



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

Case Reference : **LON/00BH/OLR/2019/1150**

Property : **Flat 22 (Second Floor Flat) Essex Mansions
Essex Road South London E11 1JP**

Applicant Tenant : **Mr M H Sayed**

Representative : **Ms N Cleightonhills Solicitor**

**Respondent
Landlord** : **Mr R Nagle, Ms M Nagle , Mr G Nagle**

Representative : **Mr G Holden FRICS**

Type of Application : **S.48 Leasehold Reform Housing and
Urban Development Act 1993**

Tribunal Members : **Mrs F J Silverman Dip Fr LLM
Mr K Ridgeway BSc MRICS**

**Date and venue of
Hearing** : **03 March 2020
10 Alfred Place, London WC1E 7LR**

Date of Decision : **03 March 2020**

DECISION

The Tribunal determines that the premium to be paid by the Applicant for an extended lease of the property is £35,342 as shown on the attached valuation.

Reasons

1. The Applicant seeks a determination pursuant to s.48 Leasehold Reform Housing and Urban Development Act 1993.
2. The hearing of this matter took place before a Tribunal sitting in London on 03 March 2020 at which Mr G Holden FRICS represented the Respondent freeholder and Ms N Cleightonhills, Solicitor represented the Applicant tenant. Page references below refer to the numbered pages in the agreed bundle of documents prepared for the Tribunal.
3. The Applicant and Respondent had agreed between them a number of material facts (page 141) and the only matters which the Tribunal was asked to decide were relativity (reflecting the existing leasehold and vacant possession value) and the premium to be paid by the Applicant for the lease extension.
4. On behalf of the Respondent the Tribunal heard evidence from Mr Holden and for the Applicant evidence was given by Mr C Orah.
5. The Tribunal considered that it would not be proportionate to inspect the subject property and was not asked by the parties to do so.
6. The lease which is the subject of this application was made between St Leonard's Properties Ltd and Kingforge Ltd (1) and Smartdene Properties Ltd (2) on 29 June 1978 for a terms of 139 years from 29 December 1930. The interest which the Tribunal is being asked to value is a 57.54 year reversionary period.
7. The Applicant's surveyor had not arrived at the Tribunal when the hearing commenced and the Applicant agreed to allow the Respondent to present his case first.
8. For the Respondent Mr Holden spoke to his report (page 78 et seq) . He told the Tribunal that there has been five recent transactions relating to flats in same block as the subject property, four of which had been auction sales and one of which was presumed to be a mortgagee's sale. He said that the high proportion of auction transactions (4 out of the 5 cited) was consistent with the sales of short leases which were popular with investors. From these five examples Mr Holden discarded the two lowest sale prices (page 90) as being too far removed from the remaining three, the average of which came to £165,292, giving a real world relativity of 77.92%.
9. In line with recent Upper Tribunal decisions, notably Trustees of Barry & Peggy High Foundation [2019]UKUT 0242 (LC) Mr Holden used the Savilles' graph to adjust for no-Act world LHVP yielding a relativity percentage of 71.99% and leading to a figure of £152,727 for the unimproved leasehold vacant possession value of the subject property at the valuation date.

10. For the Applicant Mr Orah said that he had looked at market evidence but had not used it, preferring to use the graphs. He was unable to tell the Tribunal what market evidence he had considered. He had not been involved in the parties' negotiations and had not signed the agreed statement of facts which, although referred to in his own statement (page 137) he said he had not seen before signing his statement. He conceded that he had entered the wrong rent renewal dates in his calculation and had made other errors in his calculation of the premium (eg in relation to relativity and marriage value). His valuation was unsupported by evidence in either his written statement or oral presentation as a consequence of which the Tribunal has no alternative but to find the Applicant's evidence both inaccurate and unreliable.
11. Having considered the evidence put forward by both parties the Tribunal accepts and supports the Respondent landlord's valuation that the premium to be paid by the Applicant tenant for the extended lease is £35,342. The Tribunal therefore adopts the Respondent's valuation (page 134 and appended hereto as Appendix A) without alteration.

The Law

12. Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (The Act) provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable for other loss.

The value of the landlord's interests before and after the grant of the new lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the assumption that the tenant has no rights under the Act to acquire any interest in any premises containing the tenant's flat or to acquire any new lease.

Para 4 of the Schedule, as amended, provides that the landlord's share of the marriage value is to be 50%, and that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil. Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.

Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Judge F J Silverman
As Chairman

.....03 March 2020

Note:
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Flat 22 Essex Mansions, Essex Road South, London E11 1JP

GH12

Assessment of premium for a new lease (an additional 90 year term at a peppercorn ground rent) in accordance with Schedule 13 of the Leasehold Reform, Housing and Urban Development Act, 1993, as amended by the Housing Act, 1996 and the Commonhold and Leasehold Reform Act, 2002.

INPUT SUMMARY

Original Term Lease Length:	139.00	
From Date:	29/09/1937	
Date of Valuation:	18/03/2019	
Capitalisation Rate:	7.00%	
Deferment Rate:	5.00%	
Extended Lease Reduction:	1.00%	
Relativity:	72.00%	
First Period (years):	23.27	£50.00 rent
Second Period (years):	34.27	£75.00 rent
Total (years):	<u>57.54</u>	

Unimproved Value: £212,121.00

A. DIMINUTION IN VALUE OF LANDLORD'S INTERESTA1 Ground Rents Receivable:

23.27 years @ £50	£50	
YP 23.27yrs @ 7%	11.3267	
		£566
34.27 years @ £75	£75	
YP 34.27yrs @ 7%	12.8799	
PV of £1 in 23.27years	0.2071	2.6678
		£200

A2 Reversion to freehold in possession:

	£212,121	
PV of £1 in 57.54 yrs @ 5%	0.0604	
		£12,804

Freeholder's Present Interest: £13,571

A3 Landlord's interest after grant of new147.54 year lease:

	£212,121	
PV of £1 in 147.54 yrs @ 5%	0.0007	
		£159

Diminution thus (rounded): £13,412

B. CALCULATION OF MARRIAGE VALUE

Value of proposed interest after grant of new

147.54 year lease:

Landlord's:	£159	
Tenant's (Less 1% Extended Lease Reduction):	£210,000	£210,158

LESS

Value of existing interests:		
Freehold:	£13,571	
Leasehold (72% X 212121):	£152,727	£166,298
Marriage Value thus:		£43,861
50% attributable to Landlord:		£21,930

TOTAL £35,342

ESTIMATE OF PREMIUM PAYABLE FOR NEW LEASE, say: £35,340
(plus statutory recoverable costs)