



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

Case Reference : LON/00AN/OLR/2014/1742

Property : 16 Barons Court Road, London W14
9DT

Applicant : Mr William Thomas Bushell

Representative : Ms C Crampin, counsel instructed
by Myers Fletcher & Gordan

Respondent : Mr Joseph and Mrs Stella Kateb

Representative : Mr J Fieldsend, counsel instructed
by Wallace LLP

Type of Application : Lease extension

Tribunal Members : Judge Tagliavini
Mr R Shaw FRICS

Date and venue of PTR : 10 Alfred Place, London WC1E 7LR

**Date of hearing and
date of decision** : 11 March 2015
18 March 2015

DECISION

The tribunal's decision

- (i) The tribunal determines that the price payable for the extension of the lease is £38,172.

The application

1. The Applicant seeks a determination pursuant to section 48 of Leasehold Reform, Housing & Urban Development Act 1993, of the premium payable for a 99-year lease extension for the subject property.

The hearing

2. The Applicant appeared was represented by Ms Crampin at the hearing and the Respondent was represented by Mr Fieldsend. Oral evidence was heard from Mr Dunsin, valuer of Dunsin Surveyors on behalf of the Applicant and Miss J Ellis, valuer of Langley Taylor on behalf of the Respondent.

The background

3. The property, which is the subject of this application, is a basement flat in a block of 5 flats, converted from the original house constructed circa 1900 and situated in the Borough of Hammersmith and Fulham.
4. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the one remaining issue in dispute.
5. The Applicant holds a long lease of the property, which he seeks to extend and is the subject of this application to the tribunal.

The issues

6. At the start of the hearing the parties confirmed all other matters relating to the application for the lease extension had been agreed between the parties, with the only remaining issue for the tribunal to determine was the issue of relativity. Specifically, the parties asked the tribunal to determine whether or not the subject property is classified as being within the prime central London area (PCL). The applicant contended that the subject property is not within the PCL and therefore the premium payable for a lease extension is £24,821. The respondent, however, submitted that the subject property does fall within the PCL and therefore the premium payable is £38,522.
7. The tribunal was assisted by the written reports and oral evidence of Mr Dunsin for the Applicant and Miss Ellis for the respondent. Both

valuers relied upon the report entitled Leasehold Reform: Graphs of Relativity October 2009 produced by RICS at the request of the Upper Tribunal in *Arrowdell Ltd v Coniston Court (North) Hove Ltd* 2006 LRA/72/2005 and specifically the graphs produced in section 1 and section 2 of that report. In summary Mr Dunsin relied upon the graphs produced in section 2 (Outer London and South East areas), and Miss Ellis, in her report dated 13 February 2015 upon the section 1 prime central and greater London areas). In his first report dated 27 January 2015 Mr Dunsin relied on 5 properties outside the area of the subject property and his second report dated 9 March 2015, he relied upon 6 properties within the Borough of Hammersmith and Fulham. Miss Ellis asserted that the subject property however was within the PCL and therefore the section 1 graphs are to be used. Neither party disagreed on this approach to the use of the graphs produced in the RICS report.

The tribunals' decision and reasons

8. The tribunal preferred the evidence of Miss Ellis and accepts her view that Barons Court is geographically more akin to the section 1 areas than those included in the section 2 graphs, which include outer London areas. Although the term "prime central London" has not been defined it is a term that is commonly used by valuers before this tribunal. The tribunal understands the term to represent a geographical area in London, which has some fluidity in response to changing economics and demands upon property and therefore, does not remain static.
9. The tribunal was not assisted by previous tribunal decisions relied upon by Mr Dunsin, as they comprised a mix of geographically located properties quite different to the subject property or related to "missing landlords". Similarly, the Upper Tribunal decision of *Hildron Finance Limited v Greenhill Hampstead Limited* LRA/120/2006 did not greatly assist the tribunal in its deliberations as it dealt with the "rate of return" rather than the geographical extent of area defined as PCL. The tribunal was also not assisted by "settlement" evidence and in the absence of any transactional evidence, had to rely on the evidence relied upon by the parties in the form of graphs. It was accepted by both parties, that although this evidence is imperfect, it is the only evidence available that can reasonably be relied upon. Mr Dunsin conceded that the section 2 graphs to be largely irrelevant. Preferring the respondent's reliance on the section 1 graphs in preference to those in section 2 and accepting Miss Ellis' assertion that the subject property falls within the PCL the tribunal adopted her approach as set out in the table in Appendix I.
10. The tribunal has used all six PCL graphs in its calculation following the methodology of Miss Ellis. Therefore, the table shows their relativity at 70 and 75 years. The tribunal has calculated the 70.25-year relativity

on the assumption that the increase between the two data points is constant through the five years.

11. In conclusion, the tribunal determines that the 70.25 year average 87.34% of £500,000 = £436,700. This is the short leasehold value to be used in the marriage value calculation. All other components of the valuation are agreed. The tribunal's valuation is set out at Appendix II.

Signed: Judge Tagliavini

Date: 18 March 2015

Appendix I

	70 Years	75 years	70.25 years
W A Ellis	85	88	85.15
Knight Frank	88	90	88.1
Cluttons	86.2	89.65	86.3725
JD Wood + Gerald Eve	87	90	87.15
J D Wood & Co	90	92	90.1
Boston Radford	87	90	87.15
Total	523.2		524.0225
Average	87.2		87.34

**Appendix
II**

Basement Flat, 16 Barons Court Road, London W14 9DT

Valuation date	24/03/14	Flat values	
		70.25 yr	
Current lease expiry	23/06/84	LH	£436,700
		160.25 yr	
Unexpired lease term	70.25 yrs	LH	£495,000
		Freehold	£500,000
Diminution in value of Freeholder's interest agreed at			£18,043
Share of Marriage value			
Aggregate of values after enfranchisement			
Landlord's interest		£201	
Tenant's proposed interest		£495,000	£495,201
Less			
Aggregate of values before enfranchisement			
Landlord's interest		18,244	
Tenant's interest		£436,700	£454,944
			£40,257
			50%
			£20,129
			£38,172