



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

Case reference : **LON/00BK/OLR/2022/0749**

Property : **Flat 8F Oxford & Cambridge
Mansions, Transept Street, London
NW1 5EH**

Applicant : **Oral Anne Marie Guerin**

Representative : **Mr Woodman, counsel**

Respondent : **Deritend Investments (Birkdale)
Limited**

Representative : **Mr Sharp BSC FRICS**

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

Tribunal members : **Judge Tagliavini
Miss M Krisko FRICS**

**Date of determination
and venue** : **26 April 2023 at
10 Alfred Place, London WC1E 7LR**

Date of decision : **26 May 2023**

DECISION

Summary of the tribunal's decision

- (1) The appropriate premium payable for the new lease is **£135,552**
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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 [Address] (the “property”).
2. By a notice of a claim dated 22 December 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 9 April 1979 for a term of 99 years from 29 September 1978 at an annual ground rent of £50.00. The applicant proposed to pay a premium of £91,000 for the new lease.
3. On 29 March 2022 the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £237,880.00 for the grant of a new lease.
4. On 26 August 2022 the applicant made an application to the tribunal and on 29 December 2022 the tribunal made directions for the determination of the application for a determination of the premium.

The issues

Matters agreed

5. The following matters were agreed:
 - (a) The subject property is a top floor ‘walk up’ flat and accessed from the main common parts staircase at fourth floor situate in a mid-terraced property, 6 storey apartment date 1885.
 - (b) No improvements fall to be disregarded
 - (c) The valuation date: 23 December 2021
 - (d) Unexpired term: 55.7645 years
 - (e) Ground rent: Currently £100 per annum rising to £200 per annum for the last 34 years.
 - (f) Long leasehold (unimproved) value: 99% of the freehold (unimproved) value;
 - (g) Capitalisation of ground rent: £2,006

- (h) Relativity for the existing 55.7645 years is 75.19%
- (i) Deferment rate: 5%

Matters not agreed

- 6. The following matters were not agreed:
 - (i) The GIA of the flat.
 - (ii) The value of the flat in the hands of the freeholder.
 - (iii) Relating to the comparable evidence; the appropriate index for the adjustment of time. Land Registry or Savills Prime London Residential Statistical Supplement or a blend of more than one.
 - (iv) The appropriate relativity for the existing and future reversion lease of the competent landlord.
 - (v) The premium payable.

The hearing

- 7. The hearing in this matter took place on 26 April 2023 by way of a video hearing. The applicant was represented by Mr Woodman of counsel, and the respondent by Mr Robin Sharpe.
- 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 Justin Bennett BSC(Hons) FRICS ACI Arb dated 4 April 2023 who argued for a premium of £124,860 and the respondent relied upon the expert report and valuation of Mr Robin Sharp BSc FRICS dated April 2023 who argued for a premium of £153,965.

The tribunal's determination

- 10. The tribunal determines the premium payable is **£135,552.00.**

Reasons for the tribunal's determination

Choice of Index

- 11. The tribunal finds the most appropriate index to utilise is the Land Registry City of Westminster Flats and Maisonettes Index ('the Westminster Index') and in preference that of the Savills Indices preferred by Mr Bennett. The tribunal accepts Mr Sharp's submissions that the Westminster Index provides evidence of actual sales achieved

in the same borough as the subject property, in contrast to the property sales located in Savills' wider catchment area. Mr Bennett contended the Land Registry Index for Flats and Maisonettes for Inner London showed less volatility than the Westminster Index and showed price variations very similar to those in both Savills Indices (Savills North-West Flats and Savills Central Flats) and therefore should be preferred to the Westminster Index favoured by Mr Sharp.

12. The tribunal accepts Mr Sharp's submission that the Land Registry City of Westminster Flats and Maisonettes Index was preferable to the Savills Indices relied upon by Mr Bennett, as the subject property does not fall within Savills prime definition but is within the City of London borough. Further, the tribunal finds the Westminster Index is a transactional index and reflects more accurately market movement during the relevant period and provides evidence of actual sales achieved in the same borough as the subject property, in contrast to the property sales located in Savills' wider catchment area. Although, Mr Bennett contended the Land Registry Index for Flats and Maisonettes for Inner London showed less volatility than the Westminster Index and demonstrated price variations very similar to those in both Savills Indices (Savills North-West Flats and Savills Central Flats) and therefore should be preferred, the tribunal did not agree with these submissions.

Comparable sales

13. The tribunal finds the best comparable sales are those of Flats 10G and Flat 3F both of which are located in the subject building. Flat 10G is a two-bedroom flat on the top floor which sold in June 2021 for £630,000. Flat 3F is also a 4th floor walk-up flat and held on 1993 Act lease with an unexpired term 8 months shorter than that of the subject property. It is a four-bedroom, two bathroom flat and sold six months before the valuation date for £699,00 and sold again, six months after the valuation date for £800,000.
14. Both valuers used these two comparable properties in their reports, although Mr Bennett also relied on the sale of 10E as providing the best primary evidence. However, the tribunal finds the two properties at 10G and 3F provided the best evidence as they required the least number of adjustments when determining the long leasehold value of the subject property. The tribunal finds however, the adjustments made by Mr Sharp for size, location and time rather too high and therefore used its expertise to adjust these appropriately.
15. Flat 10G is a two-bedroom flat on the top floor which sold in June 2021 for £630,000. Flat 3F is a four-bedroom, two bathroom flat on the top floor and sold six months before the valuation date for £6999,00 and sold again, six months after the valuation date for £800,000.

16. Using time adjusted figures for the sales of Flat 10G and 3F and the Land Registry City of Westminster flats and maisonettes index to adjust for time, an average of £829 psf is achieved. This is in contrast to the £776 psf achieved by Mr Bennett and the £940 psf reached by Mr Sharp. Therefore, using a figure of £829 psf provides a short leasehold value of £667,332 which the tribunal preferred to Mr Bennett's short leasehold value of £615,806 and the too high value of £758,902 achieved by Mr Sharp.

Gross internal area (GIA)

17. Although neither valuer were primarily concerned about the issue of the GIA, the tribunal were surprised at their failure to agree upon the GIA with the applicant arguing for 1056 sq.ft and Mr Sharp stating 'he would be happy with a figure 1060 sq.ft (reduced from 1063 sq.ft used in his report). In the absence of any definitive evidence, tribunal finds the 'middle ground' adopted by Mr Sharp was a reasonable compromise. Therefore, the tribunal adopted the figure of 1060 sq.ft as the GIA of the subject property in its valuation.

The appropriate relativity for the existing and future reversion lease of the competent landlord.

18. The parties approach the matter of the existing and future reversion lease in the same way i.e., 99% of freehold value.

The premium

19. The tribunal determines the appropriate premium to be **£135,552**. A copy of its valuation calculation is annexed to this decision.

Name: Judge Tagliavini

Date: 26 May 2023

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).

APPENDIX

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

8F Oxford and Cambridge Mansions, London NW1 5EH

Freehold	£887,527	
Extended lease	£878,740	
Existing lease	£667,332	
GIA 1,060 sq. ft.		
£psf £829		
Relativity 75.19%		
Value of ground rent agreed	£ 2,006	
Rev. FH 55.764 years 5%		
£887,527 0.0658	£58,400	
Less		
FH in 145 years 5%		
0.0008	£710	
		£ 59,696
<u>Marriage Value</u>		
Lessees proposed	£878,740	
FH proposed	£ 710	
Less		
FH present	£ 60,406	
Lessees present interest	<u>£667,332</u>	
	£151,712	
50%		<u>£ 75,856</u>
<u>Premium</u>		<u>£135,552</u>