



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

<b>Case Reference</b>	:	<b>LON/OOAM/OLR/2020/1178</b>
<b>Property Applicant</b>	:	7 Georgian Court Claudine Watson - Miller
<b>Representative</b>	:	John Watson-Miller
<b>Respondent</b>	:	Sinclair Gardens Investments ( Kensington) Limited
<b>Representative</b>	:	Mr McBrien and Mr Holden
<b>Type of Application</b>	:	Determination of premium or other terms
<b>Tribunal Members</b>	:	Judge Shepherd Kevin Ridgeway MRICS
<b>Date of Determination</b>	:	15 <sup>th</sup> June 2022

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**Determination**

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1. In this case the applicant Claudine Watson - Miller (“the Applicant”) seeks a determination of premium or other terms of acquisition remaining in dispute pursuant to section 48 (1) of the Leasehold Reform Housing and Urban development Act 1993 (“The Act”). The Applicant was represented at the Tribunal hearing by her husband John Watson-Miller. The Respondents are Sinclair Garden Investments (Kensington) Ltd (“the Respondents”). They were

represented by Mr McBrien of Counsel in relation to the lease terms and Mr Holden in relation to the issue of valuation.

2. The Applicant in her application sought to argue that the value of the premium for the lease extension should be that of the valuation obtained in June 2016 i.e. £18,000 not the valuation claimed by the Respondent currently of £52,281. The reason that the applicant claims the 2016 figure is the alleged non-compliance of the Respondent to a previous order of the tribunal. It was explained to Mr Watson-Miller at the outset that it was not possible to use the 2016 valuation and any issues in relation to enforcement of the previous order were separate from these proceedings.

### **Background facts**

3. The Applicant bought the lease of the premises on 22nd March 2006 . The lease ran for 99 years from 29 September 1982. The Lease is a tripartite lease with the management company, Skipworth Road Management Company Limited (“the Company”) being a party to the Lease. This Company has been dissolved. Another company has since been involved – hereafter called “the 1992 company”.
4. The Applicant served a section 42 notice on 14 July 2020 with a proposed premium of £18000. In response the Respondent served a section 45 notice with a proposed premium of £52,281.

### **The issues**

5. The issues that the Tribunal had to resolve were the following:
  - a) Should either the Company or the 1992 Company be a party to the new lease?

- b) Should the new lease refer to “Previous Lease Annual Rent” or “Previous Lease Term” and should schedule 1 of the new Lease contain clauses 1 and 2?
  
- c) What is the value of the premium?

## **The law**

6. Section 57(6) of the Act states the following:

*Subsections (1) to (5) shall have effect subject to any agreement between the landlord and the tenant as to the terms of the new lease or any agreement collateral thereto; and either of them may require that for the purposes of the new lease any term of the existing lease shall be excluded or modified in so far as – it is necessary to do so in order to remedy a defect in the existing lease; or (b) it would be unreasonable in the circumstances to include, or include without modification, the term in question in view of changes occurring since the date of commencement of the existing lease which affect the suitability on the relevant date of the provisions of that lease.*

## **The company issue**

7. The company, has been dissolved and is no longer a legal entity therefore the only parties to the lease should be the Applicant and the Respondent. The removal of the Company from the new lease means that there is no party responsible for carrying out repairs as set out in the Third Schedule to the Lease. Neither is it possible to add another party such as the 1992 Company to the lease pursuant to the current application : See *10 Georgian Court, Skipworth Road, London E9 71W* LON/00AM/OLR/2015/0212 and *Gordon v Church Commissioners for England* LRA/110/2006. The Respondents were unwilling to commit to carrying out the repairs in the future. In this situation

the Applicant could make an application to vary the lease pursuant to s.35 of the Landlord and Tenant Act 1987. On the basis of the current application regrettably the Tribunal can not take the matter any further than ordering the removal of the company from the lease.

### **The other lease terms**

8. The Tribunal do not accept the Respondent's arguments that the clauses suggested by the Applicant complicate the interpretation of the lease and thus the proposed terms are to be included in the lease.

### **The Relevant Date of the Lease – 2015 or 2020?**

9. The Tribunal have already indicated that the relevant date can only be 2020.

### **Valuation**

10. The Applicant did not obtain any up to date valuation evidence. Accordingly Mr Holden's evidence was unchallenged. He took the Tribunal through his calculations and comparables. He was cross examined by the Applicant. His evidence held up to scrutiny. There is no reason for the Tribunal to depart from his valuation of £47651.

**Judge Shepherd**

**15<sup>th</sup> June 2022**

### **ANNEX - RIGHTS OF APPEAL** Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.

2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. If the application is not made within the 28-day time limit, such application must include a request for 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 state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.