



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

**Case reference** : **LON/00AJ/OLR/2018/0635**

**Property** : **40 Drayton Bridge Road, London  
W7 1EX**

**Applicant** : **Suzanne Janet Perrin-Gerrard**

**Representative** : **Oliver Fisher Solicitors**

**Respondent** : **Peter McCann (Missing landlord)**

**Representative** :

**Type of application** : **Section 51 of the Leasehold Reform,  
Housing and Urban Development  
Act 1993**

**Tribunal members** : **Tribunal Judge Dutton  
Mr L Jarero BSc FRICS**

**Date of determination  
and venue** : **18<sup>th</sup> June 2018 at  
10 Alfred Place, London WC1E 7LR**

**Date of decision** : **18<sup>th</sup> June 2018**

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**DECISION**

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**Summary of the tribunal's decision**

**The appropriate premium payable for the new lease is £37,713 as set out on the attached valuation.**

## **Background**

1. On 21<sup>st</sup> July 2017 the Applicant commenced proceedings in the County Court at Central London under claim number D02CL026 pursuant to section 50 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid for the grant of a new lease of 40 Drayton Bridge Road, London W7 1EX (the “Property”).
2. By an Order dated 28<sup>th</sup> March 2018, amongst other matters, the claim was transferred to this Tribunal for the purposes of determining the premium payable and to approve the form of the new lease. It is noted that the costs of the Applicant had been assessed at £6,000 including VAT and that sum was to be deducted from the amount we found to be payable for the premium
3. In support of the application we were provided with a copy of a report from Mr David Field FRICS of Ringley, chartered surveyors dated 28<sup>th</sup> June 2016. However this report was, it would seem, for the purposes of advising the Applicant on a figure which could be inserted in the Initial Notice. Three scenarios were contemplated giving values of £42,115 from the Landlord’s point of view, £33,170 as a possible settlement figure and £22,375 as a figure to be inserted in the Initial Notice.
4. By a later report prepared by Gordon Loughran MRICS of Allied Surveyors and Valuers Limited dated 31<sup>st</sup> May 2018 a figure of £36,200 was advanced as being the premium payable. This report has the correct valuation date, has been prepared for the purposes of an application under sections 50 and 51 of the Act and contains the usual expert’s declaration.
5. It is said by the solicitors for the Applicant that the figures suggested in the two reports are “considerably different”. It is not wholly clear what the purpose was of including the first report. It pre-dates the valuation date and was not provided for the purposes of determining the premium payable following an application to the Court under the Act. It contains no declaration. In addition it is noted that the possible settlement figure is not far removed from the value attributed by Mr Loughran.
6. Mr Loughran’s report speaks to a capitalisation rate of 6%, a deferment rate of 5.25%, a long lease value of £420,000 with a 1% discount from freehold to long leasehold. As to relativity Mr Loughran has suggested a rate of 85.43% based on an adjusted Savills graph and a Gerald Eve Graph.

### **The tribunal's determination**

7. We find that the report of Mr Field should not be considered by us for the reasons set out above at paragraph 5.
8. We therefore confine our decision to considering the report of Mr Loughran. We have considered the comparable evidence put forward and accept the long lease value of £420,000.
9. The uplift of 1% for the freehold is uncontentious and we are in agreement with the capitalisation rate of 6%. The deferment rate of 5.25%, for the reasons set out in Mr Loughran's report is noted, but not accepted by us. As he himself says there must be compelling evidence to depart from the 5% set by the Upper Tribunal in Sportelli and as revisited by the Court of Appeal. In this case it is said that the repairing obligations are a "little ambiguous". The lease is, in effect a full repairing and insuring lease. We do not see that this imposes any management problems justifying the departure from the 'Sportelli' rate of 5%.
10. Mr Loughran has advanced arguments to support his view on relativity. We have noted all that has been said. He appears to be arguing for a relativity based on the Savills enfranchiseable graph of 87.20% from which he has deducted 3.25% to represent the discount for the "No Act World". This he says gives a percentage of 83.95%. However he then adopted the Gerald Eve Graph of 86.66% and the Savills figure, which he includes at 84.20%, which is inexplicably inconsistent with his earlier assessment of 83.95% to achieve an average of 85.43%. If we apply the 86.66% and 83.95% we find a relativity of 85.30%. In accepting, in this case, his views on the basis of calculating relativity for this lease, we find that the rate should be 85.30%, following his own figures.
11. Applying these elements to the valuation we find that the premium to be paid for the new lease is £37,713 as set out on the attached valuation.
12. The terms of the extended lease, the draft of which was included in the bundle before us is approved (see tab 11 of the bundle) save that we consider that the grant should be with limited title guarantee and that the signature clause should be amended to provide for execution by a District Judge of the County Court as set out at paragraph 2 of the said Order.

**Name:** Tribunal Judge Dutton      **Date:** 18th June 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).

**Appendix A****First Tier Tribunal (Property Chamber)**

Ref: GM/LON/00AJ/OLR/2018/0635

**40 Drayton Bridge Road London W7 1EX**

Valuation Date 21 July 2017

Lease granted for 99 years from 25 December 1987

Unexpired term 69.43 years

Ground rent £100 pa until 2020

£200 until 2053

£300 for the remainder

Unimproved vacant freehold value £424,242

Extended lease value £420,000

Capitalisation rate 6%

Deferment rate 5%

Value of existing lease £361,878

Relativity 85.30%

**Valuation of Freeholder's current interest**

Ground rent - 1st period	£100		
YP 3.43 years @ 6%	3.0193	£302	
Ground rent - 2nd period	£200		
YP 33 years @ 6%	14.2302		
Deferred 3.43 yrs @ 6%	0.8188	£2,330	
Ground rent - 3rd period	£300		
YP 33 years @ 6%	14.2302		
Deferred 36.43 yrs @ 6%	0.1197	£511	
Reversion to freehold value	£424,242		
Deferred 69.43 yrs @ 5%	0.0338	£14,339	
<b>Freeholder's current value</b>			<b>£17,482</b>

**Value after grant of extended lease**

Ground rent for 159.43 years	£0		
Reversion to freehold value	£424,242		
Deferred 159.43 yrs @ 5%	0.0004186		£178

**Diminution in freeholder's interest**

£17,304

**Marriage Value**

Value after enfranchisement			
Freeholders interest	£178		
Tenant's interest	£420,000	£420,178	

Value before enfranchisement

