



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

Case reference : **LON/ 00AJ/OLR/2021/0147**

Property : **FLAT 5 40 BIRKBECK ROAD ACTON
LONDON W3 6BQ**

Applicant : **Oliver Mamalingas**

Representative : **Bishop and Sewell LLP**

Respondent : **Vitomir Ristivojevic (Missing)**

Representative : **NA**

Type of application : **Section 50 and 51 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal members : **Judge Shepherd
Kevin Ridgeway MRICS**

**Date of
determination and
venue** : **30th March 2021 at
10 Alfred Place, London WC1E 7LR on
the papers**

Date of decision : **30th March 2021**

DECISION

Summary of the tribunal's decision

The appropriate premium payable for the new lease is **£37660**. The proposed lease is approved.

Background

1. This is an application made by the applicant leaseholder pursuant to section 50 and 51 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid for the grant of a new lease of Flat 5 40 Birkbeck Road Acton London W3 6BQ (the “property”).
2. On 4th December 2020 DDJ Tear at Brentford County Court made an order pursuant to s. 50 of the Act to the effect that the Applicant was entitled to a new lease. The freeholder landlord is missing. The case was transferred to the Tribunal to determine the value of the new lease.

The property

3. The property comprises a three bedroom second floor flat constructed about 120 years ago. It is located on the eastern edge of Birkbeck Road, close to its junction with Churchfield Road. All local amenities, including Acton central mainline rail station are located within a short distance walk of the subject property.
4. The Tribunal did not inspect the property but had the benefit of photographs and have checked the location on google maps. The report of Clive Scrivener of Scrivener Tibbetts Limited dated 26th February 2021 gave a clear and detailed description of the property. The Tribunal accepts the description is accurate.

The tribunal’s determination

5. The tribunal determines that the value of the new leasehold at the date of the application was £37660. The Tribunal is also satisfied as to the proposed form of the new lease.

Reasons for the tribunal's determination

6. The right to a new lease is conferred by Ch 2 of Pt 1 of the 1993 Act. By exercising the right the tenant acquires a new lease of the flat in substitution for his or her existing lease for a term expiring 90 years after the term date at a peppercorn rent (s.56(1)). The tenant pays a premium which compensates the landlord for the loss of the remainder of the term. In the present case the landlord is missing and the procedure pursuant to ss50 and 51 of the Act has been followed.
7. The premium for the new lease is calculated in accordance with Sch 13, para 2 of the Act and is the aggregate of the following figures :
 - (a) The diminution in value of the landlord's interest in the flat;
 - (b) The landlord's share of the marriage value;
 - (c) Any amount of compensation payable.
8. The calculation carried out by Mr Scrivener appears broadly sound. A calculation carried out by the Tribunal is attached as a schedule to this determination. The Tribunal has also considered the contents of the proposed new lease and is satisfied that they are adequate.

The premium

9. The tribunal determines the appropriate premium to be **£37660** A copy of its valuation calculation is annexed to this decision.

Name: Judge Shepherd

Date: 30th March 2021

Appendix: Valuation setting out the tribunal's calculations

Valuation for lease extension

Flat 5, 40 Birkbeck Road, London, W3 6BQ

Valuation Date	23/12/2019		
Lease Commencement	29/09/1984		
Lease Term	99.00	years	
Expiry Date	28/09/2083		
Unexpired Term	63.77	years	
Long Lease value	£400,000		
Freehold VP value	£404,000	+1% long lease value	
	Term 1	Term 2	Term 3
Ground rent	£200.00	£300.00	£0.00
Reversion years	30.77	33.00	0.00
Capitalisation rate	7%		
Deferment rate	5%		
Compensation	£0.00		
Relativity	85.50%		

Diminution of Landlord's interest

Ground rent					£200	
YP	30.77	yrs @	7.00%		12.50430742	
						£2,501
Rent Review 1					£300	
YP	33.00	yrs @	7.00%		12.75379002	
PV of £1	30.77	yrs @	7.00%		0.12469848	
						£477
Rent Review2					£0	
YP	0.00	yrs @	7.00%		0	
PV of £1	63.77	yrs @	7.00%		0.013372004	
						£0
Reversion to VP value					£404,000	
PV	63.77	yrs @	5.00%		0.04454084	
						£17,994
Value existing freehold						£20,972

L/lord's interest on reversion of new lease

FH VP				£404,000	
PV	153.77	yrs @	5.00%	<u>0.00055172</u>	
					<u>-£223</u>

£20,750

Landlord's share of Marriage Value

Val. Tenant's interest new long lease				£400,000	
Val. l/lord's interest after reversion of new lease				£223	
				<u>£400,223</u>	

Less

Val. l/lord's interest existing lease	Relativity	85.50%		£345,420	
Val. tenant's interest existing lease				<u>£20,972</u>	
					<u>£366,392</u>
					<u>£33,830</u>

Marriage Value at Compensation	50%				£16,915
					<u>£0</u>

PREMIUM					£37,665
SAY					£37,660

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).

CASE REFERENCE LON/00AC/OLR/2014/0106

**First-tier Tribunal
Property Chamber (Residential Property)**

**Valuation under Schedule 13 of the Leasehold Reform Housing and
Urban Development Act 1993**

Premium payable for an extended leasehold Interest in [Property]

Valuation date: [Date]