



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

Case Reference : **LON/00AH/OLR/2018/0752**

Property : **Top floor flat, 21B Woodstock Road, Croydon, Surrey CR0 1JS**

Applicant : **John Timothy Barber**

Representative : **McMillan Williams Solicitors Ltd**

Respondent : **Alfred Leonard Curd**

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 16 July 2018
10 Alfred Place, London WC1E 7LR**

Date of Decision : **30 July 2018**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the premium payable on the grant of a new lease of the top floor flat at 21B Woodstock Road, Croydon, Surrey CR0 1JS (“the property”) is the sum of £12,650.
- (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 Hay sitting at the County Court at Croydon on 23 May 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 19 January 2018 by McMillan Williams Solicitors Ltd 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 his 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 30 April 2018 for use in tribunal proceedings addressed to the tribunal and prepared by Jonathan F Dean MA (Cantab) MRICS of Forbes Dean Associates. The report contained the requisite declarations required of a Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 16 July 2018. No inspection of the property was deemed necessary given the description, plans and photographs included in the report.

The evidence

5. From Mr Dean’s description of the property and the photographs it is a self-contained flat on the top floor of a three storey former semi-detached house converted into three flats dating from circa 1910. It comprises two rooms, kitchen and bath/wc. There is a section of the garden to the rear. No want of repair is noted in the report but Mr

Dean notes that the accommodation is affected by sloping ceilings and that the kitchen has been upgraded and there is central heating. The GIA ignoring the first floor entrance lobby and those areas with less than 1.5m headroom is said to be 52 m²

6. The property is held on a 99 year lease from 1st July 1994 subject to ground rent payments of £150 per annum for the first 33 years rising to £250 for the next 33 years and to £350 for the final 33 years.
7. At the Valuation Date, 19 January 2018, the lease had 75.44 years unexpired.
8. Mr Dean provides market evidence for the extended lease value of the property as at the Valuation Date by reference to three completed transactions involving similar properties at around that time the details of which are provided in the report. He also refers to a fourth property said to be “under offer” currently. 22b Chatsworth Road sold for £225,000 in December 2016 on a lease with 107 years remaining and a GIA of 47m². Flat 1, 1 Birdhurst Road sold for £233,000 in July 2017 with an unexpired term of 105 years and a GIA of 50 m². It also has a car parking space. 24C Moreton Road achieved a sale price of £235,000 in August 2017 with some 95 years left on the Lease. This again has a parking space and a GIA of 53 m² while Flat 5, 5 Campden Road is presently under offer at £220,000 for the 117 years unexpired term. In Mr Dean’s opinion all save Chatsworth Road are slightly better locations and values did not rise or fall throughout 2017. From this evidence he values the freehold interest in the subject property at £225,000 and the long leaseholder interest at 99% of this.
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 6.5% 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 called graphs of relativity whereby various valuers practising in the field of enfranchisement and lease extensions express their opinions of the value in the “no Act world” that a lease for any given unexpired term would have as a percentage of the freehold value of the same property. An RICS working party produced a report in 2009 which published various of these graphs including five said to relate to Outer London and England. Mr Dean adopts the average of these five graphs to suggest that the value of the existing lease term in the subject property with 75.44 years unexpired and without any rights under the Act is some 95.23% of the freehold value or £217,124.

11. His valuation attached to his report produces a premium of £8,891.

The decision

12. The tribunal is satisfied that Mr Dean's valuations of the freehold and extended leasehold interest are broadly supported by the evidence he provides in his report. However all of his comparable transactions are of properties sold on long leases and it looks a little odd that he derives a freehold value directly from them. His 1% differential between long lease and freehold values is a fairly commonly adopted practice but the tribunal's view is that his figure of £228,000 should relate to the long leasehold interest to be granted with the 1% applied as an uplift to this to give a freehold value of £230,280 but say £230,000.
13. Mr Dean's use of a 6.5% rate to capitalize the passing ground rents and of 5% to defer the value of the reversion to the term date are perfectly proper and accepted by the tribunal.
14. Mr Dean refers to the Upper Chamber's guidance in *Sloane Stanley Estate v Mundy* but offers no evidence of open market sales of properties held on shorter lease terms. It has been the tribunal's experience that in cases where reliable open market sales' evidence has been produced relativities lower than shown by any of the graphs generally result.
15. In the absence of sales evidence the use of so called graphs of relativity is a common practice, indeed he refers to it as a convention, and the five graphs referred to by Mr Dean 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 five that he does, does not make them more reliable. They range from 93.72% to 96.66% for this length of unexpired term which is not too wide a spread to be covered by averaging. The Gerald Eve – John D Wood (1996) graph, the only graph given some credence by the Upper Chamber in *Sloane Stanley*, shows a relativity of leasehold to freehold value with 75.44 years unexpired of some 90.5%. The relativity adopted by Mr Dean of 95.23% produces a valuation calculation in which the marriage value generated is, rather surprisingly, expressed as a negative amount. In the tribunal's view some marriage value must result from the grant of an additional 90 years to a term of 75 odd years. Doing the best it can in all the circumstances the tribunal determines the appropriate relativity to be 92%. Its valuation is attached showing the premium to be paid is £12,650.

16. It is confirmed there are no outstanding demands for ground rent or service charges which have been lawfully demanded and have not been paid.
17. District Judge Hay's Order of 23 May 2018 required also that the tribunal determines the terms of the new lease. The tribunal has been provided with a draft of the deed of surrender and re-grant in the bundle and having carefully considered the document is satisfied that the proposed terms comply with the requirements of the Act.

Name: Patrick M J Casey

Date: 30 July 2018

LON/00AH/OLR/2018/0752

**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
Top floor flat, 21B Woodstock Road, Croydon, Surrey CR0 1JS**

Valuation date: 19 January 2018 – Unexpired term 75.44 years

Diminution in Value of Freehold Interest

Capitalization of ground rent pa YP for 9.44 years @ 6.5%	£150 <u>6.890</u>		£1,034
Capitalization of ground rent pa YP for 33 years deferred 9.44 years @ 6.5%	£250 <u>7.429</u>		£1,857
Capitalization of ground rent pa YP for 33 years deferred 42.44 years @ 6.5%	£350 <u>0.929</u>		£325
Reversion to F/H value with VP Deferred 75.44 years @ 5%	£230,000 <u>0.02521</u>	£5,798	
Less value of F/H after grant of new lease Deferred 165.44 years @5%	£230,000 <u>0.00032</u>	£74	<u>£5,724</u> £8,940

Marriage Value

After grant of new lease

Value of extended lease	£228,000		
Plus freehold value	<u>£74</u>	£228,074	
<i>Before grant of new lease</i>			
Value of existing lease @ 92% f/h	£211,600		
Plus freehold value	<u>£9,014</u>	£220,614	
		£7,460	£3,730

50% share to Freeholder £12,670

Premium Payable Say £12,650

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).