



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

Case Reference : **LON/00BH/OLR/2018/0145**

Property : **2A St George's Road, Leyton,
London E10 5RH**

Applicant : **Balmick Seegolam**

Representative : **Thirsk Winton LLP
Mr. Richard Murphy Dip Surv;
MRICS**

Respondent : **Fatima Ahmed and Aisha Ahmed
and Amina Mayet**

Representative : **TMW Solicitors
Mr. David Nesbitt BA(Hons) MSc
MRICS MFPWS**

Types of Application : **Lease extension**

Tribunal Members : **Judge Tagliavini
Mr. K Ridgeway MRICS**

**Date and venue of
Hearing** : **12 June 2018
10 Alfred Place, London WC**

Date of Decision : **24 July 2018
20 September 2018**

***Re-issued* DECISION**

Decisions of the tribunal

- (1) The tribunal determines the following:
 - (i) The capitalisation rate is 6%
 - (ii) The accommodation comprises a one-bedroom flat
 - (iii) The rate of relativity is 82.7%
 - (iv) The freehold vacant possession value is £328,572
 - (v) The premium payable is £37,863

The application

1. The Applicant seeks a determination pursuant to section 48(1) of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1003 Act”).

The background

2. The property which is the subject of this application is a first floor self-contained flat converted from a 2-storey Victorian end of terraced house situate close to the busy road in the Leyton area of Waltham Forest and let on a lease dated 16 June 1977 for a term of 99 years from 1 January 1977.
3. By a Notice served pursuant to section 42 of the 1993 Act and dated 9 June 2017, the Applicants sought the grant of a new extended lease of the subject property at a premium payable of 19,000. The Respondent served a Counter Notice dated 7 August 2017 admitting the Applicants’ right to acquire a new lease but counter probed a premium payable of £80,000.
4. Neither party requested an inspection and the tribunal did not consider that one was necessary, as a number of photographs of the relevant premises were provided nor would it have been, proportionate to the issues in dispute.

The issues

5. At the start of the hearing, in a statement of agreed and disputed facts, the parties identified the relevant issues for determination as follows:
 - (i) The capitalisation rate
 - (ii) The extent of the accommodation (subsequently agreed at 599 sq. ft)

- (iii) The rate of relativity
 - (iv) The long leasehold (unimproved) interest
 - (v) The premium payable
6. The parties agreed a deferment rate of 5% and a long leasehold to share of freehold value at 1% and a valuation date of 9 June 2017.

The Applicant's case

7. At the hearing, the Applicant relied upon the oral evidence of Mr. Murphy who spoke to his report dated 30 May 2018. Mr. Murphy told the tribunal that the subject property was in poor state of repair although with tenant's improvements consisting of UVPC double glazing. Mr. Murphy stated that, the subject property comprises a one-bedroom flat as the partition of one room and the formation of two bedrooms was an unapproved alteration. Further, the flat was in a tired and dated condition requiring refurbishment to bring it up to a modern standard.
8. Mr. Murphy told the tribunal in his carrying out his valuation he had regard to the case of *Nicolson v Goff* [2007] 1 EDLR 153 when considering the loss of ground rent and came to the conclusion that as the rent of £45 fixed for 19.56 years increasing to £60 thereafter for 20 years and finally increasing to £75 for the last 19 years. Mr. Murphy considered the ground rent to unexceptional and unlikely to keep rate with inflation and therefore adopted a capitalisation rate of 7%.
9. In calculating the loss of reversion due to the loss incurred by the additional 90 years wait for the reversion, Mr Murphy relied on primary evidence of comparable properties of three converted flats in the E10 at 11a St Georges Road, 2 Maud Road and 92A Dunedin Road making adjustments using the House Price Index (HPI) for the kitchen, bathroom, general refurbishment and garden (where appropriate), and making an adjustment for the share of freehold of 1% and adjustments for condition reaching an average price of £305,348 or £575 per sq. ft. Mr. Murphy also considered secondary evidence in the form of nearby ground floor flats at 9a Maud road, 189 Dawlish road, 71 Huxley Road and 17a Dunedin Road, again all in the E10 area, thereby finding an average price of £322,082 or £625 per sq. ft. Mr. Murphy told the tribunal that as Leyton is not an area where flats are marketed on a per sq. ft. basis he had averaged the values reaching an unimproved extended long after adjustment a lease value of £325,319 making an adjustment of 1% to reach a freehold vacant possession value of £328,572. Applying the reversion calculated of £18,637, a loss of ground rent of £694 and the loss of reversion, calculated a diminution of value to the landlord's interest of £19,331.
10. In a consideration of relativity for an unexpired term of 58.56 years Mr. Murphy adopted an average relativity by reference to 5 relevant graphs in the RICS Research Report of 84.61% from which, he extrapolated the

discount of 2.26% arriving at a relativity of 82.7% arriving at the landlord's share of marriage vale of £17,246.

11. Mr. Murphy told the tribunal that he had adopted a capitalisation rate of 7% and adopting the above figures in his valuation reached a premium payable of £36,600.

The Respondent's case

12. The Respondent relied upon the oral evidence of Mr. Nesbit who spoke to his report dated June 2018. Mr Nesbit told the tribunal that there was no concrete evidence in respect of the configuration of the flat as one bed or two-bedroom property and the tribunal should accept it is a two bedroom flat as depicted in the photographs provided. Mr. Nesbitt relied upon a schedule of long leasehold transaction evidence of two-bedroom units, of a similar albeit smaller size to the subject property, which he had adjusted to reflect the effluxion of time between the valuation date and the completion date of the sales evidence giving a range of sales between £363,451 to £492,960 providing an average of £420,170 with an adjusted price per sq. ft. of £720 giving a long leasehold value of £432,000.
13. In respect of relativity, Mr. Nesbitt's adopted starting point was to consider the relevant Act World evidence, specifically a pertinent development at Grosvenor Court E10 being proximate to the subject property with a number of long lease and short leases sales in a relativity narrow time frame, making them good comparatives to the subject property with the most relevant sale being that at Flat 17 Grosvenor Court at £338,000 which, he stated capitalises to a share of freehold value of £341,000. Using the land registry index to the sale of Flats 7 and 10 Grosvenor Court and utilising the Beckett and Kay Graph providing a relativity of 70.67% . Mr. Nesbitt adopted a capitalisation rate of 6% and by applying this and the above figures, Mr. Nesbitt reached a premium of £74,533.

The tribunal's decision and reasons

14. The tribunal finds that the subject property. Comprises one bedroom flat as per the mortgage Valuation report dated 29 May 2017, on the first floor of a converted Victorian terrace property and finds that the attempt to partition one room to create two bedrooms is an alteration unauthorised by the landlord. The tribunal also finds that the comparable evidence at Grosvenor Court does not provide a good comparable as the photographs provided to the tribunal showed a purpose-built block of flats on 4 floors with the interiors providing lighter and more spacious accommodation than the subject property, were located too far from the subject property in a more upmarket area and the sales relied upon too far from the valuation date to provide reliable comparable evidence. The tribunal found Mr. Murphy's reliance on the evidence of similar one-bedroom properties in the area to provide more useful evidence of sales.

15. The parties having agreed the subject property as comprising 599 sq. ft found that a capitalisation of 6% as proposed by the Respondent was more appropriate than the 7% favoured by the Applicant.
16. In reaching its decision as to the long leasehold value, the tribunal preferred the evidence of Mr. Murphy as the prime evidence he relied upon was similar in size and character, being first floor flats without gardens in contrast to the Grosvenor Court property Mr. Nesbitt favoured. The tribunal accepts that the freehold vacant possession value of £325,319 is subject to a 1% adjustment providing a figure of £328,572 for the landlord's interest on reversion of a new long lease.
17. In determining the relativity, the tribunal again preferred the evidence of Mr. Murphy to the evidence of two-bedroom flats provided by Mr. Nesbitt. Therefore, the tribunal finds that the rate of relativity is 82.7% and the premium payable is £37,863; *see Appendix A*.

Signed: Judge Tagliavini

Dated: 24 July 2018

Re-issued: 20 September 2018

Appendix A

Valuation for lease extension - Flat 2a St Georges Road, Leyton, London, E30 5RH

Valuation Date	09/06/2017		
Lease Commencement	01/01/1977		
Lease Term	99.00	years	
Unexpired Term	58.56	years	
Value FH VP	£328,572		
		99% FH	
Long Lease Value	£325,286	VP	
Ground rent	£45.00	£60.00	£75.00
Term & reversion years	19.56	20.00	19.00
Capitalisation rate	6.00%		
Deferment rate	5.00%		
Compensation	£0		
Relativity	82.70%		

Diminution of Landlord's interest

Ground rent				£45		
YP	19.56	yrs @	6.00%	<u>11.33496274</u>		£510
Rent Review 1				£60		
YP	20.00	yrs @	6.00%	11.46992122		
PV of £1	19.56	yrs @	6.00%	<u>0.319902236</u>		£220
Rent Review2				£75		
YP	19.00	yrs @	6.00%	11.15811649		
PV of £1	39.56	yrs @	6.00%	<u>0.099747029</u>		£83
Reversion to VP value				£328,572		
PV	58.56	yrs @	5.00%	<u>0.05743209</u>		£18,871
L/ord's interest on reversion of new lease						
FH VP				£328,572		
PV	148.56	yrs @	5.00%	<u>0.00071141</u>		-£234
						<u>£19,217</u>

**Landlord's share of
Marriage Value**

Tenant's interest new long lease			£325,286
L/lord's interest on reversion of new lease			£234
			<u>£325,520</u>
Less			
Val'n tenant's interest existing lease	Relativity	82.70%	£269,012
Val'n l/lord's interest existing lease			<u>£19,217</u>
			<u>£288,229</u>
			£37,291
Marriage Value at Compensation	50%		<u>£18,646</u>
			£0
PREMIUM			£37,863