



**FIRST-TIER TRIBUNAL**

**PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : **LON/00BJ/OCE/2019/0440**

**Property** : **2 Osier Court, Osier Street, London  
E1 4AP**

**Applicant** : **Ms N Vanderiet**

**Representative** : **Mr R Granby of counsel**

**Respondent** : **Sandringham Land Ltd**

**Representative** : **Ms G de Cordova of counsel**

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

**Judge S Brilliant**

**Tribunal members** : **Mr R Shaw FRICS**

**Date of determination  
and venue** : **13 August 2019**  
**10 Alfred Place, London WC1E 7LR**

**Date of decision** : **19 August 2019**

**Date of Extended  
Reasons** : **13 September 2019**

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**DECISION**

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## **Summary of the Tribunal's decisions**

- (1) The appropriate premium payable for the extended lease is £71,204.

## **Background**

1. This is an application made by the applicant leaseholder 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 an extended lease of 2 Osier Court, Osier Street, London E1 4AP ("flat 2").
2. Osier Court consists of two blocks. Flats 1-16, including flat 2, are situated in a 1930's block with its front elevation on the street. Flats 17-30 are situated in an adjoining block to the south, having the same appearance as the older block, but built about 10 years ago.
3. The front elevation of the applicant's block has recently been redecorated externally. The windows to flat 2 are not double glazed, but flat 2 does have gas central heating.
4. The blocks are registered at Land Registry under title number LN17957. The registered proprietor of the blocks is the respondent.
5. The applicant's lease of flat 2 is dated 30 September 1982 and is for a term of 99 years from 29 September 1975 ("the lease"). The applicant purchased the residue of the term of the lease on 14 November 2018 with the benefit of the notice of claim referred to in paragraph 6 below.
6. By a notice of claim dated 31 October 2018, served pursuant to section 42 of the Act, the applicant's predecessor in title claimed a new lease of flat 2. She proposed a premium of £50,000.
7. By a counter-notice dated 17 December 2018, the respondent admitted that the applicant had the right to acquire a new lease of flat 2. It counter-proposed a premium of £114,894.
8. By an application dated 2 April 2019, the applicant applied to the tribunal for a determination of the premium, the terms of the new lease and the s.60 costs.
9. Directions were given on 25 April 2019. By the time of the hearing only the premium was in dispute.
10. Our decision is dated 19 August 2019. On 30 August 2019, the respondent's solicitors wrote to the Tribunal asking for extended reasons, which are now given.

## **The hearing**

11. The hearing in this matter took place on 13 August 2019. The applicant was represented by Mr R Granby of counsel. He called Mr D Nesbit MRICS, who gave oral expert evidence on behalf of the applicant in accordance with a written report dated August 2019.
12. The respondent was represented by Ms G de Cordova of counsel. She called Mr M Kotak MRICS, who gave oral expert evidence on behalf of the respondent in accordance with a written report prepared by himself and Mr E Shapiro FRICS.
13. Neither party invited the Tribunal to conduct an inspection prior to the hearing, nor would it have been proportionate to have done so.

### **The issues**

### **Matters agreed**

14. The following matters were agreed between the respective experts by the time of the hearing:

Date of valuation	1 November 2018
Lease	99 years from 29 September 1975
Unexpired term at valuation date	55.91 years
Rent for first 33 years	£30 per annum
Rent for second 33 years	£60 per annum for second 33 years
Rent for third 33 years	£90 per annum for third 33 years
Area of flat 2	615 square feet
Deferment rate	5%
Capitalisation rate	6.25%
Act rights	7.3%
Existing (short) lease value (without Act rights)	£296,640

### **Matters in dispute**

15. The following matters remained in dispute:

Long lease value	
Relativity	
Share of freehold	

*Mr Nesbit's evidence*

16. Mr Nesbit produced long lease evidence for flats 9, 3, 5, and 20 Osier Court. He said that flat 9, which had sold in November 2018 for £392,500, was in a similar condition to the subject flat and on the ground floor. He said that flat 3, on the first floor, had sold in October 2018 for £510,000. He described this as architecturally refurbished.

17. He also referred to flats 5 and 20 which had been marketed in December 2018 and March 2019, but were later withdrawn and not sold. He said that the asking price of both of these was no more than £475,000. In view of these asking prices he suggested that this providing context to where the subject flat's valuation was not.

18. Under questioning Mr Nesbit suggested that the sale price of flat 3 could be adjusted for outside space between 5% and 10%, and settled on 7.5% which produced £38,250. For floor difference he also suggested between 5% and 10%, and settled on 7.5% which produced £38,250. And for condition he suggested an allowance of £75 psf. He said that this was a possible adjustment of the sale price to £387,450.

19. Mr Nesbit suggested that the sale price of the subject flat (£320,000) when divided by the Savills Enfranchisable graph for the corresponding number of years at 81.4% produces a share of freehold value of £393,120. He said that this was almost identical to the long lease sale of flat 9 at £392,500 which shows a freehold value of £396,464. He adopted these amounts for the basis of his valuation. He contended for £61,449.

20. As a check on relativity Mr Nesbit compared the actual sale price of the subject flat to the flat 9 adjusted long lease sale price to share of freehold. Having adjusted this for Act rights he said this gave a relativity of 0.747%. He compared this to the Gerald Eve 2015 (0.783%) and the Savills 2015 (0.754%) graphs.

*Mr Kotak's evidence*

21. Mr Kotak referred to the sales of flat 9 sold on 14 November 2018 for £392,500, and flat 3 sold on 10 October 2018 for £510,000. He said that flat 3 had not been refurbished to any particular degree and it does not have double glazing. He produced photographs of the kitchen and bathroom.

22. He then referred to sales of flat 5 sold in December 2011 for £320,000, flat 17 sold November 2015 for £475,000, and flat 22 sold October 2015 for £475,000. He produced the following table to show the consistency of flat sales other than flat 9.

Valuation date		1/11/2018		107.65	
	Date of sale	Price	Unexpired term	LR index	Index value
Flat 9	9/11/2018	£392,500	145.87	107.65	£392,500
Flat 3	10/10/2018	£510,000	91.2	107.1	£512,619
Flat 3	5/7/2011	£310,000	98.47	68.41	£487,816
Flat 5	22/12/2011	£320,000	98	71.38	£482,600
Flat 17	2/11/2015	£475,000	117.9	108.16	£472,760
Flat 22	12/10/2015	£474,000	117.96	104.76	£488,104

23. Mr Kotak adjusted these indexed values to freehold and produced an average of £499,078. He said that he has adopted £499,000 rather than the most contemporary evidence of the sale of flat 3 which shows £525,435. He said that this was to make allowance for the difference between the subject flat and the comparables.

24. Mr Kotak agreed that relativity graphs were not appropriate in this case as there is actual sales evidence, and both experts have used 7.3% to reflect the no Act value. However, he did suggest that the Beckett & Kay 2017 mortgage dependent Greater London graph indicates a relativity of 65% for this lease length.

25. Based on his valuation evidence, Mr Kotak contended for a premium of £115,838.

### *Discussion*

26. All the comparables relied upon are other flats in Osier Court.

27. Flat 5 was placed on the market in 2011 at an adjusted price of £482,600. Flat 20 was placed on the market in 2019 at a price of 475,000. Neither property sold before being withdrawn from the market. This would

appear to put a ceiling on value. Flat 3, sold in October 2018, stands out as it is the only flat to have been sold, or put on the market, in excess of £500,000.

28. Flats 3, 5, 17 and 22 were sold between 2011 and 2015. We attach little weight to these figures as index adjustment is considered less reliable when we have sales very close to the valuation date. The comparable sales are of similar flats in the same block, within several days of the valuation date. These are found to be most compelling comparables.

29. We therefore prefer to rely on the sales of flat 9 (£392,500 in November 2018) and flat 3 (£510,000 in October 2018) which were both very close to the valuation date.

30. However, flat 3 seems exceptional both in price and the description given to us. Although the date of the refurbishment was not stated we accept it is in better order and more modern than the other comparables. The sale price of this flat therefore needs to be adjusted as it is on the first floor, has outside space and is more modern. We adjust (a) 5% for the first floor, say £25,000, (b) 5% for the outside space, say £25,000, and £50 per square foot for modern/improvement at 615 ft<sup>2</sup>, say £30,750. The respective reductions in respect of these matters are therefore £25,000, £25,000 and £30,750. This totals £80,750. The price of flat 3 so adjusted is £429,250.

31. We take as the long lease value for flat 2 the average of £392,500 and £429,250, which is £410,875.

#### *Freehold value*

32. Flat 9 was sold for £392,500. The converted freehold value is £396,464.

33. The adjusted value of flat 3 is £429,250. The converted freehold value is £433,589. The average of these figures is £415,027, which we adopt as a freehold value for flat 2.

#### *Relativity*

34. Neither valuer relied on the graphs, but each refers to the relativity that is produced by the inputs merely as a check to support these inputs.

#### *The premium*

35. Using the above figures, the premium to be paid is £71,204. The calculation is at Appendix 1.

**Name:** Judge Simon Brilliant

**Date:**

19 August 2019, redated 13  
September 2019

## 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).

New lease claim	Valuation date	01/11/2018
Present lease	99 Years	From 29/09/1975
Years unexpired	55.91	
Existing lease value	£410,875	Flat value
YP	6.25%	FV
YP	5%	FV

<b>Diminution in value of landlord's interest</b>			
Value before grant of new lease			
Term			
YP	6.25%	12.01	720
Deferred			

Rent	£	90
YP	6.25%	13,836
Deferred	22.99 yrs	6,245

Reversion			
Flat value (F/H)	£	415,027	
Deferred			143

28,173

Less value after grant of new lease			
Term			
New lease at a peppercorn rent			
Flat value (F/H)	£	415,027	
Deferred	145.91 yrs @5%	0.0008	332

**Diminution in value of landlord's interest** 332

<b>Marriage value</b>			
Aggregate of values of interests after grant of new lease			
Landlord's interest		332	
Tenant's proposed interest		410,875	
			411,207
<b>Less</b> Aggregate of values prior to grant of new lease			
Landlord's interest		27,841	
Tenant's interest		296,640	
			324,481
Marriage value		86,726	
		50.00%	<b>43,363</b>
		<b>Premium</b>	<b>71,204</b>

