



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

Case Reference : **CAM/22UN/OCR/2018/0173**

Property : **9 Langley Close, Dovercourt, Harwich
Essex CO12 4AY**

Applicant : **Mr Maurice Leslie Hardy**

Representative : **Bawtrees LLP Solicitors**

Respondent : **Silson Properties Limited**

Representative : **Mr Ray Jones - Director**

Type of Application : **Application by Respondent for
Permission to Appeal the Decision
dated 12 February 2019**

Tribunal Members : **Judge John Hewitt
Mrs E Flint DMS FRICS IRRV
Mr S Moll FRICS**

Date of Application : **5 March 2019**

Date of Decision : **21 March 2019**

DECISION

Decisions of the tribunal

1. The tribunal has considered the respondent's application for permission to appeal and determines that:
 - 1.1 it will not review its decision; and
 - 1.2 permission to appeal be refused.

Notes

2. In accordance with section 11 Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the respondent may make a further application for permission to appeal to the Upper Tribunal (Lands Chamber).
3. Such an application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.
4. The Upper Tribunal (Lands Chamber) may be contacted at:

5th Floor, Rolls Building,
7 Rolls Buildings,
Fetter Lane,
London EC4A 1NL

Tel: 020 7612 9710
Email: lands@hmcts.gsi.gov.uk

Background

5. The substantive decision was sent to the parties on 12 February 2019.
6. On 5 March 2019 the tribunal received from the respondent an application for permission to appeal the substantive decision. On 7 March 2019 the tribunal received a follow-up letter dated 5 March 2019 from the respondent purporting to provide further evidence upon which the respondent wished to rely in his appeal.
7. Rule 52(2) of this tribunal's rules provides that an application for permission to appeal must be received within 28 days of the date on which the substantive decision was sent to the party seeking permission to appeal.
8. We are satisfied that the application presently before us was received within the time limit provided for.

The approach to applications for permission to appeal

9. Rule 53 requires that on receiving an application for permission to appeal the tribunal must first consider, taking into account the overriding objective in rule 3, whether to review its decision in accordance with rule 55.

10. Rule 55 requires that a tribunal may only undertake a review of its decision:
 - 10.1 Pursuant to rule 53, on receipt of an application for permission to appeal; and
 - 10.2 If it is satisfied that a ground of appeal is likely to succeed.
11. In broad terms, permission to appeal is given where something may have gone wrong with the original decision or hearing. For example, the law was wrongly interpreted or applied, a valuation principle was misinterpreted or disregarded, there was a substantial procedural irregularity and/or the point at issue is of potentially wide implication.
12. Permission will be refused if the proposed appeal has no realistic prospect of success and there is no other good reason for an appeal.

Reasons for the decision

13. The original tribunal's decision was based on the evidence before it and the respondent has raised no legal arguments in support of the application for permission to appeal.

With the letter dated 5 March 2019 the respondent has attached a screen shot of a text evidently sent by a Nick Moulton to Mr Jones. It is very questionable as to whether such a screen shot is evidence at all or that it can be relied upon with confidence. No explanation was given as to why that evidence was not available at the hearing and why Mr Moulton did not attend the hearing to give that evidence in person.

In these circumstances we find that we cannot give much weight to the screen shot of the text.

14. Mr Jones has repeated arguments he raised at the hearing. He has mentioned a new point which he could have raised at the hearing but which he did not raise. He has not explained why he did not do so. Some further comments on this are set out in the Observations section below.

Observations

15. For the benefit of the parties and of the Upper Tribunal (Lands Chamber) (in the event that a further application for permission to appeal is made), the tribunal has set out below some comments and observations on some of the specific points raised by the respondent in the application for permission to appeal.

The long lease value

16. Mr Jones objects to the tribunal's finding of £85,000. We repeat this was the value selected by the respondent's valuer and with which the applicant's valuer agreed, both in his report dated 9 January 2018 and

in his oral evidence at the hearing when he was cross-examined by Mr Jones about it.

17. Valuation is an art not a science. Usually there is a bracket or range of values that might be appropriate. The skill of the valuer is where to place a property within that bracket. Mr Jones' valuer put the bracket at "... *an improved lease would lie in the range £85,000 to £90,000.*" In the event the valuer adopted £85,000. Of course Mr Jones' valuer might have adopted a higher value within his bracket but he chose not to do so.
18. Mr Jones did not request his valuer to submit a supplemental report dealing with the long lease value and he did not call his valuer to give oral evidence at the hearing to support a value greater than £85,000.
19. In these circumstances it was not wrong or contrary to valuation principle for the tribunal to adopt the value of £85,000. The tribunal did not misinterpret the evidence before it.
20. The screen shot of Mr Houlton's text simply says: "*I would hope to achieve £87k is with a long lease.*" [sic] So far as we are aware, Mr Houlton is not an expert or a property professional. The screen shot is not evidence of the long lease value at the valuation date of 21 February 2018. But, as an aside, if Mr Houlton hopes to achieve £87,000 in March 2019, that suggests that a value of £85,000 in February 2018 is not far from the mark.

Short lease values and adjustments for time

21. Mr Jones suggests that the tribunal should have taken the average of the three comparables. We did not do so because it was not appropriate to do so. The comparables were not of equal weight. There were factors which had to be put in the mix.
22. Mr Jones' valuer did not make any adjustments for time. Mr Jones has attached to his application for permission to appeal HM Land Registry data for Flats and Maisonettes in Essex – February 2017 – February 2018. This was not put in evidence by Mr Jones at the hearing. He has not explained why not.
23. In any event it was not the data the tribunal had regard to. The tribunal had before it data from HM Land Registry for Flats and Maisonettes March 2017 – February 2018 for five locations:

UK; Tendring; Suffolk; Essex; Suffolk Coastal

The most relevant and the one which carries more weight is Tendring which is the local authority area in which the subject flat is situate. But, the data cannot be applied mechanically and strictly arithmetically.

Tendring covers a large area and within it there will be flats of a wide variety of locations, sizes and values. Not all flats and maisonettes

within Tendring increased in value to the exact same extent over the period.

The data is one of several valuation tools to have some regard to, but it has to be applied with some thought to the subject flat. On this point we bear in mind that in Mr Jones' valuer's report he says: *"Local agents advise that the market has been saturated with 1 bedroom flats which has impacted on values ..."*.

24. The tribunal remains satisfied that its short lease value of £76,500 was arrived at in accordance with the evidence and data before it and the application of good valuation practice. No error or misinterpretation of the materials before the tribunal occurred.

The graphs

25. In paragraph of 36 of our decision we made it clear that we took a broad view of a number of graphs. Mr Jones' valuer had relied upon a PCL graph which the tribunal rejected as being wholly inappropriate.

The applicant's valuer relied upon one graph – Beckett & Kay. Whilst that is a relevant graph, the graphs are generally the subject of widespread criticism. The tribunal was and is of the view that the better practice is to look at a number of relevant graphs and draw on experience when arriving at a relativity.

26. In the subject case the tribunal had arrived at its long lease and short lease values first and then had regard to several relevant graphs before concluding that those values sat well within the range of the different relativities revealed by the graphs.
27. The tribunal remains of the view that this approach accords with good valuation practice and that no error or misdirection occurred.

Judge John Hewitt

21 March 2019