



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

<b>Case Reference</b>	:	LON/00BB/OLR/2018/1613
<b>Property</b>	:	Upper Maisonette, 137 Field Road, Forest Gate, London E7 9DH
<b>Applicant</b>	:	Annette Sylvia Beckford
<b>Representative</b>	:	James Hayes MRICS
<b>Respondent</b>	:	Gurvinder Pal Singh and Sulekha Sethi
<b>Representative</b>	:	Mark Dooley, MRICS
<b>Type of Application</b>	:	Enfranchisement
<b>Tribunal Members</b>	:	Robert Latham Ian Holdsworth
<b>Date and venue of Hearing</b>	:	8 May 2019 at 10 Alfred Place, London WC1E 7LR
<b>Date of Decision</b>	:	8 May 2019

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**DECISION**

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The Tribunal determines that the premium payable by the Applicant in respect of the extension of his lease at Upper Maisonette 137 Field Road, Forest Gate, London E7 9DH is £37,250.

**Introduction**

1. This is an application made pursuant to Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid and the terms for a new lease.

**Background**

2. The background facts are as follows:  
(i) The flat: Upper Maisonette, 137 Field Road, Forest Gate, London E7 9DH;

- (ii) Date of Tenant's Notice: 11 April 2018;
- (iii) Valuation Date: 11 April 2018;
- (iv) Date of Application to the Tribunal: 14 December 2018;
- (v) Tenant's leasehold interest:
  - Date of Lease: 29 September 1982;
  - Term of Lease: 99 years;
  - Ground Rent: £25.
- (vi) Landlord: Annette Sylvia Beckford;
- (vii) Tenant: Gurvinder Pal Singh and Sulekha Sethi;
- (viii) Tenant's Proposed Premium: £27,000;
- (ix) Landlord's Proposed Premium: £40,775.

### **The Hearing**

3. The hearing of this application took place on 8 May. The Applicant, tenant, was represented by Mr James Hayes MRICS. The Respondent, landlord, was represented by Mark Dooley, MRICS.
4. On 15 February signed a Statement of Facts and Issues in dispute. The following matters are agreed:
  - (i) Valuation Date: 12 April 2018;
  - (ii) Unexpired Term: 63.46 years;
  - (iii) Capitalisation Rate: 7%;
  - (iv) Deferment Rate: 5%;
  - (v) Unimproved Extended Lease Vacant Possession Value: £350,000;
  - (vi) Uplift to Freehold VP Value: 1%.
  - (vii) Freehold VP Value: £353,500.
5. The one issue in dispute was relativity. The matter had been set down for two days. The Application Bundle was only filed on the morning of the hearing. It should have been filed one week before the hearing. Both experts agreed that this was a half day case. In these days of financial stringency, it is not acceptable for the parties to file bundles late and to fail to give the tribunal an unrealistic estimate of the time required for the hearing.

### **Relativity**

6. Despite the guidance given by the Upper Tribunal ("UT") in *Sloane Stanley Estate v Mundy* [2016] UKUT 223 (LC); [2016] L&TR 32, neither party adduced any evidence of short lease sales in the locality. The experts had agreed that there was no relevant evidence of such sales and that the Tribunal should therefore resort to the use of graphs. We find the absence of evidence of local transactions extremely surprising.
7. Mr Hayes, for the tenant, urged us to adopt a figure of 88.3% which was an average of the five non-PCL graphs from the RICS Report. He stated that *Mundy* was "not a particularly important decision with regards

properties outside of PCL”. We disagree. The guidance given by the UT as to the approach to be adopted is as relevant anywhere in England and Wales. Neither did he provide the full background notes to the RICS Graphs or identify the respective strengths and weaknesses of the five graphs. His approach was rather that the local market in Forest Gate would have equal regard to each of these five graphs.

8. Mr Dooley rather urged us to adopt a figure of 80.5%. He argued that the most appropriate evidence is to be derived from the recent graphs published by Savills in June 2016 and Gerald Eve in 2016. These both support his suggested figure. He suggested that these had now superseded the earlier graphs. He accepted that these related primarily to PCL. However, he suggested that they would be equally relevant to Forest Gate. He referred us to two UT decisions:

(i) *Judith Reiss v Ironhawk Ltd* [2018] UKUT 311 (LC), a decision involving 76 Hampden Lane London N17 (Tottenham). The agreed long lease value of the property was £250,000, suggesting that it was at the lower end of the market. The UT assed a relativity rate of 86.9% for an unexpired term of 75.23 years. Andrew Trott FRICS concluded that there was no reliable local evidence, and chose to rely on the 2015 Savills’ enfranchiseable graph making a 2.5% deduction to compute the relativity without Act rights.

(ii) *Sinclair Gardens Investments (Kensington Ltd)* [2017] UKUT 494 (LC), a decision involving George Court, Chelmsford. The UT assessed a relativity of just under 82% for an unexpired term of 66.8 years for an unexpired term of 66.81 years based on short lease sales. This was an appeal by the landlord, in which the tenant did not participate. In such circumstances, Peter McCrea FRICS was reluctant to embark upon an extensive analysis of the landlord’s written representations.

### **Our Determination**

9. This is yet a further case in which the tribunal is required to determine the issue of relativity on the basis of evidence that is far from satisfactory. Relativity may vary over time, reflecting changes in the market and the economic environment. Changes to interest rates, the property tax regime, the availability of mortgages for short leases and the numbers of buy-to-let landlords and foreign investors all impact on relativity.
10. The impact of these changing market conditions will vary on the different property markets. The UT in *Mundy considered* the influence that relativity graphs may have had upon the market in the past. It is possible that the market might perform differently in the future. For example, less weight may be given in the local market to a particular graph or a new graph might emerge. If such developments affect market behaviour, then they must be taken into account. Tribunal decisions may also influence

valuers, and in turn influence parties in the local market. If this were to occur, then the changed market circumstances before a relevant valuation date, must be taken into account when considering market value at that date.

11. In determining relativity, we must focus on the state of the market in Forest Gate at the valuation date. In the absence of any evidence of local transactions, we must consider what relativity graph was used by the local market at the time or which graph best reflects the operation of that local market.
12. Mr Hayes, for the tenant asks us to have regard to the average of the five 2009 RICS graphs. All of these have been criticised. However, they seek to reflect the market outside prime Central London, albeit in 2009.
13. Mr Dooley, for the landlord, asks us to have regard to the Savills June 2016 Graph and the Gerald Eve 2016 Graph. Both give a similar figure. Savills provide a detailed analysis of their methodology. We would have no hesitation in accepting it as the best market evidence for Prime Central London at the valuation date. The problem is that we are not dealing with Prime Central London.
14. In our experience as an expert tribunal, the local market in Forest Gate is quite different from Prime Central London. This reflects a range of factors. The market is less well informed. There is a greater demand for shorter leases.
15. We prefer the landlord's evidence, but consider that some adjustment must be made for the local market in Forest Gate. We therefore taking the landlord's figure of 80.5% as our starting point, but add 2% to reflect the local market conditions in Forest Gate.

### **Conclusion**

16. We make the following determinations on the three issues in dispute:
  - (i) Relativity is to be taken as 82.5%;
  - (ii) We determine the premium payable to be £37,250. Our working calculation is set out in the Appendix.

**Judge Robert Latham**  
**8 May 2019**

## **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.

<b>137 Field Road Forest Gate London E7 9DH</b>			
Reference: GM/LON/00BB/OLR/2018/1613			
<b>Lease and Valuation Data</b>			
Lease Term:		29/09/1982	
Lease Expiry date:		28/09/2081	
Unexpired term as at valuation date:	63.46		years
Date of Valuation		12/04/2018	
Rent receivable by landlord:			
Payable from valuation date for 63.46 years	£	25	
<b>Values</b>			
Extended lease value on statutory terms	£	350,000	
Notional Freehold	£	353,500	
LHVP with current term unexpired	£	291,638	Relativity 82.5%
Capitalisation rate (%)		7.00	
Deferment rate (%)		5.00	
<b>Value of Freeholders present interest</b>			
<b>Term 1</b>			
Ground rent payable	£	25	
YP @ 63.46 years @ 7%		14.09064	£ 352
Reversion			
Freehold in vacant possession	£	353,500	
Deferred @ 63.46 years @ 5%		0.04522	£ 15,985
Current value of the freeholders interest			£ 16,337
Less			
Freehold value after leasehold extension	£	353,500	
PV of £1 in 153.46 years at 5%		0.00056	£ 198
Freeholders interest value			£ 16,139
<b>Marriage value</b>			
Value of flat with long lease on statutory terms	£	350,000	
Landlords proposed interest	£	198	£ 350,198
Less			
Value of Leaseholders existing interest	£	291,638	
Value of Freeholders current interest	£	16,337	£ 307,975
Marriage value	<b>Total</b>		£ 42,223
Division of Marriage Value equally between			
Freeholder			£ 21,112
Leaseholder			£ 21,112
<b>Price payable to Freeholder</b>			
Value of freeholders current interest			£ 16,139
Plus share of marriage value			£ 21,112
		<b>Total</b>	<b>£ 37,251</b>
		<b>Say</b>	<b>£ 37,250</b>
08/05/2019			