



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

Case Reference : LON/00BH/OLR/2017/0622

Property : 48 Camden Road, London E17 7NF

Applicant : Mr V and Mrs S Sivarajasingham

Representative : Prince Evans Solicitors LLP

Respondent : Deborah Ann West

Representative : Not applicable

Type of Application : Missing Landlord – Leasehold Reform, Housing and Urban Development Act 1993

Tribunal Members : Judge F Dickie
Mrs S Redmond, MRICS

Date of Decision : 2 August 2017

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the premium payable for the extended lease shall be £9,230.00 according to the valuation calculation at Appendix 1 to this decision.
- (2) The terms of the new lease should be those set out in the Draft New Lease at Appendix 2 to this determination.

The application

1. The applicants wish to extend their lease under the provisions of Chapter II of Part I the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”).
2. The applicants are the tenants of the subject premises as successors in title under a lease dated 16 February 1998 for a term of 99 years from 24 June 1997. There has been no contact with the freeholder for many years. Ground rent has never been demanded. A claim form under section 42 of the Act could not be served on the missing landlord.
3. The applicants made a claim to the County Court for a vesting order pursuant to section 50 of the Act. On 27 February 2017 District Judge Pigram sitting at the County Court at Bow made a vesting order that “upon payment of an appropriate premium into court the Claimant is entitled to a new lease or extended lease under Part I Chapter II of the 1993 Act for a term of 90 years at a peppercorn rent, with the other terms to be the same as his current lease”. The matter was transferred to this tribunal for the determination of the appropriate premium. By virtue of Section 51(1) of the Act this tribunal has jurisdiction to determine the terms of the grant of the new lease.
4. Pursuant to the application now before the tribunal, the Applicant has obtained an expert valuation report on the subject premises, and produces a draft new lease.

The Valuation Date

5. By virtue of section 51(1), a vesting order may be made for the grant of a new lease on such terms as if the qualifying tenant had, at the date of his application, given notice of his claim to a new lease under s.42 of the Act. The valuation date is therefore the date of the application to the court.
6. The County Court issued the application for a vesting order on 27 June 2017. However, solicitors for the applicant have produced evidence (in the form of proof of delivery by courier to the court) sufficient to demonstrate on balance that the court received the application during business hours on 22 June.
7. Paragraph 5.1 of Practice Direction 7A to the Civil Procedure Rules provides:

“Proceedings are started when the court issues a claim form at the request of the claimant but where the claim form as issued was received in the court office on a date earlier than the date on which it was issued by the court, the claim is 'brought' for the purposes of the Limitation Act 1980 and any other relevant statute on that earlier date.”

8. The tribunal on the evidence is satisfied that the claim to the County Court was brought on 22 June 2016, and that this is the valuation date for the purposes of the Act. This is relevant since the lease at that date was for in excess of 80 years and thus no marriage value is payable as part of the premium under Schedule 13 Part II Paragraph 4(i).

The Valuation

9. The valuation report was prepared by Mr Simon B Hanton, FRICS and is dated 24 July 2017.
10. According to the inspection report, the subject premises are a purpose built first floor maisonette forming part of a terraced building comprising two flats in total built circa 1900. The subject premises comprise a reception room, kitchen, two bedrooms and bathroom/WC. The gross internal area is approximately 541 square feet.
11. There was no lease plan, but Mr Hanton produced external and internal photographs of the property which satisfy the tribunal that he has valued it on an accurate understanding of the demise. The tribunal did not consider it necessary to carry out an inspection.
12. Mr Hanton relied on a list of sales of comparable local flats. He produced a map showing the location of these, and of the subject property.
13. The ground rent is £100 per annum for the first 33 years, rising to £200 for the second period of 33 years, and £300 for the remainder of the term. There are no intermediate leases to consider.

The long lease value

14. Mr Hanton did not disregard any tenant's improvements under Paragraph 3(2)(c) of the Act. He considered 18 comparable sales between January 2017 and April 2015. In reaching his opinion as to the valuation, he had taken into account sale price movements over that period as shown in the Land Registry House Price Index for flats and mainsonettes in Waltham Forest. Mr Hanton confirmed that he had verified the unexpired lease terms for each comparable (and he produced the Land Registry titles). Most were two bedroom flats. A few were one bedroom flats but in his opinion this did not make a significant difference to value. He was unable to produce detailed information on the comparables, but in his opinion the majority of the flats offered for sale with vacant possession are offered for sale in a fairly good standard.
15. As a result of his analysis of the comparable sales, Mr Hanton considered the valuation range to be from £625-675 per square foot,

and concluded the virtual freehold unimproved value was £351,650 based on £650 psqft.

16. The tribunal considers his valuation approach reasonable and supported by adequate justification, and accepts it.

Relativity

17. The tribunal is mindful of the decision of the Upper Tribunal in *The Trustees of the Sloane Stanley Estate -v- Mundy* [2016] UKUT 0223 (LC) in determining the value of the existing lease. There being no sale of the subject property close to the valuation date, Mr Hanton did not seek to derive this value from the comparable evidence (all of which would have required adjustment as none of the lease terms were at or around 80 years). Mr Hanton relied on an analysis of the RICS Graphs of Relativity for Greater London and England to calculate the value of the existing 80 year lease, which (outside of Prime Central London) indicated a range of 96-97.5%, and he applied 96%. The tribunal notes he did not take the most favourable approach for the tenant, and accepts his opinion as fair.

Capitalisation Rate

18. The tribunal accepts Mr Hanton's choice of 6.5% as the appropriate capitalisation rate in line with his professional experience.

Deferment Rate

19. Mr Hanton proposed a rate of deferment of 5% in accordance with the generic rate for flats determined by the Court of Appeal in *Cadogan v Sportelli* [2008] 1EGLR 137 and the tribunal accepts this.

Conclusion

20. The tribunal is content to accept the reasoned view of Mr Hanton, based on his expert and local knowledge, that the value of the existing lease is therefore £337,584, and it determines the premium payable is £9,230 according to Mr Hanton's calculation attached to this decision.

Name: F Dickie

Date: 2 August 2017