



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

Case reference : **LON/00AQ/OLR/2018/1029**

Property : **Flat A, 96 Park Lane, South Harrow, HA2 8NL**

Applicant : **Propertywide Services Ltd**

Representative : **Mr A Cohen, MRICS**

Respondent : **Barbara Ann Partleton**

Representative : **Mr T J Palmer BSc (Hons) MRICS**

Type of application : **Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993**

Tribunal members : **Judge I Mohabir
Mr D Jagger MRICS**

Date of hearing and venue : **11 December 2018
10 Alfred Place, London WC1E 7LR**

Date of decision : **13 December 2018**

DECISION

Background

1. This is an application made by the Applicant qualifying tenant 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 for the grant of a new lease of Flat A, 96 Park Lane, South Harrow, HA2 8NL (the “property”).

2. The property is described as being a self-contained converted flat on the first floor of an extended two storey 1930's built semi-detached house, which has been converted into 3 flats of varying sizes. It is comprised of a double bedroom, lounge, kitchen and bathroom/WC.
3. The property is accessed via a communal front door and lobby up to the landing and has a gross internal area of 45 square metres. There is no access to any outside space, garage or off-street parking facility. On street parking is permitted in Park Lane, which is not subject to any restrictions.
4. By a notice of a claim dated 25 January 2018, served pursuant to section 42 of the Act, the Applicant exercised the right for the grant of a new lease of the property and proposed to pay a premium of £7,870.
5. On 6 February 2018, the Respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £23,420.
6. On 3 August 2018, the Applicant applied to the Tribunal for a determination of the premium and terms of acquisition.

The Issues

Matters Agreed

5. These are set out in the Statement of Agreed Facts annexed hereto.

Matters Not Agreed

6. These were:
 - (a) the new lease value on an unimproved basis.
 - (b) the appropriate freehold relativity to arrive at the existing short lease value on an unimproved basis.
7. Neither party asked the Tribunal to inspect the property and the Tribunal did not consider it necessary to carry out a physical inspection to make its determination.
8. The Applicant relied upon the expert report and valuation of Mr Cohen, FRICS dated 28 November 2018 and the Respondent relied upon the expert report and valuation of Mr Palmer, BSc (Hons) MRICS dated 26 November 2018.

Decision

9. The hearing in this case took place on 11 December 2018. The Applicant and Respondent were represented by Mr Cohen and Mr Palmer respectively.

New Lease Value

10. It is now the settled view that the correct valuation approach under the Act to be taken was, firstly, to look at evidence in the real market¹ and, secondly, to graphs of relativity where the market evidence provided was insufficient.
11. Both valuers relied on a number of sales of properties with extended leases or a share of the freehold within a year of the valuation date as market evidence of the long lease value. Both agreed that no adjustment for time on the sale process was necessary, as the market values had not moved materially in the interim.
12. At the hearing, both valuers agreed that from their “basket” of comparable properties, the most relevant were the sales relating to 78 Park Lane and 321 Eastcote Lane, both of which are local to the subject property. Therefore, the Tribunal’s decision on the extended lease value is based on a consideration of these properties.
13. 78 Park Lane was sold in July 2017 for £289,000. From the sale price, Mr Cohen made a downward adjustment of 10% (£29,000) for the rear garden, £10,000 for the garage. £5,000 for the parking space and £2,000 for the installation of double glazing as a tenant’s improvement. He made the same adjustments in respect of 321 Eastcote Lane, save for the absence of a garage. In so doing, he arrived at a long lease value of £240,000 for the property on an unimproved basis.
14. Mr Palmer made similar adjustments in relation to 78 Park Lane by deducting 10% overall for the lack of an off road parking space and garden. He, therefore, concluded that the extended lease value of £260,000.
15. Both valuers then applied a 1% uplift to their extended lease values to arrive at the freehold vacant possession value.
16. The Tribunal considered that the deduction of 10% generally applied by Mr Cohen for the lack of a garden was excessive. Neither valuer relied on any particular evidence in arriving at their respective deductions in respect of the garden. In the absence of any such evidence, and doing the best it can in the circumstances, the Tribunal found that a deduction of £20,000 should be made for the lack of a garden.

¹ See *Sloane Stanley Estate v Mundy* [2016] UKUT 0233 (LC) at para. 17

17. The Tribunal considered that a deduction of £10,000 was appropriate for the lack of a garage. It did not accept the submission made by Mr Palmer that the absence of otherwise of a garage did not have an affect on value because it was invariably used as storage space.
18. The Tribunal also considered that a further adjustment should be made for the lack of a parking space and accepted Mr Cohen's adjustments of £5,000 and £10,000 for 78 Park Lane and 321 Eastcote Lane respectively. The former has a garage in addition whereas the latter does not. Indeed, Mr Palmer agreed that an adjustment of £10,000 for the lack of a parking space was appropriate in respect of 321 Eastcote Lane.
19. As to the adjustment of £2,000 made by Mr Cohen for the installation of double glazing at both properties, the Tribunal considered this to be unnecessary because this amounted to a replacement and not an improvement that accrued to the tenants.
20. Applying the Tribunal above findings on the adjustments to be made to the sale prices for 78 Park Lane and 321 Eastcote Lane, the adjusted long lease values are £254,000 and £260,000 respectively. An averaging of both figures results in a value of £257,000, which the Tribunal found to be the extended lease value for the property.

Relativity

21. Mr Palmer contended for a relativity figure of 85.68% on the basis that it was close to the average of 87.2% in the Savills 2015 graph and 84.298% in the Gerald Eve graph for the unexpired term of the lease.
22. In support of this, Mr Palmer submitted that these graphs were in fact used by the Upper Tribunal in the case of *Mallory v Orchidbase* for a property in Hemel Hempstead, as it considered it appropriate to do so.
23. The Tribunal rejected Mr Palmer's submission for a number of reasons. Firstly, *Mallory* did not establish as a general proposition that the Savills and Gerald Eve graphs should be adopted for relativities of properties outside prime central London properties. In that case, the Tribunal in fact based its decision on actual sales of short leases and not on the graphs. In addition, Mr Palmer was unaware that the graphs were only based on properties within the prime central London area and he accepted, therefore, that relativities would be lower than for properties outside this area.
24. Secondly, he told the Tribunal that he had earlier this year acted for a tenant in preparing a valuation for a lease extension in which he had not adopted the same methodology in relation to relativity he advanced in this case. When asked why by the Tribunal, he was unable to satisfactorily explain why he had taken a different approach in that matter.

25. It follows, that the only coherent evidence on relativity before the Tribunal was from Mr Cohen. Therefore, the Tribunal accepted his relativity figure of 91.6% should be adopted. This had been based on taking an average of the appropriate relativities in the Beckett & Kay 2009, Nesbitt & Co and Andrew Pridell graphs.
26. A 1% uplift then had to be applied to the extended lease value of £257,000 to arrive at the freehold value £259,600.
27. The Tribunal determined the appropriate premium to be paid fby the Applicant for the new lease is **£14,976**. A copy of its valuation calculation is annexed to this decision.

Name: Judge I Mohabir

Date: 13 December 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).

96A Park Lane Harrow HA2 8NL

APPENDIX A

The Tribunal's Valuation

Assessment of premium for Enfranchisement

In accordance with the Leasehold Reform, Housing and Urban Development Act 1993

AB/LON/00AQ/OLR/2018/1029

Components

| | | |
|-----------------------------------|-------------|----------------|
| Valuation date: | 26/01/2018 | |
| Deferment rate: | 5% | |
| Capitalisation rate: | 6.5% | |
| Freehold value: | £259,600 | |
| Long lease value | £257,000 | |
| Existing leasehold value | £237,638 | |
| Relativity | 91.54% | |
| Unexpired Term | 69.16 years | |
| Ground rent currently receivable | £60 | |
| Capitalised @ 6.5% for 3.16 years | 2.7741 | £166 |
| Rising to: | £120 | |
| Capitalised @ 6.5% for 33 years | 13.4591 | |
| Deferred 3.16 years @ 6.5% | 0.8196 | £1,324 |
| Rising to: | £240 | |
| Capitalised @ 6.5% for 33 years | 14.23 | |
| Deferred 36.16 years @ 6.5% | 0.1026 | £331 |
| Reversion to freehold value: | £259,600 | |
| Deferred 69.16 years @ 5% | 0.0342 | <u>£8,878</u> |
| | | £10,699 |
| Less New Reversion | | |
| Freehold Value | £259,600 | |
| Deferred 159.16 years @ 5% | 0.000424 | £110 |
| Diminution in landlords interest | | £10,589 |

Marriage Value

Value of Proposed Interests

| | | |
|--------------------------------------|----------|----------|
| Value of extended lease | £257,000 | |
| Value of landlords proposed interest | £110 | £257,110 |

Value of Existing Interests

| | | |
|---------------------------|-----------------|-----------------|
| Landlord's existing value | £10,699 | |
| Existing leasehold value | <u>£237,638</u> | <u>£248,337</u> |
| | | £8,773 |

Freeholders share @ 50% **£4,387**

LEASE EXTENSION PREMIUM **£14,976**

IN THE FIRST-TIER TRIBUNAL (PROPERTY CHAMBER)

CASE NO: TS/LON/00AQ/OLR/2018/1029

IN THE MATTER OF 96A PARK LANE, HARROW, MIDDLESEX, HA2 8NL

BETWEEN :-

BARBARA ANN PARTLETON (The Landlord)

-and-

PROPERTYWIDE SERVICES LIMITED (The Tenant)

STATEMENT OF AGREED FACTS & MATTERS IN DISPUTE

GENERAL MATTERS:

The subject property is a self-contained flat on the first floor of a two storey building in the Harrow area of Middlesex.

The accommodation is as follows; landing, double bedroom, lounge, kitchen and bathroom/W.C.

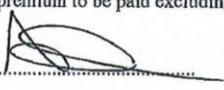
The flat is held under a lease for a term of 99 years from the 24th March 1988. The ground rent reserved in the lease is £60 per annum for years 1 to 33, £120 per annum for years 34 to 66 and £240 per annum for years 67 to 99.

AGREED MATTERS:

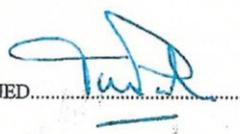
- The date of valuation is the 26th January 2018
- The unexpired term at the Date of Valuation was 69.16 years
- The appropriate capitalisation rate is 6.5%
- The appropriate deferment rate is 5%
- The proposed new long leasehold value is 99% of the freehold value.

MATTERS TO BE DETERMINED:

- The proposed new lease value on an unimproved basis
- The appropriate freehold relativity and hence the existing short lease value on an unimproved basis
- The premium to be paid excluding costs

SIGNED.....

Andrew Cohen
Talbots Surveying Services
28th September 2018

SIGNED.....

Tim Palmer
McNeill Lowe & Palmer LLP
28th September 2018