



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

Case Reference : **CAM/00KA/OLR/2019/0041**

Property : **49 Farley Lodge Ruthin Close Luton LU1 5EN**

Applicant : **K T Real Estate Ltd**

Representative : **None**

Respondent : **Iftikhar Akmal Opel**

Representative : **Machins Solicitors LLP**

Type of Application : **Determination of the premium to be paid under Leasehold Reform Housing & Urban Development Act 1993**

Tribunal Members : **Mrs M Hardman FRICS IRRV (Hons)
Judge Wayte**

Date of Decision : **1 July 2019**

DECISION

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DECISION

- 1. The Tribunal determines that the premium payable for the lease extension for the property at 49 Farley Lodge Ruthin Close Luton LU1 5EN (the Property) is £6,636.**

Background

1. On 1 August 2018 the Applicant, K T Real Estate Ltd gave notice to the Respondent, Iftikhar Akmal Opel, under section 42 of the Act seeking an extension for the lease to the Property. The notice of claim under section 42 indicated a proposed premium of £2,000.
2. The Notice also stated that the Applicants were registered as proprietors at the Land Registry on 1 September 2014 and therefore owned the Property for the qualifying period in excess of two years pursuant to section 130 and 131 Commonhold and Leasehold Reform Act 2002.
3. On 2 October 2018 the Respondent landlord, Iftikhar Akmal Opel, served a counter notice under section 45 accepting the tenant's right to a new lease. They, however, rejected the proposal for the premium, instead suggesting a figure of £15,000.
4. A copy of the Lease dated 22nd September 1999 between Rimex Investments Ltd (1) and J C Chippeck Esq.(2) for a term of 99 years from 29th September 1985 was provided, together with a copy of the Official Copy of the Freehold Absolute Title for the Property at the Land Registry, Title Number BD32824 which recorded the Leasehold Title of the Property in the Schedule of Leases as Title Number BD213219.
5. Matters could not be agreed and on 18th March 2019 an application was made to the Tribunal under section 48 of the Act seeking a determination as to the premium to be paid. On the application the Applicant indicated that the level of premium proposed was £5,650 by the Applicant and £15,000 by the Respondent.
6. A directions order was issued by the Tribunal on 15th April 2019 indicating that the matter would be dealt with on the papers if a request for a hearing was not received by 5th June 2019. No such request was received.
7. The matter in issue is the premium for the extended lease.

The Law

8. The method of calculation of the premium under section 48 of the Leasehold Reform Housing and Urban Development Act 1993 is by reference to Schedule 13 of the Leasehold Reform Housing and Urban Development Act 1993.

The Property

9. The Valuation report provided by Mr L Jones of Peter Hill Chartered Surveyors for the Respondent describes the property as a purpose build ground floor studio flat built around the mid 1950's.
10. The walls to the block are of brick construction with the main roof faces of concrete construction covered with felt.

11. The accommodation comprises hall, kitchen, bathroom/wc and lounge/bedroom with balcony.
12. The flat forms part of a development of 5 similar three-storey detached blocks each accommodating 12 flats.

Matters to be determined

13. In the absence of a statement or valuation from the Applicant matters that require to be determined are
 - The unexpired term
 - The capitalisation rate
 - The deferment rate
 - The freehold value of the flat
 - The long leasehold value of the flat
 - The existing value of the flat

Evidence

14. The Applicant submitted a proposed premium in his application of £5,650. In the absence of any further information the Tribunal does not have any evidence as to how he arrived at that figure.
15. We had a valuation report from Mr Jones on behalf of the Respondent landlord. This also contained a copy of the lease, a photograph and a plan.

Determination

16. Mr Jones had identified the valuation date as May 2019 when in fact it is the date of the notice of claim which is 1 August 2018. This makes very minor differences to any calculations but means that the unexpired term is 66 years and not 65 years.
17. With regard to the capitalisation rate Mr Jones has suggested 7% to reflect the uplift in ground rent over the terms of the lease and a deferment rate of 5% as set down in the 'Sportelli' case. The Tribunal would not disagree with either of these assumptions.
18. In respect of the long leasehold value of the flat the property is valued with vacant possession. Mr Jones suggests that he has valued it using comparable market evidence but no comparables are supplied. He has also valued it on the basis that it has been fully modernised internally and is in good condition throughout with modern kitchen and bathroom fittings, updated electrics, upvc double glazing and a modern and efficient central heating system. This he suggests is in accordance with the terms of the ground lease. On this basis he arrives at a valuation of £80,000.
19. The Tribunal does not find that the terms of the ground lease require that the property is fully modernised but that the lessee is required to '*well and*

substantially repair cleanse, maintain, amend support uphold and keep the Demised premises and all chimneys, conduits and fixtures therein exclusively used or enjoyed by the owner of the occupier for the time being thereof in good repair and condition.’ And to ‘at intervals of not more than seven yearsto paint all the interior of the Demised Premises and all additions thereto....and to grain, varnish, distemper, stop, whiten and paper such parts of the interior as are usually so treated in a style appropriate to a property of like character.’

20. The Tribunal has had regard to the valuation put forward by Mr Jones. This is a fairly unattractive development of rather dated flats and given that it is incorrect to assume that the property is fully modernised the tribunal has assessed the long leasehold value of the flat at £72,000. This valuation is based on the valuer’s review of relevant sales prices in the area, doing the best we can with the very limited evidence provided in support of the claim. In line with commonly accepted practice, the Tribunal has adopted a 1% uplift to arrive at the freehold value of £72,727.
21. In terms of the existing value of the flat Mr Jones has been able to find a comparable which is 14 Farley Lodge which sold with the original ground lease in October 2018 for £60,000. However, he states that this is minimal in terms of evidence and utilizes relativity tables – using an average of a number of predominantly London based tables which in the main are described as using 2015 data and arrives at a relativity of 84.05% which he applies to his long leasehold value of £80,000 to arrive at a short leasehold value of £67,248.
22. The Tribunal, having started at a lower point of £72,000 had regard to the comparable supplied by Mr Jones and to the relativity tables. Given that the property is located in Luton and not Inner London the Tribunal had regard to the average of the RICS 2009 Outer London and South-East relativity tables. These gave an average of 87.3%. This average produces an existing lease value of £62,856 which is supported by the limited market evidence.
23. The Tribunal determines that, on the basis of the elements of the valuation set out above, the premium payable for the lease extension of the property is £6,636. The tribunal’s calculation is annexed to this decision at Annex A.

Deputy Regional Valuer Mary Hardman

1 July 2019

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.

Annex A

Value of Landlord's existing interest							
Term 1							
Ground rent			£	£	70		
Years Purchase	17 years @		7.0%		9.76	£ 683.20	
Term 2							
Ground rent				£	105		
YP	25 years @		7.0%		11.65	£ 387.77	
Deferred	17 years @		7.0%		0.317		
Term 3							
Ground rent				£	140		
YP	24 years @		7.0%		11.47	£ 93.14	
Deferred	42 years @		7.0%		0.058		
							£ 1,164.11
Reversion							
	Freehold value			£	72,727		
Present Value of £1	66 years		5.00%		0.0399		£2,901.81
Value of Landlords existing interest							£4,066
Value of landlord's proposed interest							
New reversion							
Present value of £1 in	156 years @		5.0%	£	72,727		
					0.0008500		61.82
Marriage value calculation							
Value of Landlord's proposed interest						61.82	
Value of Tenant's proposed interest						£ 72,000	
Sub-total							£72,062
Value of landlords existing interest						£ 4,066	
Value of tenants existing lease						£ 62,856	
						£66,922	
Marriage gain							£5,140
Landlords 50% share							£2,570
Premium payable							£6,636