



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

Case Reference : **LON/OOAP/ORL/2023/0216**

Property : **27 Granville Road, London, N22 5LP**

HMCTS Code : **P: PAPER REMOTE**

Applicant : **Joanne Foord**

Representative : **Bartletts Solicitors (Syndyze Ibishi)**

Respondent : **Gillian Margaret Waters
(missing landlord)**

Representative : **None**

Type of Application : **Enfranchisement**

Tribunal Members: **Judge Robert Latham
Sarah Redmond BSc MRICS**

**Date and venue of
Hearing** : **Paper determination on 18 July 2023
Alfred Place, London WC1E 7LR**

Date of Decision : **18 July 2023**

DECISION

Decision of the Tribunal

- (i) The Tribunal determines that the premium payable by the Applicant in respect of the extension of her lease in respect of 27 Granville Road, London, N22 5LP is £50,178. The calculation is attached to our decision.
- (ii) The Tribunal approves proposed draft of the deed of variation.
- (iii) The Tribunal dismisses the application for costs pursuant to rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013.

Description of Hearing

This has been a hearing on the papers (“P:PAPER REMOTE”). The Directions provided for a paper determination and neither party has requested an oral hearing. This is a missing landlord case. There has therefore been no appearance by the Respondent. Pursuant to these Directions, the Applicant has provided the Tribunal a Bundle of Documents, including a valuation report.

Background

1. The Applicant is claiming the right to acquire a new lease of her flat, namely 27 Granville Road, London, N22 5LP (“the maisonette”) pursuant to the provisions of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”). On 30 November 2022, District Judge Davies, sitting in the County Court at Edmonton, made an order dispensing with the service of the tenants’ notice under Section 42 on the ground that the landlord could not be found. He transferred the matter to this Tribunal to determine the terms of the new lease and the premium payable.

Evidence

2. We have been provided with an undated valuation report by Alan Cohen, BSc FRICS IRRV Hons. He has inspected the maisonette. He proposes a premium of £46,518, based on a relativity of 77.53%.
3. We have also been provided with a draft deed of variation.

Lease details

4. The Applicant currently hold the flat under a lease, dated 16 October 1981 for a term of 99 years from 29 September 1981. The relevant Valuation Date is 8 October 2021, namely the date on which this claim was issued in the County Court. On this date, the unexpired term was 58.97 years. The Applicant acquired the leasehold interest on 18 January 2000. The Respondent acquired the freehold interest on 11 October 1988.
5. The subject property is a purpose-built maisonette on the first floor of a two storey centre terrace building constructed c.1900. The maisonette has been extended into the roof to provide an additional bedroom. The maisonette is accessed via its own entrance door. There are four rooms, a kitchen, bathroom/wc and a shower/wc. Mr Cohen was unable to access the attic room. The maisonette has a demised section of the rear garden.
6. Mr Cohen suggests that when the lease was initially granted, the maisonette would have consisted of two bedrooms and a living room. He treats the additional bedroom in the roof space as a tenant's improvement which must be disregarded. However, he suggests that the conversion might have been carried out without Local Authority approval. The access to the attic room is very unsatisfactory. Mr Cohen considers that it would add little to the value of the maisonette.

Extended Lease Value

7. Mr Cohen has had regard to five comparables, namely Nos. 76, 60, 62, 45 and 9 Granville Road. These are all two-bedroom flats or maisonettes. Three are on the ground floor and two on the first floor. He has provided particulars of the sales. The sale dates range from October 2020 to June 2021. The prices range from £331,250 to £390,000. During this period, there has been a 2% change in average prices. He assesses a long leasehold value of the maisonette at £340,000. To this, he adds 1% to compute a vacant possession freehold value of £343,000.
8. Mr Cohen states that the GIA of the maisonette is c.850 sq ft. We have an undetailed floor plan attached to the lease. Mr Cohen gives only a very limited description of the maisonette. He did not inspect the loft. The maisonette has its own garden, but no parking. We accept that there is little or no chance of permission for an attic conversion, so we make no adjustment for hope value.
9. Mr Cohen has provided a good selection of comparables with supporting evidence. However, there is no finesse to his analysis. He makes no adjustment for time. He has no preferred comparable and makes no distinct adjustments to any.
10. There are two first floor comparables:
 - (i) 9 Granville Road is the oldest, the sale being just over a year before the valuation date. It has a similar GIA, but has a balcony, rear garden and loft storage space. It is described as being in good condition with a share of the freehold. It sold for £390,00; £381,150 if adjusted for time. We must make an adjustment for the benefit of the balcony and the share of freehold.
 - (ii) No.62 is a well presented purpose-built two bedroom flat. It seems to be considerably smaller at 535 sq ft. It has a shower room and appears to be modernised. It is end of terrace and has a share of the garden. It sold for £350,000; £365,545 if adjusted for time.

We have applied the HPI from Land Registry for flats and maisonettes in Haringey to each comparable and the resulting average is £374,745.

11. Taking all these factors into account, we determine a long lease value of £365,000. This is somewhat higher than the figure adopted by Mr Cohen. Applying the 1% adjustment, this gives a freehold vacant possession value of £368,687.

Relativity

12. Mr Cohen has not identified any evidence of local transactions of flats with short leases. He therefore resorts to graphs. He has had regard to the decision of the Upper Tribunal (Martin Rodger QC, Deputy Chamber President and Mrs Diane Martin MRICS FAAV) in *Deritend Investments*

(Birkdale) Limited v Ms Kornelia Trekonova [2020] UKUT 164 (LC) (“*Deritend*”), a case involving a flat in Sutton Surrey. It seems that he has had regard to the 2016 Savills unenfranchiseable and Gerald Eve 2016 graphs, and adopted a figure of 77.53%. We approve this, notwithstanding that the subject maisonette is outside Prime Central London.

Capitalisation Rate

13. Mr Cohen takes a figure of 8% given the low ground rent throughout the term. We approve this.

Deferment Rate

14. We approve the “Sportelli” rate of 5% for deferment which Mr Cohen has adopted.

Calculation of the Premium

15. We have adopted the long lease value of £365,000. This is somewhat higher than the figure adopted by Mr Cohen. We accept his figure of 77.53% for relativity and compute a premium of £50,178.

Terms of the new lease

16. The Applicant has provided draft terms for the new lease. The Tribunal approves these.

Rule 13(1)(b) Costs

17. The Applicant asks the Tribunal to make an award of costs pursuant to rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013. This is normally a “no costs” jurisdiction. The Applicant claims legal costs of £2,160, Valuation Fees of £1,200 and £16.80 for official copies of title. The Tribunal notes that DD Davies assessed costs in the County Court at £3,600.
18. Rule 13 of the Tribunal Rules provides in so far as is relevant to this application (emphasis added): “(1) The Tribunal may make an order in respect of costs only (b) if a person has acted unreasonably in bringing, defending or conducting proceedings in (iii) a leasehold case.”
19. In *Willow Court Management Company (1985) Ltd v Alexander* (“*Willow Court*”) [2016] UKUT 290 (LC)), the Upper Tribunal (“UT”) set out the high threshold that must be met before any such order is made. The UT set out a three-stage test: Has the person acted unreasonable applying an objective standard? If unreasonable conduct is found, should an order for costs be made or not? If so, what should the terms of the order be? The UT gave detailed guidance on what constitutes unreasonable behaviour at [22] to [26].

20. The Applicant complains that the landlord has failed to carry out her obligations under the lease and that this has caused problems for the tenants. That is correct. However, this is not conduct in defending these proceedings. This is a missing landlord case. The respondent has played no part in the proceedings. The respondent is unaware of the proceedings. It is impossible to suggest that by failing to defend the proceedings in these circumstances, the respondent has acted unreasonably. The Tribunal is satisfied that this application is hopeless.

Judge Robert Latham
18 July 2023

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 **by e-mail** 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).