



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

Case reference	:	KA/LON/00AC/0LR/2020/0177
Property	:	49A Stanhope Road, Finchley, London N12 9DX
Applicant	:	Rhean Louise Bailey
Representative	:	Comptons Solicitors LLP
Respondent	:	Saada Abdul Wahab & Salama Abbas
Representative	:	Not applicable – missing landlord
Type of application	:	Application under sections 50 and 51 of the Leasehold Reform Housing & Urban Development Act 1993
Tribunal members	:	Mr I B Holdsworth FRICS MCIArb
Venue	:	10 Alfred Place, London WC1E 7LR
Date of paper determination and decision	:	24th March 2020 and 3rd April 2020

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines the price to be paid by the applicant for the lease extension is **£25,800**.
- (2) The terms of the draft lease are provided for in paragraph 13 below.

The Background

1. This is an application under Section 50 of the Leasehold Reform Housing & Urban Development Act 1993 ('the 1993 Act') pursuant to an order issued at the County Court at Edmonton on 30 January 2020.
2. Section 50 of the 1993 Act concerns claims for lease extension where the relevant landlord cannot be found. It enables the court to make a vesting order in respect of any interests of the landlord which are liable to acquisition.
3. Under Section 50 of the Act, the rôle of the Tribunal is to determine the appropriate sum to be paid into Court in respect of the landlord's interests and also to approve the form and terms of the proposed new lease.
4. The applicant in this matter is Rhean Louise Bailey, she is the qualifying tenant of the first-floor flat namely, 49A Stanhope Road, Finchley, London N12 9DX ('the Property'). The respondent freeholders are Saada Abdul Wahab & Salama Abbas.
5. On 29 November 2019 the applicant issued a Part A Claim at the County Court at Edmonton for a vesting order under Section 50(1) of the 1993 Act seeking to extend the lease under the terms of the Act. The applicant has been unable to ascertain the whereabouts of the respondent and was, therefore, unable to serve a notice on them pursuant to Section 13 of the 1993 Act.
6. The applicant has provided the Tribunal with a valuation report prepared by Mr Ghulam Yasin BSc MRICS dated 20 February 2020.
7. Mr Yasin is of the view the premium payable for the leasehold extension is £16,100.
8. Sales' transaction evidence is included in the Expert's valuation report to justify the extended leasehold value. This comparable market evidence together with his opinion on appropriate relativity, deferment and capitalisation rates is used to underpin the Expert Opinion of the premium payable. No evidence is provided to corroborate the current leasehold value.
9. The Tribunal has relied upon their knowledge and experience of the property market in the Finchley area in making this determination. They have also had regard for recent and relevant Upper Tribunal decisions particularly concerning the determination of leasehold relativity rates.

The Determination

10. The Tribunal accepts the opinions expressed by Mr Yasin in his valuation report dated 20 February 2020, save that:

- (i) It is public record that the subject property was marketed between January and July 2019 at an asking price of £320,000. No sale was achieved at this price. This asking price at marketing close to the valuation date of 29 November 2019 contradicts the long lease value placed upon the subject property by the Expert of £275,400. It is noted that two of the comparables submitted were sold between 12 and 18-months prior to the valuation date of 29th November 2019. The most recent comparable sale was in March 2019. The Tribunal has experience and knowledge of the property market in this locality. It has had regard for the recent marketing price of the subject and the transaction dates of the comparable evidence.

After consideration of these factors the Tribunal has determined the market value for the long leasehold of the property is £295,000. This reflects the passage of time, comparable evidence presented by the Expert and the previous marketing price of the subject.

- (ii) No market evidence on the current lease value is submitted in this case. The expert relies upon a review of a RICS research report dated October 2009 on relativity and the Savills unenfranchiseable 2015 and Gerald Eve 2016 graphs. The reliability of the RICS relativity graphs is discussed in the decision *Sloane Stanley –v– Mundy* [2016] UKUT 02333 (LC) and in *Nick Mallory & Others –v– Orchidbase Limited* [2016] UKUT 468. The inference from these authorities is that the preferred source of graphical relativity data is the Savills and Gerald Eve graphs.
- (iii) In determining the relativity, the Tribunal is not content to rely upon historic and discredited relativity graphs from 2009 and places greater weight on the recent guidance given by the Upper Tribunal on relativity. The authorities given most weight are:
- *Sinclair Gardens Investments (Kensington Ltd)* [2017] UKUT 494 (LC), which was a decision about properties situated at George Court, Chelmsford. These properties situated beyond PCL were assessed by the UT with a relativity of just under 82% for an unexpired term of 66.8-years. The Upper Tribunal relied solely upon the Savills's 2015 graph as the source of this relativity; and
 - *Judith Reiss –v– Ironhawk Ltd* [2018] UKUT 311 (LC), a decision involving 76 Hampden Lane, Tottenham, London N17. The subject property was again assessed and the UT relied upon the 2015 Savills's un-enfranchiseable graph to determine the relativity rate of 86.9% for an unexpired term of 75.23-years.
 - In *Oliyide –v– Elmbirch Properties plc* [2019] UKUT 190 (LC), and the *Trustees of Barry & Peggy Foundation –v– Zucconi & Ancor* [2019] UKUT 242 (LC), the Upper Tribunal also relied upon the Savills and Gerald Eve unenfranchiseable graphs to determine relativities. The properties in both of these cases are situated beyond central London and the data drawn from the relativity graphs was deemed appropriate without adjustment.

- In *Midland Freeholds Limited and Speedwell Estates Limited appeals [2017] UKUT 463 (LC)*, the Upper Tribunal decided the same graphs could be appropriately used to determine leasehold relativity in the Midlands.
- (iv) In determining relativity the Tribunal must focus on the state of the market in North London and Finchley area at the valuation date in the absence of any evidence of local transactions, it must consider what relativity graph was used by the local market at the time, or which graph best reflects the operation of that local market. The Upper Tribunal has directed that Savills 2015 and Gerald Eve 2016 unenfranchiseable graphs are reliable sources of relativity data beyond central London. It is our opinion the market reflects recent and relevant Tribunal guidance on the calculation of lease premiums.
- (v) We therefore take an average of the relativities for an unexpired term of years from the GE's 2016 and Savills's 2015 graphs this produces a figure of 85.61% and this relativity is adopted by the Tribunal.
11. The adjusted calculation has resulted in a premium of **£25,800**. A copy of the Tribunal's valuation is attached to this decision.
 12. Accordingly, the Tribunal determines the premium to be paid in respect of the leasehold is **£25,800**.
 13. The Tribunal also approves the draft proposed lease included in the bundle at divider 12 {pp.164-173} subject to the inclusion at LR7 of **£25,800** and that these monies less any costs setoff are paid into court.
 14. This matter should now be returned to the County Court sitting at Edmonton under claim FO2.ED643 in order for the final procedures to take place.

Valuer Chairman: Ian B Holdsworth FRICS MCI Arb

3rd April 2020

Property: 49A Stanhope Road London N12 9DX				
Reference: KA/LON/00AC/OLR/2020/0177				
Lease and Valuation Data				
Lease Term:	24/06/1992			
Lease Expiry date:	23/06/2091			
Unexpired term as at valuation date:	71.57	years		
Date of Valuation	29/11/2019			
Rent receivable by landlord:				
Payable from valuation date for 71.57 years	£	12.60		
Values				
Extended lease value on statutory terms	£	295,000		
Notional Freehold	£	297,980		
LHVP with current term unexpired	£	252,550	Relativity	85.6%
Capitalisation rate (%)	7.00			
Deferment rate (%)	5.00			
Value of Freeholders present interest				
Term 1				
Ground rent payable	£	12.60		
YP @ 71.57 years @ 7%		14.17302	£	179
Reversion				
Freehold in vacant possession	£	297,980		
Deferred @ 71.57 years @ 5%		0.03044	£	9,071
Current value of the freeholders interest				£ 9,250
Less				
Freehold value after leasehold extension	£	297,980		
PV of £1 in 161.57 years at 5%		0.00038	£	112
Freeholders interest value				£ 9,137
Marriage value				
Value of flat with long lease on statutory terms	£	295,000		
Landlords proposed interest	£	112	£	295,112
Less				
Value of Leaseholders existing interest	£	252,550		
Value of Freeholders current interest	£	9,250	£	261,799
Marriage value	Total		£	33,313
Division of Marriage Value equally between				
Freeholder				£ 16,657
Leaseholder				£ 16,657
Price payable to Freeholder				
Value of freeholders current interest				£ 9,137
Plus share of marriage value				£ 16,657
Total				£ 25,794
Say				£ 25,800
24:03:20				