



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

**Case Reference** : **MAN/00CG/OLR/2018/0056**

**Property** : **24 Greystones Road, Sheffield S11 7BN**

**Applicant** : **Ms Nicola Cowan**  
**Representative** : **Mr John Francis, Crapper & Haigh**

**Respondent** : **Korax LLP**  
**Representative** : **Mr Geraint Evans, eBureau Limited**

**Type of Application** : **Leasehold Reform, Housing and Urban  
Development Act 1993-Section 48(1)-  
Application for determination of  
premium other terms in dispute**

**Tribunal Members** : **Tribunal Judge J. E. Oliver  
Tribunal Member S. A. Kendall**

**Date of Determination** : **14<sup>th</sup> October 2020**

**Date of Decision** : **21<sup>st</sup> October 2020**

---

**DECISION**

---

## **Decision**

1. The premium payable for the new Lease is £5892.00.

## **Application**

2. On 13th December 2018 Ms Nicola Cowan (“the Applicant”) applied to the First-tier tribunal for the determination of the premium or other terms of acquisition of a new lease in respect of 24 Greystones Road, Sheffield (“the Property”).
3. The Respondent to the application is Korax LLP (“the Respondent”).
4. The Property is held under an under lease (“the Lease”) for a term of 99 years (less one day) from 14<sup>th</sup> August 1980. The intermediate landlord is Equity Housing Association Limited (“the Intermediate Landlord”). No ground rent is reserved to the Intermediate Landlord.
5. The Intermediate Landlord has a lease for a term of 99 years, subject to the payment of ground rent of £100 per annum. This lease is said to extend to twelve properties.
6. The Applicant served a Notice of Claim to Exercise the Right to acquire a new lease, pursuant to Section 42 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”) dated 20<sup>th</sup> April 2018.
7. The term proposed for the new lease was the unexpired term of the existing lease plus an extension of 90 years at a peppercorn rent.
8. The Applicant proposed a premium under the terms of the 2003 Act of £5126.43
9. The Respondent served a Counter Notice, dated 14<sup>th</sup> June 2018, agreeing the grant of a new lease, but proposing the premium for the new lease at £15,000 and an additional payment of £10,000 for other amounts payable under Schedule 13 of the 1993 Act. In addition, the Notice contained amendments to be made to the terms of the under lease, upon the basis it had originally related to a shared ownership scheme that was no longer relevant.
10. The Tribunal issued directions relating to the application on 4<sup>th</sup> February 2019, but the application was then stayed, at the request of the parties, to enable further discussions to take place. Some of the issues remain unresolved and further directions were issued on 19<sup>th</sup> August 2020. Due to the restrictions imposed following the Covid-19 pandemic, it was directed there would be no internal inspection of the Property.
11. The Tribunal undertook an external inspection of the Property on 14<sup>th</sup> October 2020.
12. The application was determined upon the documents submitted by the parties.

## **Issues**

13. Mr Francis, being the expert for the Applicant and Mr Evans, the expert for the Respondent, confirmed the following matters had been agreed whilst the application had been stayed:
  - (1) A Deferment rate of 5%.
  - (2) An uplift of 1% to Freehold Vacant Possession (FHVP).
  - (3) A Value of Act Rights at 2.8%.
  - (4) The immediate Leasehold Interest has no value.
14. Mr Evans highlighted to the Tribunal that Mr Francis had used the date of the notice 20<sup>th</sup> April 2018 as the date of valuation, whilst the correct date was 24<sup>th</sup> April 2018. It was conceded it did not make any significant difference to the valuation and was therefore not an issue.
15. Mr Evans submitted that although Mr Francis had included within his valuation an apportionment of ground rent, this was not necessary. Here, the Applicant pays no ground rent and the intermediate landlord will continue to pay ground rent at the same rate to the freeholder.
16. The issues for determination by the Tribunal are:
  - (1) The Market Capital Value of the Property on an extended lease basis
  - (2) Relativity
  - (3) Premium

## **The Property**

17. The Property is a first floor two bedroomed flat built in 1989/90. It comprises a living room, kitchen, shower room with W.C and two bedrooms. It has central heating and is double-glazed. Outside, there are shared gardens and car parking.

## **The Law**

18. Section 48(1) of the Act enables an application to be made to the First-tier Tribunal for a determination in respect of any disputed terms relating to the granting of a new lease.
19. Section 56 (1) of the Act provides as follows:

*“Where a qualifying tenant of a flat has under this Chapter a right to acquire a new lease of the flat and gives the landlord notice of his claim in accordance with section 42, then except as provided by this Chapter the landlord shall be bound to grant to the tenant, and the tenant shall be bound to accept-*

  - (a) *in substitution for the existing lease, and*

(b) *on payment if the premium payable under Schedule 13 in respect of the grant*

*a new lease of the flat at a peppercorn rent for a term expiring 90 after the term date of the existing lease.”*

20. Section 57 (7) and (11) of the Act state as follows:

(7) *The terms of the new lease shall-*

(a) *make provision in accordance with section 59(3); and*

(b) *reserve to the person who is for the time being the tenant’s immediate landlord the right to obtain possession of the flat in question in accordance with section 61.*

(11) *The new lease shall contain a statement that it is a lease granted under section 56; and any such statement shall comply with such requirements as may be prescribed by [land registration rules under the Land Registration Act 2002]*

## **Submissions**

### Valuation

21. The parties agreed that the valuation date, for the purpose of the application is the date of the Applicant’s notice, namely 20<sup>th</sup> April 2018.
22. Mr Francis’s valuation report, dated 9<sup>th</sup> September 2020, stated that, at the date of the Notice, the lease had 71.33 years remaining.
23. He valued the Property at £130,000, assuming the lease had been extended for 90 years at a peppercorn rent. In support of this valuation, Mr Francis appended details of a number of two bedroomed flats within half a mile of the Property marketed around the relevant date of April 2018.
24. Mr Evans submitted a comparable property, for valuation purposes, would be 38 Greystones Road, Sheffield that sold on 19<sup>th</sup> December 2019 for £155,000.
25. Mr Francis argued that this property had been sold some 20 months after the relevant date and was therefore of no assistance.

### Relativity

26. Mr Francis provided details for 28 and 34 Greystones Road as evidence of relativity. He advised he had personal knowledge of both properties, both being one-bedroomed flats. No 28 had the benefit of a lease extension and advised it had been sold for £130,000. No 34 had sold, without a lease extension, in January 2020 for the sum of £127550.

27. Mr Francis submitted that, in the light of market evidence, reliance upon relativity was unnecessary and referred the Tribunal to Savills Research Document, *Leasehold Enfranchisement Analysis of Relativity* published in June 2016, “*Evidence of the market at the valuation date is paramount. Out-dated graphs of relativity are unreliable and should not be used*”.
28. He continued that in utilising the 1% addition to the long Leasehold Capital Value to reflect the Notional Freehold Value with vacant possession, this gave relativity between the freehold and short leasehold value of 97.14%. This was then adjusted to 94.34%, once the agreed Value of Act Rights of 2.8% had been applied.
29. Mr Francis argued that there was no evidence to suggest that relativity between one and two bedroomed flats should be any different and none of the tables of relativity account for location or size. Consequently, no adjustment needed to be made for the different valuation dates, since the tables make no such distinction.
30. Mr Evans disagreed, submitting the comparable evidence was not accurate, since reliance was upon the comparison of one-bedroomed flats, whilst the Property has two bedrooms. He stated there was no evidence that either of the properties referred to by Mr Francis had been sold and could be sold at different prices to those stated. Further, there was a different market for one and two bedroomed flats, the former being of more interest to the investment market and the latter to either investors or owner-occupiers. This could produce a “flatter” relativity than in an owner/occupier market.
31. Mr Evans referred the Tribunal to **Elmbirch v Humphrey Middlemore [2017] UKUT 0314 (LC)**, **Judith Reiss v Ironhawk [2018] UKUT 0311 (LC)**, **Trustees of the Barry and Peggy High Foundation and Clauio Zucconi and Mirella Zanre [2019] UKUT 0242 (LC)** as evidence that the appropriate relativity graphs are from Savills Enfranchiseable 2015 graph at 74.56%.
32. Mr Evans thereafter proposed a current lease value of £137,607 that, when adjusted for a “no Act world, as agreed at 2.8%, provides a value of £133,754 for the current lease value.
33. Mr Francis responded to Mr Evans’s report stating 38 Greystones Road had been appended to his original report upon the issue of relativity and not for the purposes of valuation. He also challenged Mr Evans for showing no evidence he had inspected the Property, or had it inspected by a local valuer on his behalf, nor had he any experience of the property market in Sheffield.
34. Mr Francis confirmed the property at 28 Greystones Road had been sold for £127,550 in August 2020 and 34 Greystones Road had been sold, subject to contract for £130,000, as at the date of his further submissions to the Tribunal at 28<sup>th</sup> September 2020.

## Determination

35. The Tribunal noted the parties agreed:
- (1) A Deferment rate of 5%.
  - (2) An uplift of 1% to Freehold Vacant Possession (FHVP).
  - (3) A Value of Act Rights at 2.8%
  - (4) The immediate Leasehold Interest has no value.
36. The Tribunal considered the issue of valuation. Mr Francis proposed a valuation of £130,000 based upon comparable evidence of properties advertised for sale at around the Valuation Date of June 2018. He also relied upon his expertise and knowledge of the Sheffield property market. Mr Evans relied upon the sale of 38 Greystones Road, in December 2019, for a valuation of £155,000.
37. The Tribunal considered the market evidence appended to the report of Mr Francis and noted a two bedroomed flat on Greystones Close had sold in November 2018 for £135,000 and another at 2 Highcliffe Court had sold in October 2018 for £130,000. In reliance upon its own knowledge and experience of the Sheffield area, the Tribunal considered the comparable of Greystones Close to be a nearer to the Property than that at Highcliffe Court. The sale price reflected the price at which Greystones Close was being advertised as fair reflection of valuation of the Property.
38. The Tribunal considered the proposed value of £155,000 by Mr Evans, but noted this was based upon the sale of the property in December 2019, some 20 months after the relevant date. It considered this to be too remote for reliance to be placed upon it.
39. The Tribunal determines the market value to be £135,000.
40. The Tribunal noted the submissions made by both parties upon the issue of relativity. It did not find the submissions of Mr Evans to be clear regarding how he had calculated relativity at 87.90% in his calculation of the premium. This was also at odds to the relativity contained within his report of 74.56%.
41. In **Elmbirch** it was said that market evidence should always be used in preference to graphs of relativity where such evidence is available. This was confirmed in **Ironhawk**.
42. In **Deritend Investments (Birkdale) limited v Treskonova UT [2020] UKUT 0164(LC)** the Upper Tribunal has followed its earlier decisions. Martin Rodger QC Deputy Chamber President states:
- “The guidance given by this Tribunal endorses the use of the Savills and Gerald Eve 2016 graphs where there is no transaction evidence, notwithstanding, that the subject of the valuation is outside the PLC. If persuasive evidence suggests that the resulting relativity is not appropriate*

*for a particular location a tribunal would be entitled to adjust the figure suggested by the PLC graphs.”*

43. Here, the Tribunal considers there is sufficient transactional evidence to take precedence over relativity graphs.
44. Mr Francis provided the Tribunal with evidence of two properties sold, 34 Greystones Road having been sold in August 2020 for 127550 without a lease extension. 28 Greystones Road, with a lease extension, had been sold, subject to contract, for £130,000. Mr Evans had argued the comparable of a one bedroomed flat with a two bedroomed flat was incorrect and as such, reliance should be upon relativity tables. However, the Tribunal noted that those tables do not necessarily account for locality, size or age, making them less specific than market evidence.
45. The Tribunal determines the comparables of 28 and 34 Greystones Road are sufficient evidence for it to determine relativity and find the starting point for the un-extended lease of the Property to be £131139.
46. The Tribunal notes the Value of Act rights has been agreed at 2.8% giving a reduced value for the un-extended lease to £127467.
47. The Tribunal determines the amount to be premium payable is in the sum of £5880 as shown in the attached schedule.

JE Oliver  
Tribunal Judge  
21<sup>st</sup> October 2020

## Schedule

### Reversion (to Freehold)

Market Value	£135,000	
Freehold uplift @1%	£136350	
PV 71.33 yrs @ 5% 0.0308		£4199.58

### Freeholder's Proposed Interest

Extended Leasehold Value	£136350	
PV 161.33 yrs @ 5% 0.00038		<u>(£52)</u>
		£4147.58

### Marriage Value

#### **Proposed Interests**

Freehold	£52	
Leasehold	£135000	<b>£135052</b>

#### **Present Interests**

Freehold	£4199.58	
Leasehold	£131139	
Less 2.8% No Act World	3671.89	<b>£127467.11</b>

### Marriage Value

Marriage Value	£3385.31	
Shared equally	£1692.65	
<b>Plus</b>	£4199.58	

**Premium to be paid                      £5892.23 say £5892**