



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

**Case Reference** : **MM/LON/00BH/OLR/2022/0183**

**HMCTS code (paper, Video, audio)** : **P:PAPERREMOTE**

**Property** : **Flat B, 49 Borthwick Road, London E15 1UE**

**Applicant** : **Dr Nicholas Lawrenson  
Mrs Rhona Ellen Lawrenson**

**Representative** : **Moore Barlow LLP**

**Respondents** : **Mohammed Adrees**

**Representative** : **Missing Landlord**

**Type of Application** : **Sections 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993**

**Tribunal Member** : **Mr R Waterhouse BSc (Hons) LLM  
Property Law MA FRICS**

**Date of determination and venue: 16<sup>th</sup> August 2022**

**Date of Decision: 23<sup>rd</sup> August 2022**

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## DECISION

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This has been a remote paper determination, which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and no one requested same.

The documents the Tribunal were referred to were in a bundle of some 196 pages.

### **Summary of the tribunal's decision**

- (1) The appropriate premium payable for the collective enfranchisement is £45,586. (Forty-five thousand five hundred and eighty-six pounds).**

### **Background**

1. This is an application made by the applicant qualifying tenants pursuant to section 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid for the lease extension of Flat B, 49 Borthwick Road London E15 1UE. (the “property”) where the Landlord cannot be found.
2. On 7<sup>th</sup> June 2022 District Judge Trigg sitting at County Court at Guilford, sitting at Stains Upon Thames law courts, ordered that the claim is transferred to the First Tier Tribunal for administration.

### **The issues**

3. In the absence of the Landlord there are no matters agreed. The applicants have submitted a valuation report prepared by J Bennett BSc (Hons) FRICS ACI Arb, dealing with the following matters:

(a) The subject property is a semidetached period conversion construction over ground and first floor built circa 1890. The property is of traditional solid brick construction, with decorated rough render to the front elevation. The roof is hipped and pitched and covered in concrete tiles.

The subject flat, is a split-level property, over first and part second floor, with stairs leading from the ground floor. The current accommodation comprises landing, reception room, kitchen, 3 bedrooms, cloakroom (WC) and bathroom (no WC). The third bedroom is a box room.

(b) The valuation date is 1<sup>st</sup> September 2021, being the date of the application to the court.

(c) Details of the tenants' leasehold interests:

The lease is dated 20<sup>th</sup> September 1989 and made between Mohammed Rafiq Choundhry and Mohammed Adrees for a term of 99 years from 31<sup>st</sup> March 1989 at an annual ground rent of £75 pounds for the first 33 years , rising to £125 for the next 33 years, then £200 for the remainder of the term. .

The tribunal regards these matters as uncontroversial and they are supported by documents in the bundle. The tribunal will consider the evidence on the following matters:

(d) Capitalisation of ground rent: 6.5% per annum

(e) Deferment rate: 5%

(f) Freehold value

(g) The premium payable.

### **The hearing**

5. The case was dealt with on the papers on 16<sup>th</sup> August 2022 with the necessary documents provided in a bundle by the Applicant's representative.

6. The tribunal was not asked to inspect the property and the tribunal did not consider it necessary to carry out a physical inspection to make its determination.

7. The applicant relied upon the expert report and valuation of J Bennett BSc (Hons) FRICS ACI Arb , the applicant's valuer.

### **Capitalisation rate**

8. The applicant's valuer considers that capitalisation rates 6.5% are normal. The rent is modest and reviews are at 33 years apart.

### **The tribunal's determination**

9. The tribunal determines that the rate to be used is 6.5%.

### **Reasons for the tribunal's determination**

10. The tribunal notes that a rate of 6.5% has been used in applicant's valuer's experience, it accords with the tribunals own thinking, and in the absence of any specific evidence to show that this should be varied in this case the tribunal will adopt this rate.

### **Deferment rate**

11. The applicant's valuer applies the Sportelli rate of 5%

### **The tribunal's determination**

12. The tribunal determines that 5% is appropriate as the deferment rate.

### **Reasons for the tribunal's determination**

13. The tribunal sees no reason to depart from the Sportelli rate.

### **The relativity**

The relativity is calculated from the Gerald Eve 2016 graph and the Savills 2016 graph. The average of these is 82.57%.

The tribunal is supportive of this approach.

### **Freehold value**

14. The applicant's valuer, values the freehold interest in the subject flat at £440,000, using a 1% addition to take it from £ 435,812.

### **The tribunal's determination**

15. The tribunal determines that the reversionary value of the freehold interest in the subject flat is £440,000.

### **Reasons for the tribunal's determination**

16. The applicant's valuer has presented comparable properties for the subject flat.

17. The tribunal has considered the evidence which it agrees is appropriate and accepts the adjustments made by an expert witness.

### **Comparables**

Property	Sale Price and Sale Date	Lease details
5 Blenheim Road	May 2020 £305,000	96-year lease
41 a Borthwick Road	July 20 £335,000	110-year lease
Flat 2, 58 Borthwick Road	July 20 £407,500	93-year lease
43 Steele Road	October 20 £405,000	999-year lease
Flat A , 100, Selby Road	Jul 2021 £435,000	Share of Freehold
Flat B, 79 Crownfield Road	May 21 £340,172	86- year lease

The applicant's valuer analyses these comparables to £487/ sq ft producing £440,000. The tribunal using its knowledge of the area does not disagree with the level of value indicated by the comparables and hence used to determine the freehold vacant possession value.

### **The premium**

20. The tribunal determines the appropriate premium to be £45, 586.00

21. A copy of the valuation is annexed to this decision.

*Richard Waterhouse*

**Name: Mr R Waterhouse  
Valuer Chair**                      **16<sup>th</sup>  
August 2022**

**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**

<b>Stage 1 : The loss to the landlord's interest.</b>				
<b>Value of interest before extension</b>				
<b>Present Ground rent income</b>			£75	
YP (single)	0.58 years @	6.50%	0.549629285	
PV £1	0.00 years @	6.50%	1.000000000	£41.00
<b>Present Ground Rent Income</b>				
YP (single)	33.00 years @	6.50%	13.4590055	
PV £1	0.58 years @	6.50%	0.9642741	£1622.00
Present Ground Rent Income				
YP (single)	33.00 years@	6.5%	13.4590055	
PV £1	33.58 years@	6.5%	0.1206930	£325.00
				£1988.00
<b>Reversion</b>	£440,000			
PV £1 66.58 years @ 5%	0.0388414		£17,090	£19,079
Value of Interest after Extension				
Reversion	£440,000			
PV £1 156.58 years @ 5.00%	0.00048112			£212
<b>Diminution in Value of Landlords Interest</b>				£18,867
Stage 2 : The landlords 50% share of the marriage value				
<b>Value of combined</b>				

<b>interests before extension</b>				
Value of extended lease of flat: tenant	99%	£435,600		
Value of landlord's interest in the flat after extension		£212		
			£435.812	
Value of Combined interests before extension				
Value of existing lease of flat:tenant		82.57%	£363,294	
Value of landlord's interest in the flat before extension			£19,079	
				£382,373
Combined gain on grant of lease extension				£53,439
Landlords share of marriage value at 50%				£26,720.00

The appropriate premium payable excluding costs is the total of the amount payable at step 1 and the amount payable at step 2: £18,867 plus £26,720 being £45,586.