



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

Case Reference : **RC/LON/00BB/OLR/2019/0793**

Property : **First Floor flat, 87B Woodford Road, Forest Gate, London E7 0DL**

Applicant : **Michael Bolsover & Mary Catherine Brooks**

Representative : **Comptons Solicitors LLP**

Respondents : **Brian David Thompson**

Representative : **Did not appear and was not represented**

Type of Application : **Section 50 of the Leasehold Reform, Housing and Urban Development Act 1993**

Tribunal Members : **Judge M Daley
Mr D Jagger MRICS**

Date and venue of Determination : **20 August 2019
10 Alfred Place, London WC1E 7LR**

Date of Decision : **20 August 2019**

DECISION

Introduction

1. This is an application made by the Applicant under section 50 of the Leasehold Reform, Housing and Urban and Development Act 1993 (as amended) (“the Act”) for a determination of the premium to be paid for the grant of a new lease for the property known as First Floor Flat 87B Woodford Road, Forest Gate, London E7 0DL (“the property”).
2. The Applicant is the lessee of the first floor converted flat, which is set in a two storey mid terrace Victorian building containing two flats, one on each floor.
3. The Respondents are the landlords and freeholders.
4. By a claim form issued on 05 April 2019 under claim number F00ED749 in the Edmonton County Court, the Applicant sought an order under section 50 of Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) that the Applicant was entitled to the grant of a new lease, and to dispense with the service of a section 42 claim notice on the basis that the Respondents could not be found.
5. By an Order dated 27 June 2019, of District Judge Davies the Court recorded that it was satisfied that the Respondents could not be found and that the Applicant was entitled to the grant of a new lease. It ordered, *inter alia* service of the section 42 notice be dispensed with, and the matter transferred to the First Tier Property Tribunal for a determination of the premium to be paid for the grant of the new lease.
6. The valuation evidence relied on by the Applicants is set out in a comprehensive report, prepared by Mr Steven Harding, MICS, Registered Valuer, dated 24 July 2019.

The Law

7. Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (The Act) provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable for other loss.
8. The value of the landlord's interests before and after the grant of the new lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the assumption that the tenant has no rights under the Act to acquire any interest in any premises containing the tenant's flat or to acquire any new lease.

9. Paragraph 4 of the Schedule, as amended, provides that the landlord's share of the marriage value is to be 50%, and that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.
10. Paragraph 5 provides for the payment of compensation for loss arising out of the grant of a new lease.
11. Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Decision

12. The Tribunal relied on the description and location of the property together with photographs given in Mr Harding's report. It is evident that the property was originally configured as a one bedroom flat and has subsequently been subdivided to form two bedrooms with the new bedroom measuring 2.1m x 2.24m. The Tribunal was satisfied that the report was comprehensive, and that Mr Harding understood his duty to the Tribunal and accordingly the Tribunal decided that it was not necessary to carry out an inspection.
13. The existing lease was granted for a term of 99 years from 08 October 1982 with a fixed ground rent of £25 per annum. At the relevant date, namely 05 April 2019, the lease had 64.55 years to run.
14. Because the lease has less than 80 years to run, in accordance with the Act, marriage value was payable at 50 per cent. The Tribunal accepted that compensation under paragraph 5, of Schedule 13 of the Act did not arise. In respect of (any) arrears of rent, the landlord has not served demands in statutory form, so no arrears of rent are payable.
15. The Tribunal decided that the value of the ground rents should be capitalised at 7 per cent. The Tribunal accepted Mr Harding's figure on capitalisation on the basis that the ground rent would not be attractive to an investor due to the relatively small amount receivable and the relatively high cost of collecting it. Mr Harding's evidence accorded with the Tribunal's own knowledge of market values for this type of investment in the area.
16. The Tribunal agree with Mr Robinson's use of 5% for the deferment of the reversion, which is in accordance with the decision in *Sportelli*.
17. The Tribunal in reaching its decision accepted Mr Harding's evidence that the freehold value is £323,500. Based upon the agreed differential of 1% this provides a long leasehold value of £320,265.
18. Mr Harding submitted three comparable properties in his report, namely, (a) 41A Lorne Road, (b) 95A Capel Road and (c) 136 Ramsay Road. In using these properties as comparables he had applied a search area radius of

approximately 0.82km and these were marked on a location map at Appendix 2 of his valuation report.

19. Mr Harding had prepared a detailed analysis of the comparable evidence which was submitted in Appendix 3 of the report. This set out a range of adjustments which Mr Harding had applied such as location, condition, garden and open views. Mr Harding then applied a weighting to the comparable evidence to reflect the appropriateness of each comparable. A weighting of 35% was given to comparable A, 50% to comparable B and 15% applied to C, which Mr Harding assessed as the least comparable. The Tribunal was satisfied he had used a reasonable methodology in order to analysis the best available long lease sales evidence.
20. Mr Harding assessed the existing leasehold value of the flat as £277,000. He derives this figure by analysing the sale of 25A Dames Road, a ground floor converted, one bedroom flat with garden which sold for £320,026 with an unexpired term of 68.5, years. Once again a schedule was prepared indicating appropriate adjustments to be made, such as garden, condition and location. In addition, a discount must be made in order to disregard the existence of the Act on the open market value. (No Act World).
21. Mr Harding then took the difference between the Savills Unenfranchiseable Graph for 68.5 years and the Savills Enfranchiseable Graph which provided a differential of 3.8%. The adjusted short lease value of £277,000 equates to a Relativity of 84.12%. This compares to a very similar Relativity figure of 85.63 by using the average of the Greater London graphs.
22. The Tribunal in reaching its decision has set out the analysis applied by Mr Harding, as it agreed with the approach adopted by him. For this reason it accepted his figure applied to the valuation.
23. The valuation prepared by Mr Harding is annexed hereto and shows the premium payable is **£31,877**.
24. The Tribunal accepted the draft terms of the lease provided by the Applicant's solicitors Compton's which have been approved by the Tribunal in accordance with Section 50 of the Act.

Judge M Daley

22 August 2019

ANNEX - 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.

ANNEX: THE LEGISLATION

Section 50 of the Leasehold Reform, Housing and Urban Development Act 1993

Applications where landlord cannot be found.

(1)Where—

(a)a qualifying tenant of a flat desires to make a claim to exercise the right to acquire a new lease of his flat, but

(b)the landlord cannot be found or his identity cannot be ascertained,

the court may, on the application of the tenant, make a vesting order under this subsection.

(2)Where—

(a)a qualifying tenant of a flat desires to make such a claim as is mentioned in subsection (1), and

(b)paragraph (b) of that subsection does not apply, but

(c)a copy of a notice of that claim cannot be given in accordance with Part I of Schedule 11 to any person to whom it would otherwise be required to be so given because that person cannot be found or his identity cannot be ascertained,

the court may, on the application of the tenant, make an order dispensing with the need to give a copy of such a notice to that person.

(3)The court shall not make an order on any application under subsection (1) or (2) unless it is satisfied—

(a)that on the date of the making of the application the tenant had the right to acquire a new lease of his flat; and

(b)that on that date he would not have been precluded by any provision of this Chapter from giving a valid notice under section 42 with respect to his flat.

(4) Before making any such order the court may require the tenant to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person in question; and if, after an application is made for a vesting order under subsection (1) and before any lease is executed in pursuance of the application, the landlord is traced, then no further proceedings shall be taken with a view to a lease being so executed, but (subject to subsection (5))—

(a) the rights and obligations of all parties shall be determined as if the tenant had, at the date of the application, duly given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat; and

(b) the court may give such directions as the court thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Chapter or of regulations made under this Part.

Valuation of Mr Harding