



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

Case reference : **LON/00AG/OLR/2022/0519**

Property : **53 Romney Court, 139 Haverstock Hill,
London NW3 4RX**

Applicant : **Timothy Paull Geoffrey Drewitt**

Representative : **Mr Andrew M Lester MRICS**

Respondent : **(1) Whitehall Place Properties Ltd
(2) Haverstock Grove Residents
Association Ltd**

Representative : **Mr A Cohen MRICS**

Type of application : **Section 48 of the Leasehold Reform,
Housing and Urban Development Act
1993**

Tribunal members : **Judge Tagliavini
Mr D Jagger MRICS**

**Date of
determination and
venue** : **24 January 2023 at
10 Alfred Place, London WC1E 7LR**

Date of decision : **24 January 2023**

**Date of revised
valuation** : **12 April 2023**

DECISION

Summary of the tribunal's decision

(1) The appropriate premium payable for the new lease is **£87,594**.

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

the grant of a new lease of Flat 53 Romney Court, 139 Haverstock Hill, London NW3 4RX (the “property”).

2. By a notice of a claim dated 17 November 2021, served pursuant to section 42 of the Act, the applicant exercised 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 18 August 1964 for a term of 100 years less ten days from 23 November 1962 at an annual ground rent of £30.00. The applicant proposed to pay a premium of £69,700 for the new lease.
3. On 25 January 2022 the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £97,000 for the grant of a new lease.
4. On 22 June 2022, the applicant applied to the tribunal for a determination of the premium.

The issues

Matters agreed

5. The following matters were agreed:
 - (a) The subject property is a self-contained flat on the 5th floor within a six-storey block of flats constructed in about 1963 and containing 43 flats of similar kinds;
 - (b) The gross internal floor area is 32.52 square metres, which equates to 350 square feet;
 - (c) The valuation date: 18 November 2021;
 - (d) Unexpired term: 41.01 years;
 - (e) Ground rent: £30 throughout the term;
 - (f) Long leasehold (unimproved) value: 99% of the freehold (unimproved) value;
 - (g) Capitalisation of ground rent: 1.21% per annum;
 - (h) Deferment rate: 5%.
 - (i) The lease terms of the new lease were agreed; and
 - (j) The second respondent, the intermediate head leaseholder did not want to play any active role in this application.

Matters not agreed

6. The following matters were not agreed:

- (a) The “no-Act world” short leasehold (unimproved) value: the applicant contending in his report for £214,556 and the respondent contending for £229,987.
- (b) The freehold (unimproved) value: the applicant contending for £336,770 and the respondent contending for £365,000 .
- (c) The premium payable: £82,347 (Applicant) v £90,712 (First Respondent) as per their respective reports.

The hearing

- 7. The hearing in this matter took place on 24 January 2023 by VIDEO REMOTE. The applicant was represented by Mr A Lester MRICS and the respondent by Mr A Cohen.
- 8. Neither party asked the tribunal to inspect the property and the tribunal did not consider it necessary to carry out a physical inspection to make its determination.
- 9. The applicant relied upon the expert report and valuation of Mr Lester dated 18 January 2023 and the respondent relied upon the expert report and valuation of Mr Cohen dated 13 January 2023.

The tribunal’s determination

- 10. The tribunal determines that:

The Freehold Vacant Possession Value is: £353,088

Relativity is: 63.01%

The premium payable is: £87,594

Reasons for the tribunal’s determination

Freehold Vacant Possession Value

- 11. Although both valuers relied upon the sales of comparable properties, the tribunal preferred the narrower but more relevant approach adopted by Mr Cohen, who relied on the sales of Flats 45 and 11 Romney Court which took place 6 months before and 7 months after the relevant valuation date, as it found these sales provided the best comparable evidence. This contrasted with Mr Lester’s reliance on 5 comparable sales within the subject block which took place over a two-year span of

the valuation date and made reference to three other sales of properties in two different, although similar blocks.

12. Mr Lester adjusted his position to agree with Mr Cohen there should be a 1% adjustment to reflect the differing floor levels of the comparable sales and the subject property, instead of the 2% he had originally contended for and the tribunal agreed with this concession.
13. However, the tribunal did not accept Mr Cohen's contention that there should be no adjustment made to reflect the fact the lift in the building went only to the 4th floor, thereby requiring the tenant and visitors to utilise a flight of stairs to access the property. The tribunal found that an adjustment of 2% was appropriate to reflect this disadvantage in comparison to the other flats in the building served by the lift.
14. The tribunal was a little surprised to learn Mr Lester had not reinspected the property since he had carried out an initial inspection in 2019. However, it accepted the property was significantly as at the valuation date as no material changes to the property were reflected in Mr Cohen's report who had inspected in December 2021.
15. The tribunal did not accept Mr Cohen's contention there should be no adjustments made to reflect a difference in the condition of the improved and modernised comparable properties he relied upon and the unimproved condition of the subject property. However, the tribunal considered the adjustment of £17,000 contended for by Mr Lester was unrealistic and therefore, relying on its own knowledge and expertise considered an adjustment of £10,000 was appropriate to reflect the unmodernised condition of the subject property.
16. The tribunal therefore concluded the Freehold Vacant Possession Value of the property is £353,088.

Relativity – The tribunal's determination

17. The tribunal determines the appropriate relativity is 63.01%.

Reasons for the tribunal's determination

18. Mr Lester contended the appropriate approach to determining relativity was to disregard the use of the Savills Unenfranchiseable Graphs due to their inherent unreliability and suggested the tribunal should carry out an examination of the relevant relativity graphs. Having dismissed any reliance on the Unenfranchiseable Graphs, Mr Lester preferred to adopt a deduction of 10% in reliance on *The Trustees of the Sloane Stanley Estate v Munday* to a relativity figure of 71.69%, the latter figure produced from a reliance upon Savills Enfranchiseable Graph.

19. Mr Cohen adopted a more traditional approach to the issue of relativity and relied upon Gerald Eve (2016) Graph providing a relativity of 62.92% and Savills Unenfranchiseable Graph which provided a relativity of 63.11% providing an average of 63.01%.
20. In conclusion and applying its determinations as set out above the tribunal calculated the Freehold Vacant Value of the property to be £353,088 by adopting the sales figures for Flats 11 and 45 Romney Court and by making the following adjustments:
- +1% Freehold
 - +1% per floor
 - 2% for no lift to 5th floor
 - £10,000 improved specification of the 2 comparable flats of 11 and 45.

The premium

21. The tribunal determines the appropriate premium to be **£87,594**. A copy of its valuation calculation is annexed to this decision (as revised).

Name: Judge Tagliavini

Date: 24 January 2023 & 12 April 2023

Appendix A: Valuation setting out the tribunal's calculations

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 A

Flat 53 Romney Court, 139/141 Haverstock Hill, London NW3 4RX

The Tribunal's Valuation**Assessment of the premium for a lease extension****In accordance with Leasehold Reform, Housing and Urban Development Act 1993****LON/00AG/OLR/2022/0519****Components**

Valuation date:	18th November 2021	
Yield for ground rent:	5.0%	
Deferment rate:	5.0%	
Long lease value	£349,557	
Freehold value	£353,088	
Unexpired term	41.01 years	
Existing leasehold value	£222,481	
Relativity	63.01%	
Reversion to:	£353,088	
Deferred 41.01 years @ 5%	0.1352	<u>£47,737</u>
Freehold value deferred 131.01 years @5%	£353,088	
	0.001675	<u>£591</u>
Freeholder's Present Interest		£47,146
Ground rent to be received by head leaseholder	£30	
Capitalised @ 1.21% for 40.99 years	32.17	£965
Marriage Value		
Extended lease value	£349,557	
Plus freehold reversion	591	
	£350,148	
Head leaseholders interest.	£965	
Landlord's existing value	£47,737	
Existing leasehold value	<u>£222,481</u>	
	£271,183	
Marriage Value	£78,965	
Freeholders share @ 50%		£39,483
LEASE EXTENSION PREMIUM		<u>£87,594</u>

Apportionment of marriage value

To the Freeholder £38,691

To the head leaseholder £792

Apportionment of premiums

To the Freeholder Diminution £47,146
Marriage Value. ~~£38,691~~ **£85,837**

To the head leaseholder Diminution £965
Marriage Value. ~~£792~~ **£1,757**