



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

Case reference : **BG/LON/00AE/0LR/2019/0986**

Property : **7 Outgate Road London NW10 9UG**

Applicants : **Prakashchandra Thakorlal
Jariwala and Sumitra Jariwala**

Representative : **Percy Short and Cuthbert
(Solicitors)**

Respondent : **Mr Mike Philip (Properties)
Limited**

Representative : **Not applicable (missing landlord)**

Type of application : **Application under Sections 50 and
51 of the Leasehold Reform
Housing and Urban Development
Act 1993**

Tribunal members : **Ian B Holdsworth FRICS MCI Arb**

Venue : **10 Alfred Place, London WC1E 7LR**

**Date of paper
determination** : **8th October 2019**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the price to be paid by the applicant for the lease extension is **£39,430**.
- (2) The terms of the draft lease are provided for in paragraph 14 below.

The Background

1. This is an application under Section 50 of the Leasehold Reform Housing and Urban Development Act 1993 (“the 1993 Act”) pursuant to an order issued at the County Court at Willesden on 27^h August 2019.
2. Section 50 of the 1993 Act concerns claims for lease extension where the relevant landlord cannot be found. It enables the court to make a vesting order in respect of any interests of the landlord which are liable to acquisition.
3. Under Section 51 of the Act, the role of the Tribunal is to determine the appropriate sum to be paid into Court in respect of the landlord’s interests and also to approve the form and terms of the proposed new lease.
4. The applicants in this matter are Prakashchandra Thakorlal Jariwala and Sumitra Jariwala. They are the qualifying tenant of the ground floor flat, namely 7 Outgate Road, London NW10 9UG (“the Property”). The respondent freehold owners are Mr Mike Philip (Properties) Limited.
5. On 15th February 2019 the applicant issued a Part 8 Claim at the County Court at Clerkenwell and Shoreditch for a vesting order under Section 50(1) of the 1993 Act seeking to extend the lease under the terms of the Act. The applicant has been unable to ascertain the whereabouts of the respondent and was therefore unable to serve a notice on him pursuant to Section 13 of the 1993 Act.
6. The applicant has provided the Tribunal with a valuation report prepared by Mr Obinora Chianumba BA(Hons) MSc MRICS dated 25th September 2019.
7. Mr Chianumba is of the view that the premium to be paid for the leasehold extension is £27,540.
8. The Tribunal are required by the County Court directions dated 27th August 2019 to make a determination on the premium payable and appropriateness of the proposed lease terms. The Tribunal has undertaken this task based upon the information placed before them, in

conjunction with their knowledge and experience of the property market in this area of North London. They have also had regard for recent and relevant Upper Tribunal decisions.

9. The Tribunal notes that no sales transaction evidence is provided in the submitted valuation report for current lease value to support the opinion of Mr Chianumba of the premium payable. The Expert relies upon the RICS Research on Graphs of Relativity published in 2009. There is no explanation for his reliance upon the RICS relativity graphs rather than the more recent relativity data published in the Savills 2015 and GE 2016 unenfranchisable graphs in determination of the leasehold relativity. These statistics are shown submitted to tribunal by the expert on the *myleasehold* output at page B50 of the bundle.
10. The applicant's solicitors ask in their letter dated 26th September 2019 that the benefit of the works undertaken to the property by the applicants in May 2019 are reflected in the premium payable. In accordance with the statutory valuation procedure the value of any improvements undertaken by the tenant to the property are disregarded.

The Determination

11. The Tribunal accepts the opinions expressed by Mr Chianumba in his valuation report dated 28th September 2019 save that:
 - (i) A deduction of £2,500 is made from the long leasehold value. The Tribunal makes this deduction to reflect the benefit of tenant's improvements to value and adopts a long leasehold value of £342,920.
 - (ii) An allowance of £500 is made for the value of appurtenant land.
 - (iii) No market evidence on current lease value is submitted in this case. The Expert relies solely upon data from a number of relativity graph published in the RICS Research Report dated October 2009 on relativity. The reliability of the RICS relativity graphs is criticised in the decision *Sloane Stanley v Mundy* {2016} UKUT 0233 (LC) and in *Mr Nick Mallory and others v Orchidbase Limited* {2016} UKUT 468.
 - (iv) This Tribunal is not content to rely upon historic and discredited relativity graphs and places greater weight on the guidance given by the Upper Tribunal

on relativity. The authorities given most weight in recent decisions are:

- *Sinclair Gardens Investments (Kensington Ltd) [2017] UKUT 494 (LC)*, is a decision involving George Court, Chelmsford. The UT assessed a relativity of just under 82% for an unexpired term of 66.8 years. The Upper Tribunal relied upon the Savills 2016 graph as the source of this relativity; and
 - *Judith Reiss v Ironhawk Ltd [2018] UKUT 311 (LC)*, a decision involving 76 Hampden Lane London N17 (Tottenham). The UT assessed a relativity rate of 86.9% for an unexpired term of 75.23 years. They concluded that there was no reliable local evidence, and again chose to rely on the 2016 Savills' unenfranchiseable graph.
 - In *Oliyide v Elmbirch properties Plc [2019] UKUT 190 (LC)* and *Trustees of the Barry and Peggy Foundation v Zucconi & Ano [2019] UKUT 242 (LC)* the Upper Tribunal relied upon the Savills and Gerald Eve unenfranchiseable graphs to determine relativity. The properties referred to in the decision are situated outside Central London.
 - In *Midland Freeholds Limited and Speedwell Estates Limited Appeals [2017] UKUT 463 (LC)* the Upper Tribunal had decided that the same graphs could be appropriately used to determine leasehold relativity in the Midlands.
- (v) In determining relativity, the Tribunal must focus on the state of the market in North London at the valuation date. In the absence of any evidence of local transactions, we must consider what relativity graph was used by the local market at the time or which graph best reflects the operation of that local market.
- (vi) Upper Tribunal has directed that the Savills 2015 and GE 2016 unenfranchiseable graphs are reliable sources of relativity data beyond Central London. It is our opinion the market reflects recent and relevant Tribunal guidance on the calculation of lease extension premiums.

(vii) We therefore take an average of the relativities for an unexpired term of years from the GE 2016 and Savills 2015 graphs. This produces a figure of 81.43% and this relativity is adopted by the Tribunal.

12. The adjusted calculation has resulted in premium of £39,430. A copy of the Tribunal's valuation is attached to this decision.
13. Accordingly, the Tribunal determines that the premium to be paid in respect of the leasehold extension of is **£39,430**.
14. The Tribunal also approves the draft proposed lease included in the bundle pages C32-C40 which has been submitted by the applicant, subject to the inclusion at paragraph LR7 **Premium** and section 1.1 "Definitions" of the lease that the consideration (the premium of £39,430 less determined setoff) has been paid into court.
15. This matter should now be returned to the County Court sitting at Willesden under Claim Number FOOW1290 in order for the final procedures to take place.

Valuer Chairman Ian B Holdsworth FRICS MCI Arb

8th October 2019

Property: 7 Outgate Road NW10 9UG				
Reference: BG/LON/00AE/OLR/2019/0986				
FTT valuation				
Lease and Valuation Data				
Lease Term:		13/12/1982		
Lease Expiry date:		12/12/2081		
Unexpired term as at valuation date:	✓	62.83	years	
Date of Valuation		15/02/2019		
Rent receivable by landlord:				
Payable from valuation date for 29.83 years	£	70		
Payable for second period 33 years	£	105.00		
Values				
Extended lease value on statutory terms	£	342,920		
Notional Freehold	£	346,384		
LHVP with current term unexpired	£	282,060	Relativity	81.43%
Capitalisation rate (%)		7.00		
Deferment rate (%)		5.00		
Value of Freeholders present interest				
Term 1				
Ground rent payable	£	70		
YP @ 29.83 years @ 7%		12.38733	£	867
Term 2				
Ground rent payable	£	105		
YP @ 33 years @ 7%		12.75379		
Deferred @ 29.83 years @ 7%		0.13289	£	178
			£	1,045
Reversion				
Freehold in vacant possession	£	346,384		
Deferred @ 62.83 years @ 5%		0.04663	£	16,152
			£	17,197
Current value of the freeholders interest				
Less				
Freehold value after leasehold extension	£	346,384		
PV of £1 in 152.83 years at 5%		0.00058	£	200
Freeholders interest value				£ 16,997
Marriage value				
Value of flat with long lease on statutory terms	£	342,920		
Landlords proposed interest	£	200	£	343,120
Less				
Value of Leaseholders existing interest	£	282,060		
Value of Freeholders current interest	£	17,197	£	299,258
Marriage value	Total		£	43,862
Division of Marriage Value equally between				
Freeholder			£	21,931
Leaseholder			£	21,931
Appurtenant land				£500
Price payable to Freeholder			Total	£ 39,428
			SAY	£ 39,430

