared. We were asked to strike it and instead adopt a figure of 61.6% upon which we will return in due course.
15. As to the question of comparables, he had confined himself to three properties in close proximity to the subject Property.

16. The first of these was 6 Stanley Close, said by him to be an identical first floor maisonette, but the loft space had been converted to create two additional bedrooms and a shower room and had sold in July of 2017 for £370,000. He put this comparable in as it demonstrated the inherent development value which a first floor maisonette has. The next comparable was at 1 Stanley Close a similar two bedroom maisonette in the same development but this on the ground floor which in April of 2017 sold for £338,000 on the basis that the ground rent continued at £250 per annum. After adjustment using the land registry house price index for Hillingdon, which both valuers agreed was appropriate to reflect the passage of time, he achieved an adjusted sale price of £342,832.
17. The final property was 9 Stanley Close, one chosen by Mr Padda as was No 1 Stanley Close. This also was a two bedroom maisonette on the ground floor which sold in February of 2017 for £317,000 but again with a ground rent of £175 per annum. Applying the time adjustment this gave a price of £320,768.
18. The uplift that he had given in respect of the conversion at 6 Stanley Close to a four bedroom property was rather modest. It in fact appeared to equate to £1,610 following a rounding up exercise. He thought, however, the ability to develop might make the Property more attractive to a buyer. He told us he had not included 7 Stanley Close as a comparable because he could not determine the house price index for July of 2018 and therefore was unable to reflect the passage of time, although did not dispute that it appears that the property was now under contract.
19. The adjusted sale price for 1 Stanley Close was £342,832 which was agreed by Mr Padda. Mr Padda in his assessment had concluded that 9 Stanley Close should be £327,781 but accepted that he had used the wrong time adjustment and agreed with Mr Dunsin's adjusted figure of £320,768.
20. However, Mr Dunsin then departed from Mr Padda's assessment by seeking to introduce an adjustment of 5% to reflect what he considered to be the high ground rent payable in respect of 1 and 9 Stanley Close, which we have referred to above. This caused him to adjust the value for 1 Stanley Close to £359,973 and to 9 Stanley Close to £336,806 uplifting from the previous figures to reflect this liability to pay rent. The average of those two properties gave a figure of £348,390. It is here that he gave an uplift to that figure to reflect the first floor status of the maisonette and the potential, lifting it to £350,000 hence the uplift figure of £1,610.
21. He was asked by us why he considered a 5% adjustment for the ground rent was appropriate. He confirmed he had no evidence to support this reduction, it was just his opinion. Similarly, he had no evidence to reflect that there was any particular benefit of having a first floor location.
22. Applying a 1% adjustment to reflect the freehold vacant possession value he concluded that the premium would be £353,535.
23. On the question of relativity, he confirmed, as had Mr Padda, that there was no short lease market evidence available. He, however, sought to rely upon the

Tribunal decision at 29 Windmere Court, Windmere Avenue, Wembley under reference LON/00AE/LOR/2017/0433. He did not provide a copy of the case but recited at various paragraphs. Of significance was paragraph (iv) in which it appears the Tribunal had adopted the Savills 2015 Enfranchisable graph, the Gerald Eve 2016 graph and the Beckett and Kay graphs for 2014 and 2017. He urged us to follow the basis of this Tribunal's decision and not to proceed with RICS reports for non-PCL graphs but instead to blend PCL data as set out in the Savills and Gerald Eve graph with the Beckett and Kay graph.

24. He had attributed a relativity of 61.6% based on the Savills graph of unenfranchisable property showing a percentage of 66.01, Gerald Eve graph showing 64% and the Beckett and Kay graph 54.9%. It was pointed out to him that if we were to follow the Tribunal's mindset in the decision on Windmere Court they had used the enfranchisable graph not the unenfranchisable graph. In those circumstances, he conceded that he should review the matter and having done so accepted that the relativity for which he should argue would be 65.7%.
25. We then had some discussions on the question of relativity by reference to 9 Stanley Close and the extended lease value and the price that had been paid by the owners on the same day as they sold the extended lease to obtain such an extension. It seemed that taking into account an allowance for no act world a relativity of around 70% was shown by those figures. However, Mr Dunsin confirmed that he accepted a relativity rate of 65.7% and Mr Padda indicated that the Windmere case was not helpful and whilst accepting that relativity is changing he stuck with the figure that he had cited in his report.
26. Mr Dunsin's final figure after considering the freehold vacant possession and relativity and utilising the agreed deferment and capitalisation rates, gave a premium of £86,357 but based on the 61.6% relativity figure. If the amended relativity rate was inserted, this appeared to give a premium payable of £79,110.

## **THE LAW**

27. We have considered the Act and in particular schedule 13 thereof in reaching our decision. We have borne in mind all that has been said in the experts' reports and all that they told us at the hearing.

## **FINDINGS**

28. We are grateful to the valuers for agreeing a number of elements and we confirm that we have accepted their calculations as to the ground rent figure and have adopted their rates for deferment and capitalisation.
29. On the question of the long lease value, we prefer the evidence of Mr Padda. He, of course, conceded that the time adjusted figure for the property at 9 Stanley Close should be amended which gives an average of the two properties he preferred of £331,800, which we find is the appropriate figure for the extended lease value to apply in this case.

30. Both parties agree that there should be a 1% uplift to reflect the freehold value which gives a figure of £335,118 for that element.
31. The suggestion by Mr Dunsin that there should be a further adjustment to reflect the reserved ground rent in the leases for 1 and 9 Stanley Court is rejected by us. The rent involved is not extensive and there was no evidence to suggest that this would have an impact on the value of the flat nor to support a somewhat random assessment at 5%. The slight uplift for the development potential is again rejected by us. The roof space is not within the demise of the lease of the Property. The ability to acquire same is not known, although we suspect at the right price it could be purchased. There is no evidence as to that, nor the cost of any works.
32. On the question of relativity, we found Mr Dunsin's arguments unacceptable. It seems to us you cannot ask us to follow a Tribunal case, which we are not bound by in any event, but then seek to change the basis upon which that Tribunal had made its finding. They had clearly adopted the Savills enfranchisable graph, which gave a higher figure than that which was reflected in the unenfranchisable graph. Furthermore, it seems to us that Uxbridge could not be classified as prime central London. Whilst accepting that there is what appears to be a combined wisdom that relativity rates are changing, we need some evidence to support that. We reject Mr Dunsin's view of relativity but accept that put forward by Mr Padda, even though he himself had his concerns that it was not wholly correct relying as it did on now perhaps somewhat dated data. However, for the purposes of this application, we accept that the relativity should be 67.92%.
33. Feeding those elements into the valuation gives rise to a premium payable of £72,657 as set out on the attached valuation sheet.
34. We were told that the terms of the lease which was before us had been agreed and in those circumstances, we do not propose to make any further findings in that regard.

*Andrew Dutton*

Judge:

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A A Dutton

Date: 24th August 2018

#### **ANNEX – RIGHTS OF APPEAL**

1. 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 at the Regional Office which has been dealing with the case.
2. 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.

3. If the application is not made within the 28-day time limit, such application must include a request to 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.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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.

**Valuation for lease extension - 10 Stanley Close, Uxbridge, Middlesex, UB8**

**2NE**

Valuation Date	19/09/2017		
Lease Commencement	25/12/1962		
Lease Term	99.00	years	
Unexpired Term	44.26	years	
Long Lease value	£331,800		
Freehold VP value	£335,118	+1% long lease value	
	Term 1	Term 2	Term 3
Ground rent	£15.00	£0.00	£0.00
Reversion years	44.26	0.00	0.00
Capitalisation rate	7%		
Deferment rate	5%	Sportelli	
Compensation	£0.00		
Relativity	67.92%		

**Value of Landlord's interest**

Ground rent					£15	
YP	44.26	yrs @	7.00%		<u>13.57059917</u>	£204
Rent Review 1					£0	
YP	0.00	yrs @	7.00%		0	
PV of £1	44.26	yrs @	7.00%		<u>0.050058058</u>	£0
Rent Review2					£0	
YP	0.00	yrs @	7.00%		0	
PV of £1	44.26	yrs @	7.00%		<u>0.050058058</u>	£0
Reversion to VP value					£335,118	
PV	44.26	yrs @	5.00%		<u>0.11538826</u>	£38,669
L/lor'd's interest on reversion of new lease						
FH VP					£335,118	
PV	#####	yrs @	5.00%		<u>0.00142930</u>	-£479
						<b>£38,393</b>

**Landlord's share of Marriage Value**

Val. Tenant's interest new long lease	£331,800
Val. l/lor'd's interest after reversion of new lease	£479
	<u>£332,279</u>



**Less**

Val. tenant's interest existing lease	Relativity	67.92%	£225,359		
Val. l/lord's interest existing lease			<u>£38,393</u>	£38,394	
				<u>£263,752</u>	£263,753
				£68,527	68526
Marriage Value at Compensation	50%				<b>£34,264</b>
					<u>£0</u>
<b>PREMIUM</b>					<b>£72,657</b>