



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

Case Reference : **LON/00AL/OLR/2018/0260**

Property : **130 McLeod Road, London SE2 0BS**

Applicant : **Scarlet Joyce Yates**

Representative : **Paris Smith LLP**

Respondent : **Persons Unknown**

Representative : **N/A**

Type of Application : **S50/51 Leasehold Reform Housing
and Urban Development Act 1993,
Missing Landlord**

Tribunal Members : **P M J Casey MRICS**

**Date and venue of
Hearing** : **Paper hearing on 9 May 2018
10 Alfred Place, London WC1E 7LR**

Date of Decision : **30 May 2018**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the premium payable on the grant of a new lease of the ground floor flat at 130 McLeod Road, London SE2 0BS (“the property”) is the sum of £18,400.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

The application

1. The applicant seeks a determination by the tribunal pursuant to an order made under the provisions of S50(1) of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by District Judge Brooks sitting at the County Court at Bromley on 11 January 2018 of the premium to be paid into Court and other terms on the grant of a new lease of the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 8 January 2018 by Paris Smith LLP on behalf of the applicant in which it was said that the applicant was entitled to acquire a new lease of the property under the provisions of the Act but had been unable to exercise the right by serving the requisite notice under S42 on the landlords because their whereabouts were unknown.

The hearing

3. In response to the tribunal’s directions which provided for a determination on the papers to be submitted, the applicant’s solicitors provided a bundle of documents including a valuation report dated 12 April 2018 for use in tribunal proceedings addressed to the tribunal and prepared by Steve Hobbs BSC (Hons) MRICS of Peter Barry Surveyors. The report contained the requisite declarations required of a Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 9 May 2018. No inspection of the property was deemed necessary given the description, plans and photographs included in the report.

The evidence

5. From Mr Hobbs’ description of the property and the photographs it is a self-contained flat on the ground floor of a former terraced house converted into two flats dating from circa 1900. It comprises three rooms, kitchen and shower/wc. There is a garden to the rear. No want of repair is noted in the report and whilst the division of the original bathroom to form a dining room and a shower-room/wc is said to be a

tenant's improvement no additional value that falls to be disregarded is apparently claimed. It has a gross internal area of 51.95 m².

6. The property is held on a 99 year lease from 25 March 1988 subject to a ground rent payment of £100 per annum throughout the term.
7. At the Valuation Date, 9 January 2018, the lease had 69.21 years unexpired.
8. Mr Hobbs provides market evidence for the freehold reversionary value of the property as at the Valuation Date by reference to two transactions involving similar properties at around that time. These comprise the sale of a lease with just under 90 years unexpired in April 2017 of 145 McLeod Road for £289,950 and the not yet completed sale of 123 year lease of No 164 McLeod Road which has been agreed at £261,500. No 145 is apparently somewhat larger than the subject property and has a second bedroom. In Mr Hobbs' view it is more attractive. He adjusts the sale price for lease length, the larger size and the extra bedroom as well as for the change in value between the sale date and the valuation date to produce a figure of £264,722. No 164 is apparently very similar to the subject flat and he only makes a small adjustment to reflect the additional value of the freehold, no time adjustment being required. This gives a figure of £264,141 and he adopts £264,500 as the freehold value of the subject flat.
9. To capitalise the ground rent income for the unexpired term of the existing lease in his valuation of the existing freehold interest in the property he adopts a rate of 7% and he defers the reversion on the expiration of the existing lease term at 5%.
10. To calculate the marriage value and the landlord's entitlement to 50% thereof he has assessed the value of the existing lease term in the property, disregarding the value of the rights conferred by the Act, by reference to what are generally referred to as graphs of relativity. He refers to the five graphs relating to outer London/England which were published in an RICS report into graphs of relativity. He has excluded the graph produced by Beckett & Kay as being entirely opinion based and that of Austin Grey as deriving from the Brighton and Hove area. Averaging the other three suggests to him that in a "no Act world" the existing lease term would have a value of 91.72% of the freehold value for what he calculates as an unexpired term of 69.21 years.
11. His valuation attached to his report produces a premium of £14,796.

The decision

12. The tribunal is satisfied that Mr Hobbs' valuation of the freehold interest is supported by the evidence he provides in his report and by

his acceptable adjustments to the sale prices of the comparable transactions. Whilst the evidence is limited Mr Hobbs is a qualified valuer whose report makes clear that he understands his duties to the tribunal, he has inspected the subject property and it is right to give weight to the opinion of value he expresses.

13. Mr Hobbs' use of a 7% rate to capitalize the passing ground rent and of 5% to defer the value of the reversion of the term date is also perfectly proper and accepted by the tribunal.
14. In the absence of sales evidence the use of so called graphs of relativity is a common practice and the five graphs referred to by Mr Hobbs are invariably used in any case outside the prime central London area because practitioners argue that the outer London market is less sophisticated and higher relativities result though none seem able to explain why lease length per se should affect values in different locations in this way. The graphs referred to all have their individual flaws and taking an average of the three that he prefers does not make them more reliable. In the tribunal's experience whenever market evidence is introduced lower relativities result. The only graph to have been given some credence by the Upper Chamber is the Gerald Eve – John D Wood (1996) graph. This shows a relativity of leasehold to freehold value with 69.21 years unexpired of some 86.5% against the lowest of the five outer London graphs of 90.5% and the average of the three preferred by Mr Hobbs of 91.72%. Doing the best the tribunal can with this very limited evidence the relativity is determined at 89%. The tribunal's valuation is attached.
15. It is confirmed there are no outstanding demands for ground rent or service charges which have been lawfully demanded and have not been paid.
16. District Judge Brooks' Order of 11 January 2018 required at 3 that "such new lease to be in a form to be approved by the First Tier Tribunal, in accordance with Section 51(3) of the Act". The tribunal has been provided with a draft of the deed of extension of lease in the bundle. The grant of a new lease under the Act is effected by way of a surrender of the existing lease and the re-grant on the new lease and the draft document should be amended to give effect to this. Whilst authorized by the Court Order to execute the new lease Jennifer Sanders cannot be the grantor who should be expressed as being "Yousaf Sabina or Persons Unknown represented by Jennifer Sanders etc acting under the authority etc". Subject to the making of the necessary amendments to meet these concerns the tribunal is satisfied that terms of the proposed new lease as set out in the draft document are satisfactory and in compliance with the terms of the Act.

Name: Patrick M J Casey

Date: 30 May 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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. 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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

LON/00AL/OLR/2018/0260

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

S48 Leasehold Reform Housing and Urban Development Act 1993

**Determination of the premium payable for an extended lease of
Ground floor flat, 130 McLeod Road, SE2 0BS**

Valuation date: 8 January 2018 – Unexpired term 69.21 years

Diminution in Value of Freehold Interest

Capitalization of ground rent pa YP for 69.21 years @ 7%	£100 <u>14.1535</u>		£1,415
Reversion to F/H value with VP Deferred 69.21 years @ 5%	£264,500 <u>0.03415</u>	£9,033	
Less value of F/H after grant of new lease Deferred 159.21 years @5%	£264,500 <u>0.00042</u>	£112	£8,921
			<u>£10,336</u>

Marriage Value

After grant of new lease

Value of extended lease £261,855
Plus freehold value £355 £261,967

Before grant of new lease

Value of existing lease @ 89% f/h £235,405
Plus freehold value £10,448 £245,853
£16,114 £8,057

**50% share to Freeholder and
Intermediate Leaseholder** £18,393

Premium Payable Say £18,400