



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

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**
Case reference : **LON/00AE/OLR/2023/0042**

Property : **7a Manor Drive Wembley
Middlesex, HA9**

Applicant : **Lloyd Samuel Forster**

Representative : **Child & Child Solicitors**

Respondent : **Guat Yoong Teoh**

Representative :

Type of application : **Application for a determination
under Section 21(1) and 21(2) of the
Leasehold Reform Act 1967-
Missing Landlord**

Tribunal members : **Judge Daley
Mr R Waterhouse FRICS**

Date of determination and venue : **6 April 2023 at
Heard remotely as a paper
determination**

Date of decision :

DECISION

Description of hearing

This has been a remote video hearing on the papers which has been not objected to by the parties. The form of remote hearing was P:PAPERREMOTE, A face-to-face hearing was not held because no-one requested the same, and all issues could be determined on paper. The documents that the Tribunal were referred to are in a bundle of 305 pages, the contents of which have been noted.

Summary of the tribunal's decision

- (1) The appropriate premium payable for freehold is **£33,500.00**.

Background

1. By an order dated 2 December 2022, this matter was transferred to the first-tier tribunal by Deputy District Judge Sachdev, sitting at the Willesden County Court.
2. The terms of the order were that-:
 1. "Service of a notice pursuant to section 13 of the Act shall be dispensed with
 2. By virtue of section 50 (1) of the Act and this order a new lease shall vest in the Claimant on such terms to be determined by the First Tier Tribunal (Property Chamber) to be appropriate... as if he had, at the date of making the claim, given notice under section 42 of the Act of his claim to exercise the right to acquire a new lease of the Flat.
 3. The matter shall be transferred to the First Tier Tribunal (Property Chamber) for the purpose of determining those terms.
 4. The Claimant shall pay into court(the Court Funds Office) the appropriate sum to be determined by the First Tie51(5) of the Act..."
3. Directions were given by the Tribunal on 11 January 2023 for the determination of this matter.
4. The Application, which was received on 5 June 2021, was for a determination of the premium to be paid under Section 9 of the Leasehold Reform Act 1967 ("the Act") in respect of the Freehold.
5. The history of this matter was fully set out in the witness statement of Mr Lloyd Samuel Forster, he set out how he came to purchase the lease of the premises which was subject to a 99 year term from 3 February 1986, he provided details of his demise, and the details of the interest owned by the Defendant in the Freehold of "the Block." He set out that the Block was the semi-detached property in which his flat was situated. He explained that he had never had contact with the Defendant. And the efforts that he made to try to locate the defendant freeholder. He established that there were only two Guat Chen in the UK one of whom had died on 9 May 2020, and the other who had

changed their name by marriage to Guat Tam. Despite sending letters to the executors of Guat Chen deceased and Guat Tam. Mr Forster received confirmation that Guat Tam was not the defendant in these proceedings. Despite enquires undertaken on his behalf he was unable to locate the freeholder of the premises.

6. Two public notices were placed to locate the defendant both of which were unsuccessful.

7. The Tribunal was provided with a statement of Expert Opinion prepared by JD Mellor on the instructions of Child and Child Solicitors. The issues are based on the Tribunal's understanding of the documentary evidence. The Tribunal derived assistance from the expert report. Mr Mellor set out his understanding of his duty to the Tribunal.

The issues

Matters not in issue

- (a) The subject flat occupies the first floor of the premises which is a two-storey semi-detached house divided into two flats, each with its own front door. The front garden has been converted into hard standing, and is not demised to the subject premises, at the rear of the premises is a small garden demised to the ground floor.
- (b) The subject flat comprises ground floor entrance and stairs, leading to the landing, kitchen reception, bedroom and bathroom and separate WC.
- (c) The flat comprises 575 sft. with approximately 40ft being the ground floor entrance.
- (d) The Tribunal did not carry out an inspect of the premises however it has taken the description as set out in the report of Mr JD Mellor.
- (e) The valuation date: 12 May 2022.
- (f) Unexpired term: at the valuation date was 62.73 years.

The subject flat is held on a lease dated 3.2.86 for a term of 99 years Ground rent is payable at £50/£100/£150 per annum rising every 33 years.

The Determination

8. The paper determination took place on 6.04.2023.

9. The Tribunal did not inspect the property as the tribunal did not consider it necessary to carry out a physical inspection to make its determination.
10. In his report Mr Mellor set out that Manor Drive is a residential road off Wembley Park Drive, in a residential area which is not far from Wembley Park Stadium and tube station approximately ¼ mile. He stated that the premises benefited from a 5 foot share of the garden to the side of the property which was unkempt. He described the property as in need of external redecoration, with some roof tiles which had slipped.
11. In respect of the unimproved Freehold Value of the premises, He provided details of five comparable properties which he had considered flat 2 a Manor Drive, 62b Wembley Park Drive, 80 Wembley Hill Road 8 Wayside Court and 2/74 Wembley Park Drive. The sale dates for the properties extended from May 2020 to September 2022.
12. He explained that he had made the following adjustments, He adjusted for time using the Land Registry House Price Index, for size, which included adjustments for 1 and 2 bedroom properties which were similar in respect of square footage, and for the layout of the property.
13. Mr Mellor also adjusted for condition of the property and outside space, including parking, as given the nearness of the property to Wembley Stadium this created increased demand on event days. So for example a property with parking was adjusted by £10,000.
14. He stated that “Taking account of these adjusted comparable sales and giving greater weight to more recent ones, in my view the unimproved freehold value of the subject flat is £277,500.”

The Value for the Reversion

15. In his valuation having looked at the comparable evidence, which is set out in his report, he arrived at an unimproved freehold value of £277,500 for the first floor flat.

Capitalisation Rate

16. Mr Mellor used the capitalisation rate, of 6% which was based on recent settlements and tribunal decisions.

Deferment rate

17. In his report he referred the Tribunal to the well-known case of Earl Cardogan -v- Sportelli (2006) Where the Upper Tribunal concluded (upheld in the Supreme Court) that the deferment rate for flats and Maisonette's should be 5%. He stated that there was no reason to depart from this rate.

Relativity

18. Mr Mellor set out his understanding of the most recent Upper Tribunal decisions on relativity, however in his report he stated that relied solely on the Savills 2015 graph, as he was not satisfied with the Gerald Eve graph as a result of making enquires with the author as to the approach. He arrived at a Relativity for an unexpired lease of 62.73 years of 80.1%.
19. Mr Mellor's, step by step valuation was set out in the appendix to his report.

The tribunal's determination and Reasons for the tribunal's determination

20. The tribunal considered the report prepared for the Tribunal by Mr Mellor, however it used its own independent judgment, The Tribunal considered that his report to be balanced and fair, subject to the observations which the Tribunal makes below.
21. The Tribunal accepted the capitalisation rate, used by Mr Mellor and the Deferment rate.
22. The Tribunal has considered the draft lease and the terms set out including the extension for 189 years from 3 February 1986 and is satisfied with the terms.
23. In respect of the valuation the Tribunal noted that a number of comparables were used to ascertain the long lease value of the subject flat. The comparables include transaction dates from May 2020 to July 2020, April 2022, July 2022 and September 2022.
24. The tribunal derives most weight from the later comparables, discounting those from 2020. The tribunal on balance agrees with the unimproved freehold value of the flat of £277,500. In terms of the relativity, the unexpired term of

the lease is 62.73 years at the valuation date. The applicant's valuer referred to Gerald Eve 2016 and Savills 2015 graphs, in respect of the latter the tribunal is familiar with the Savills 2016 but not the Savills 2015, it is assumed reference was intended to the Savills 2016 graph.

25. The applicant's valuer relies on the "Savills 2015" graph, which the tribunal is comfortable with. This providing a relativity of 80.1%. The tribunal confirms the premium for the 90-year lease extension at £33,500. The valuation is at p 119(paper) of the bundle.

The premium

- (2) The tribunal determines the appropriate premium to be **£33,500(Thirty-three thousand five hundred pounds. The total sum to be paid into court for the lease extension subject to deductions for costs is £33,500.**
26. A copy of Mr Mellor's valuation calculation, which has been adopted by the Tribunal is annexed to this decision.

Appendix: 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).

CASE REFERENCE LON/00AE/OLR/2023/0042

**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 7a Manor
Drive**

Valuation date: The valuation date: 12 May 2022.