



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

Case reference : LON/00AH/OLR/2019/1314

Property : Flat 2, 235 Holmesdale Road,
London SE25 6PR

Applicant : Hamish Chandos Blair

Representative : Roshan Sivaplan BSc (Hons)
MRICS of Blakes Surveyors Limited
instructed Rodgers & Burton
solicitors

Respondent : Patrick Jackson (missing landlord)

Representative :

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

Tribunal members : Judge Dutton
Mr W R Shaw FRICS

**Date of determination
and venue** : 15th January 2020 at
10 Alfred Place, London WC1E 7LR

DECISION

Summary of the tribunal's decision

- (1) The appropriate premium payable for the collective enfranchisement is, pursuant to s51 of the Leasehold Reform, Housing and Urban Development Act 1993 (the Act), £15,621, as set out in the report of Mr Roshan Sivapalan BSc (Hons) MRICS dated 13th December 2019

Background

1. On 25th April 2019 Hamish Chandos Blair made application in the County Court at Croydon under claim F00FR730 pursuant to section 50(1) the Act, for a determination of the premium to be paid for the grant of a new lease in respect of Flat 2, 235 Holmesdale Road, South Norwood, London SE25 6PR (the “Property”).
2. By an Order of the Court dated 11th October 2019 and by virtue of s50(1) of the Act, a vesting order was made granting to the Applicant a new lease of the property on terms to be determined by this tribunal.
3. On 15th January 2020 the matter came before us for the determination of the premium payable for the new lease and the terms of same.
4. In a bundle of papers supplied before we considered the matter, this being a paper determination, we had copies of the papers lodged at the Court, HM Land Registry copies of the freehold and leasehold title, the lease of the Property and a proposed draft lease. In addition, we were provided with an expert’s report by Roshan Sivapalan BSc (Hons) MRICS (the report) dated 13th December 2019. This report is relied upon by the applicant to establish the premium to be paid for the new lease.
5. The report confirmed that the valuation date, being the date of issue of the proceedings at the Court, is 25th April 2019. A description of the flat is given, showing it to be three-bedroom first floor flat with a GIA of 66.51 sq.m (715 sq.ft). It was originally configured as two-bedroomed property and has been valued as such.
6. The remaining lease term is 69.91 years and accordingly marriage value will apply. The report goes on to set out the basis of the valuation and uses comparables of four properties to achieve a long lease unimproved value of £300,000. To this is added 1% to reflect the uplift to freehold, giving a value of £303,000.
7. Mr Sivapalan is of the opinion that the capitalisation rate appropriate is 7% and the deferment rate at 5%.
8. Utilising these valuation elements, he concluded that the premium payable in respect of the grant of a new lease for the Property should be £15,621 and this figure is shown on the valuation appended to the report.

The tribunal’s determination

9. The tribunal determines that the premium payable is £15,621.

Reasons for the tribunal's determination

10. We have carefully considered the report of Mr Sivapalan. We consider that he has very fairly reflected the values of the comparables, some being, in our view, larger and providing better amenities. He has however, factored this in when assessing the unimproved long lease value. We note that the Property was purchased by the applicant in October 2015 at a price of £242,000. We are satisfied that at the valuation a value of £300,000 fairly reflects the long lease value and the 1% uplift for the freehold is uncontentious.
11. We are content to accept the rates put for capitalisation and deferment at 7% and 5% respectively for the reasons set out in the report.
12. On the question of relativity, we accept the use of the average of the RICS graphs showing 92.49% to be applied in this case. Although recent Upper Tribunal decisions indicate it is appropriate to include the Savills unenfranchiseable graph, even for properties outside prime central London, we do not propose in this case to pursue that point. Taking the average of all 5 graphs is, we accept, a reasonable method of assessing relativity for the Property.
13. Taking opinion of Mr Sivapalan into account, which we accept, we find that the premium payable for the new lease for the Property is £15,621, which sum should be paid into account to allow the matter to proceed to completion.
14. The draft lease included in the bundle is approved as drawn, with the execution of same to be by Rhiannon Collinson a solicitor with Rodgers & Burton.

Name: Judge Dutton

Date: 15th January 2020

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).