



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

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| <b>Case reference</b>                      | : | <b>CAM22UG/OLR/2023/0071<br/>P:PAPERREMOTE</b>  |
| <b>Property</b>                            | : | <b>19 The Rookeries London Road<br/>Marks Tey CO6 1DY</b>                                 |
| <b>Applicant</b>                           | : | <b>Martin Paul Goodman</b>  |
| <b>Representative</b>                      | : | <b>Terence L Hughes FRICS, Tillett<br/>Burns and Hughes Chartered<br/>Surveyors</b>       |
| <b>Respondent</b>                          | : | <b>Wallace Partnership Reversionary<br/>Group Holdings Limited</b>                        |
| <b>Representative</b>                      | : | <b>Geraint Evans FRICS eBureau<br/>Limited</b>  |
| <b>Type of application</b>                 | : | <b>Section 48 of the Leasehold<br/>Reform, Housing and Urban<br/>Development Act 1993</b> |
| <b>Tribunal members</b>                    | : | <b>Mrs E Flint FRICS</b>  |
| <b>Date of determination<br/>and venue</b> | : | <b>Remote hearing on the papers<br/>9 November 2023</b>                                   |
| <b>Date of decision</b>                    | : | <b>15 November 2023</b>   |

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**DECISION**

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**This has been a remote paper hearing which has not been objected to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it no-one requested the same and the application could be decided on the papers.**

**Summary of the tribunal's decision**

- (1) The appropriate premium payable for the new lease is **£14,700**.

## **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 19 The Rookeries London Road Marks Tey CO6 1DY (the “property”).
2. By a notice of a claim dated 26 August 2022, 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 27 November 1986 for a term of 99 years from 1 January 1986 at an annual ground rent of £50 per annum for the first thirty three years, £75 per annum for the next thirty three years and £100 per annum for the remainder of the term. The applicant proposed to pay a premium of £13,000 for the new lease.
3. On 31 October 2022, the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £21,180 for the grant of a new lease.
4. On 27 April 2023, the applicant applied to the tribunal for a determination of the premium. Directions were issued on 27 April 2023.

## **The hearing**

5. On 9 November, the application with supporting valuation reports was considered on the papers. The applicant was represented by Mr Terence L Hughes FRICS of Tillett Burns and Hughes Chartered Surveyors, The respondent was represented by Mr Geraint Evans FRICS of eBureau Limited.
6. 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.
7. The parties experts provided a schedule of agreed items and matters still in dispute.
8. Both experts described the property and location within their reports. The Rookeries was a development of seven blocks of low rise flats built in the mid 1980’s. all the comparables were in respect of flats within the development, reducing the amount of adjustment required in their analysis.

9. The experts agreed that there were no tenant's improvements to be taken into account for the purposes of the valuation.

10. The following matters were agreed:

The unexpired term at the valuation date of 30 August 2022 was 62.34 years;

Capitalisation rate 6%

Deferment rate 5%

Existing lease value £128,000

1% adjustment for tenure

Schedule of comparables

Indexation

11. The matters outstanding were:

Extended lease value

Freehold vacant possession value

The premium.

12. Mr Hughes stated that Land Registry records indicate that 8 leases have been extended by agreement for various terms and no doubt retaining significant ground rents. A further 15 have obtained statutory extensions of 90 years, making 189 years from 1986 at a peppercorn ground rent. The remaining 39 have not been extended and will now have the same unexpired term as the subject.

13. His valuation was based on the average of the last three sales of extended leases within the development. One had 94 years unexpired, the other two had been subject to statutory lease extensions. These sales required adjustment only for time using the Land Registry Index for flats and maisonettes in Colchester. He had taken an average and giving an extended lease value of £148,243 and a freehold of £149,725.

14. As an alternative he had adjusted sales prices for all 7 of the sales of leases subject to statutory extensions dating back to March 2017 which produced an average of £150,086. However, he was of the opinion that the sales closer to the valuation date provided a more reliable guide.

15. He provided a revised valuation in his supplementary report. The premium proposed was £14,256.
16. Mr Evans had identified 13 sales of extended leases between November 2016 and October 2022. He had adjusted the sales where there had been a statutory lease extension by the Land Registry Index for flats and maisonettes in Colchester.
17. The remaining sales were for leases which had been extended to 100 years with varying ground rents which were subject to review every ten years. The ground rents varied from £242 to £544 per annum. He had adjusted each of the sales by estimating the cost of enfranchising, adopting 5% capitalisation and deferment rate, calculating the ground rent at the next review and taking into account £3,000 costs. The calculations were included in a number of spreadsheets.
18. The average of all the adjusted sale prices was £160,764, adding 1% gave a freehold value of £162,372 and a premium of £21,040.
19. As a check he had used an average of the Gerald Eve 2016 and Savills Unenfranchisable graphs for an unexpired term of 62.34 years. 79.86% of £162,372 was £129,670: the existing lease value had been agreed at £128,000.
20. In his supplemental report an error in his analysis was corrected resulting in the following revised valuations: long leasehold £160,680, resulting in a premium of £20,810.

### **The Tribunal's Determination**

21. The tribunal determines that the premium to be paid for the lease extension is £14,475 (fourteen thousand four hundred and seventy five pounds) in accordance with the valuation attached to this decision.

### **Reasons for the tribunal's determination**

22. The Tribunal in reaching its decision considered all of the valuation evidence put forward by both parties.
23. The building in which the subject property is situated forms part of a private sector development of 61 flats contained in 7 similar blocks constructed in the 1980's. There are communal gardens, drying areas, refuse facilities and one car parking space per flat.

24. The subject is a ground floor flat in a three storey block containing 6 flats served by a single communal entrance lobby with entryphone controls. The upper floors are served by a communal staircase, there is no lift. The accommodation comprises three rooms, kitchen and bathroom/wc.
25. The Tribunal determines that the best evidence for the value of the extended lease value are the sales within 2021 and 2022. The adjustments to reflect sales dating back as far as 2016 make those comparables less reliable. Moreover, the adjustments which Mr Evans made to reduce the ground rents to a peppercorn were somewhat artificial: the more assumptions necessary the less reliable the outcome.
26. I have adopted the sales evidence between May 2021 and October 2022 adjusted only for time using the Land Registry Index for flats and maisonettes in Colchester. Of the eight sales, five were subject to statutory lease extensions, one had a ground rent of £75 per annum which in my opinion would have no effect whatsoever on the amount of the premium. The ground rents on the remaining two comparables were £544 and £507 per annum. Although more than either a peppercorn or £75, they are not of such a magnitude as to deter a prospective purchaser in the market in 2022. The average of these sales prices was £148,888 which I have rounded up to £149,000. Adding 1% gives a freehold value of £150,400.

### **The premium**

42. The premium is determined at £14,700. A copy of the valuation calculation is annexed to this decision.

**Name:** E Flint

**Date:** 15 November 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 should be made on Form RP PTA available at

<https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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/00BF/OLR/2021/0832

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 [Property]

Valuation date: 5<sup>th</sup> February 2021

Unexpired lease term 21.38 yrs  
Ground rent £5,25  
Capitalisation rate 5%  
Deferment rate 5%  
Short lease value £131,440

Existing  
Current Term

Ground rent £ 5.25  
YP 21.38 yrs @5% 12.95 £ 68

Reversion

Value (Unimproved) extended lease £280,000  
To FH value plus 1% £282,800  
PV of £1 21.38 yrs @5% 0.3523 £ 99,630 £99,698

Proposed (Landlord)

Term £NIL  
Reversion £282,800  
PV £1 111.38 yrs @5% 0.0044 £ 1,244 £98,394

Marriage Value

Proposed  
Landlord £ 1,244  
Lessee £280,000 £281,244

Current

£ 98,394  
£131,365 £229,759  
£51,485  
@ 50% £25,743

£124,137

**But Say £124,150**

**19 The Rookeries London Road Marks Tey CO6  
1DY**

Valuation date 30 August  
2022

Lease 99 years from 1 January 1986

rent passing £50 pa, increasing to £75 from 1 January 2019 and £100 for remainder of  
term

Existing lease value

£128,000

Capitalisation rate 6.0%

Deferment rate 5%

Landlord's present interest

Ground rent 75

YP 29.34 years at 6% 13.6509 £1,024

Ground rent 100

YP 33years at 6% 14.23  
x PV for 29.34 years 0.181 2.575630 £258

Reversion to freehold 150,400

Deferred 62.34 years at 5% 0.0477 £7,174 £8,455

less proposed interest 150400

Deferred 152.34 years at  
5% 0.00059 89

Diminution in Landlord's interest £8,367

Marriage Value

Proposed interests

landlord £89

Extended lease 149,000 £149,089

less Present Interests

landlord £8,455

Exisitng lease £128,000 £136,455

Marriage Value £12,634

50% marriage value £6,317  
£14,683

**Premium payable £14,700**