



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

<b>Case reference</b>	:	<b>LON/00BJ/OLR/2018/1402</b>
<b>Property</b>	:	<b>First floor Flat 136 Himley Road, London SW17 9AQ</b>
<b>Applicant</b>	:	<b>Ms Ashmita Nathubhai Jagjivan</b>
<b>Representative</b>	:	<b>Bonallack &amp; Bishop Solicitors</b>
<b>Respondent</b>	:	<b>Mr G Bruce</b>
<b>Type of application</b>	:	<b>Section 50 of the Leasehold Reform, Housing and Urban Development Act 1993</b>
<b>Tribunal members</b>	:	<b>Judge Daley Mr K Ridgeway MRICS</b>
<b>Date of decision</b>	:	<b>27 March 2019</b>

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**DECISION**

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- 1) The appropriate premium payable for the extension of the Applicants' lease is **£37,973** in accordance with the calculation set out in the Appendix to this decision.
- 2) The lease shall be granted on the draft terms included in the papers before the Tribunal.

**Background**

1. By an order made on 7 September 2018, Deputy District Judge Hussain, sitting at the Wandsworth County Court, transferred this matter to the Tribunal to determine the terms on which the Applicants should be granted an extended lease under the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act").

2. The subject property is a first floor self-contained apartment in a former house constructed in 1920 which had subsequently been converted into two separate dwellings. The Property was of traditional cavity and brick and block construction with a pitched roof. There is a ground floor entrance and stairs leading to the first floor landing area comprising a sitting room, kitchen, one double bedroom and shower room with W/C and wash hand basin. The property has no garden or allocated parking.
3. The Applicant is the lessee of the subject property. The lease is for a term of 99 years from 25<sup>th</sup> March 1975 so that there were just under 56 years unexpired as at the valuation date of 12 April 2018.
4. On 29 August 2017 pursuant to the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) the Applicant served the Respondent with a section 41 Notice requiring him to state whether he is the owner of the freehold interest in the property by 26 September 2017.
5. The Section 41 Notice was subsequently returned by Royal Mail Services because it was not called for after a card was left at the Respondent’s address following an unsuccessful delivery.
6. The Applicant’s solicitor instructed a legal Enquiry Agent Arkline to trace the Respondent however following extensive enquires the trace was unsuccessful. Proceedings were therefore issued in the county court for a vesting order before coming to this Tribunal.
7. The Applicants’ solicitors provided a bundle of relevant documents for the Tribunal to determine the relevant issues on the papers. The bundle included a report from Mr Simon Dancer FRICS of Dancer Consulting Ltd containing his calculation of the premium to be paid. The Tribunal pointed out that Mr Dancer that he had valued the property as at the 5 September 2017, rather than the date when the county court proceedings had been issued. The Applicants’ solicitors provided an amended report dated 7 January 2019, the report was further amended by hand at the hearing on 27 March 2019.
8. At the hearing Mr Dancer spoke to his report and discussed the comparables that he had used and the reason for their inclusion. The properties included 132a Himley Road (sale in October 2015) 132a Himley Road was a similar size to the subject property, however additionally, it had a south facing garden and a share of the freehold. The property was described as being in good condition. The property sold for £367,500. Mr Dancer amongst the other properties also referred to Flat E, 30 Longley Road London SW17, the unexpired lease term was in excess of 80 years although this property was a similar size to the subject property, it benefited from forecourt parking and a rear garden. This property sold for £330,000 in November 2017.

9. Mr Dancer thought that the current uncertainties surround withdrawal from the European Union had adversely affected the housing market, accordingly he had made allowance for this and had discounted for the garden and parking, and had arrived at a valuation of £300,000 with an extended lease for the subject property.
10. He stated that he had used the agreed deferment rate of 5% as set out in *Sportelli*, and had applied a capitalization rate of 6%. He referred the Tribunal to 4 comparables which ranged in sale dates from October 2015 to November 2017. Mr Dancer, in his valuation had made no allowance for a difference in the value between a long lease interest and the freehold value.
11. He had decided that the long lease value of the property was £300,000 which included Act Rights and on adjustments agreed by the Tribunal had adjusted the Relativity from 81.8 to 81.38, The Tribunal noted that following adjustments the amended report is accurate, however the Tribunal upon using its knowledge and experience has concluded that and the lease extension price is £37,973. The Tribunal has attached its calculations, which are reproduced in the attached Appendix.
12. The Tribunal has reviewed the draft terms provided for the grant of the new lease and is satisfied that they are appropriate.

**Name:** Judge Daley

**Date:** 27 March 2019

#### **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 Tribunal 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 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 identify the decision of the Tribunal to which it relates (i.e. 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.

**Appendix**  
**Valuation for lease**  
**extension**

**Top Flat, Himley Road, Tooting, SW17 9AQ**

Valuation Date	12/04/2018		
Lease Commencement	25/03/1975		
Lease Term	99.00	years	
Unexpired Term	55.95	years	
Long Lease value	£300,000		
Freehold VP value	£303,000	+1% long lease value	
	Term 1	Term 2	Term 3
Ground rent	£20.00	£0.00	£0.00
Reversion years	55.95	0.00	0.00
Capitalisation rate	6%		
Deferment rate	5%		
Compensation	£0.00		
Relativity	81.38%		

**Diminution of  
Landlord's interest**

Ground rent					£20	
YP	55.95	yrs @	6.00%	<u>16.02695306</u>		£321
Rent Review 1					£0	
YP	0.00	yrs @	6.00%	0		
PV of £1	55.95	yrs @	6.00%	<u>0.038382816</u>		£0
Rent Review2					£0	
YP	0.00	yrs @	6.00%	0		
PV of £1	55.95	yrs @	6.00%	<u>0.038382816</u>		£0
Reversion to VP value					£303,000	
PV	55.95	yrs @	5.00%	<u>0.06523170</u>		£19,765
L/lor'd's interest on reversion of new lease						
FH VP					£303,000	
PV	145.95	yrs @	5.00%	<u>0.00080802</u>		

			<u>-£245</u>	<b>£19,841</b>
<b>Landlord's share of Marriage Value</b>				
Val. Tenant's interest new long lease			£300,000	
Val. l/lord's interest after reversion of new lease			£245	
			<u>£300,245</u>	
<b>Less</b>				
Val. tenant's interest existing lease	Relativity 81.38%		£244,140	
Val. l/lord's interest existing lease			<u>£19,841</u>	
			<u>£263,981</u>	
			£36,264	
Marriage Value at Compensation	50%			<u><b>£18,132</b></u> £0
<b>PREMIUM</b>				<b>£37,973</b>