



**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**

**Tribunal members** : **Judge S Brilliant  
Mr R Shaw FRICS**

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

**Date of decision** : **19 August 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.

### **The hearing**

10. 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.
11. 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.

12. 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**

13. 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**

14. The following matters remained in dispute:

|                   |  |
|-------------------|--|
| Long lease value  |  |
| Relativity        |  |
| Share of freehold |  |

*Long lease value*

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

16. 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.

17. 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.

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

19. 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. The respective reductions in respect of these matters are £25,000, £25,000 and £30,750. This totals £80,750. The price of flat 3 so adjusted is £429,250.

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

*Freehold value*

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

22. 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*

23. 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*

24. 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

### **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).

Appendix 1

|   |                |            |            |                |               |
|---|----------------|------------|------------|----------------|---------------|
| New lease claim   | Valuation date | 01/11/2018 |            |                |               |
| Present lease   | 99 Years       |            | From       | 29/09/1975     |               |
| Years unexpired   |                | 55.91      |            |                |               |
| Long lease value  |                | £410,875   | Freehold   |                | £415,027      |
| Existing lease value  |                | £296,640   | Relativity |                | 71.50%        |
| YP=   | 6.25%          | PV=        | 5%         |                |               |
| <b>Diminution in value of landlord's interest</b>           |                |            |            |                |               |
| Value before grant of new lease                             |                |            |            |                |               |
| Term  |                |            |            |                |               |
| Rent  |                | £          |            | 60             |               |
| YP  | 22.91 yrs      | 6.25%      | 12.01      |                | 720           |
| Rent  |                | £          |            | 90             |               |
| YP  | 33 yrs         | 6.25%      | 13.836     |                |               |
| Deferred  | 22.91 yrs      | 6.25%      | 0.249      |                | 310           |
| Reversion   |                |            |            |                |               |
| Flat value (F/H)  |                | £          |            | 415,027        |               |
| Deferred  | 55.91 yrs @5%  |            | 0.0654     |                | 27,143        |
|   |                |            |            |                | <b>28,173</b> |
| <b>Less</b> value after grant of new lease                  |                |            |            |                |               |
| Term  |                |            |            |                |               |
| New lease at a peppercorn rent                              |                |            |            |                |               |
|   |                |            |            |                | 0             |
| Reversion   |                |            |            |                |               |
| Flat value (F/H)  |                | £          |            | 415,027        |               |
| Deferred  | 145.91 yrs @5% |            | 0.0008     |                | 332           |
|   |                |            |            |                | -332          |
| <b>Diminution in value of landlord's interest</b>           |                |            |            |                |               |
|   |                |            |            |                | <b>27,841</b> |
| <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> |