



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

Case reference : **CAM/00KF/OCE/2021/0006**

HMCTS code (paper, video, audio) : **P: PAPEREMOTE**

Subject property : **37A Fairmead Avenue, Westcliff on Sea, Essex SSo 9RY**

Applicant : **Ms Patricia Margaret Ames (Personal Representative of Julie Christina Todd Deceased)**

Respondent : **Mr Stuart Bushell**

Type of application : **Section 49 of the Leasehold Reform, Housing and Urban Development Act 1993**

Tribunal members : **Judge S Brilliant
Regional Surveyor Mrs M Hardman
FRICS IRRV (Hons)**

Date of decision : **03 June 2021**

DECISION

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Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which the parties are taken to have consented to, as explained below. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined on paper.

Summary of the Tribunal's decision

- (1) The appropriate premium payable for the new lease is **£17,301**.
- (2) The Tribunal is also satisfied as to the proposed form of the new lease.

Background

1. This is an application made by the applicant leaseholder in a missing landlord case pursuant to section 49 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 37A Fairmead Avenue, Westcliff on Sea, Essex SSO 9RY (“the subject property”).
2. By a notice of claim dated 09 April 2020, made pursuant to section 42 of the Act, the applicant (as executrix of Ms JC Todd) sought to exercise the right for the grant of a new lease in respect of the subject property. At the time the applicant held the existing lease granted on 20 November 1986 for a term of 99 years from 24 June 1986 at an annual ground rent of £50.
3. The applicant proposed to pay a premium of £13,500 for the new lease.
4. The respondent could not be found. Proceedings for a vesting order were commenced in the County Court at Southend on 03 July 2020 under claim number G00SS268.
5. On 15 December 2020, Deputy District Judge Balchin determined that the applicant had the right to acquire a new lease and that the matter be transferred to the Tribunal for the purpose of determining the premium to be paid for the grant of the new lease, and terms of the lease.
6. Directions were given by Mrs Hardman on 01 March 2021. It was directed that a valuation report be provided. The application was to be determined on paper, unless the applicant requested a hearing or failed to comply with the directions. Neither of these events occurred.

The valuation evidence

7. We have been provided with two reports from Mr D Plaskow FRICS, dated 28 January 2020 and 18 March 2021 respectively. In the first report he calculated the premium at £15,977. In his second report he revisited the comparables and remained of the same view as set out in the workings attached to the first report.

The valuation date

8. The valuation date is the date of the commencement of the proceedings in the County Court, namely 03 July 2020. Mr Plaskow had taken February 2020 as the valuation date, but this was before proceedings had been commenced.

Unexpired term and ground rent

9. The unexpired term at the valuation date was 64.97 years. As we have said, the ground rent is £50 per annum.

Capitalisation rate

10. Mr Plaskow took a capitalisation rate of 7%, a figure which we accept as reasonable.

Deferment rate

11. Mr Plaskow took a deferment rate of 5%, and that is a figure with which we agree.

Extended lease value

12. The subject property is a converted first floor flat in a two-storey middle terrace house. It is likely that the house was constructed around 1918 and, judging by the date of the lease, the conversion probably took place in the mid-1980s.

13. The accommodation consists of an entrance lobby for the sole use of the subject property, and on the first floor a bathroom/WC, a living room to the front including a bay window, a bedroom to the rear and a kitchen to rear. The gross external area is 51 m².

14. The building is of a conventional construction for a property of this age and type. The external walls are brickwork with a pitched roof covered with clay plain tiling. The windows are very long established plastic framing. The subject property is in a reasonable general condition.

15. Mr Plaskow relied on the following comparables in his first report:

124A Westcliff Park Drive	£135,000	Under offer as at January 2020. Lower than expected price.
105B Northview Drive	£160,000	Under offer as at January 2020. Some lessee's improvements in the price.
93 Tintern Avenue	£130,000	Price agreed at January 2020. Needs £20,000 expenditure.
137 Southview Drive	£145,000	Sale completed in June 2019. 160 years remaining on the lease. Needs £15,000 expenditure.
78 Westminster Drive	£180,000	Sale completed in July 2019. Top end of value locally.

16. Mr Plaskow updated his earlier comparables where appropriate and relied upon some new comparables in his second report.

124A Westcliff Park Drive	£135,000	This did not complete.
105B Northview Drive	£160,000	Sale completed on 20 March 2020.
93 Tintern Avenue	£130,000	No record of completion.
200 Westcliff Park Drive	£141,000	Sale completed on 07 May 2020.
107A Northview Drive	£158,000	Sale completed on 17 September 2020 in good condition. Market had improved.
71 Tintern Avenue	£137,500	Sale completed on 15 November 2019, slightly historic.
66 Ronald Park Avenue	£165,000	Sale completed on 7 May 2020. A larger property.

17. Having considered these comparables, Mr Plaskow came to an extended lease value of £155,000. We agree that this is a fair figure.

Freehold value

18. Mr Plaskow did not provide a value for the freehold. We have adopted the standard uplift of 1% on the long leasehold value to arrive at a freehold value of £156,566.

Current short lease value

19. Mr Plaskow was presumably unable to identify any market evidence to support the short lease value and moved directly to adopting a relativity of 83.9%.

20. He states that this follows a series of valuations in cases that he has been involved in together with the 'published tables'. He then applies this to the long leasehold value to arrive at a short lease value of £130,045.

21. In the absence of any evidence for the relativity he has adopted, the Tribunal has followed recent case law and adopted the average of Savills Unenfranchiseable and Gerald Eve 2016 tables which give a relativity of 81.5%. It has then applied this to the freehold value to arrive at a short lease value of £127,601.

22. The Tribunal has also considered the contents of the proposed new lease and is satisfied that they are adequate.

The valuation

23. We set out in the calculation appended to this decision our determination that the premium to be paid is £17,301.

Name: Judge Simon Brilliant

Date: 03 June 2021

Appendix:

Tribunal's Valuation				
Valuation Date (VD)	03/07/2020			
Unexpired Term	64.97			
Ground Rent at VD	£50			
Capitalisation Rate	7%			
Deferment rate	5%			
Extended Lease Value	£155,000			
Freehold Value	£156,566			
Relativity	81.50%			
Existing Lease Value	£127,601			
Calculations				
Diminution of Freehold				
Ground Rent Term			£ 50	
Years Purchase	64.97 years@	7%	<u>14.1096</u>	
				£705
Reversion				
Capital Value			£156,566	
PV of £1 in	64.97 years @	5%	<u>0.042</u>	
				£6,576
				£7,281
less Freehold after Extension				
Capital Value			£156,566	
PV of £1 in	154.97 years @	5%	<u>0.0005</u>	
				£78
				£7,203
Marriage Value Calculation				
Value of Proposed Interests				
Freeholder			£78	
Leaseholder			£155,000	
			£155,078	
less				
Value of Existing Interests				
Freeholder			£7,281	
Leaseholder			£127,601	
			£134,882	
Total Marriage Value			£20,196	
50% Share			£10,098	£10,098
Total Premium				£17,301

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Subject 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 subject 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).

