



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

Case reference : **LON/00AK/OLR/2023/0443**

Property : **26 Betjeman Court, 50 Cockfosters
Road, Hertfordshire, EN4 0DX**

Applicant : **Judith Carol Levy**

Representative : **Mr James Gilmartin MRICS**

Respondent : **Mrs Linda Cope**

Representative : **Mr I C Davies MRICS RICS (Registered
valuer)**

Type of application : **Application for the grant of a new lease -
Leasehold Reform, Housing and Urban
Development Act 1003**

Tribunal members : **Judge Tagliavini
Mrs E Flint FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **6 February 2024**
Date of decision : **13 February 2024**

DECISION

The tribunal's decision

1. The tribunal finds the value of the subject property at 26 Betjeman Court, 50 Cockfosters Road, Hertfordshire EN4 0DX is £319,000 and therefore the premium payable for the grant of a new lease is £15,071 (fifteen thousand, seventy one pounds).
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The application

2. The applicant seeks the tribunal's determination as to the premium payable in respect of the grant of a new lease of the subject property situate at 26 Betjeman Court, 50 Cockfosters Road, Hertfordshire EN4 0DX ('the Property') pursuant to the provisions of the Leasehold Reform, Housing and Urban Development Act 1993 ('the 1993 Act').

The background

3. In a Notice of Claim dated 31 October 2022, the applicant sought to exercise the right to the grant of a new lease and proposed a premium payable of £10,500. In a Counter-Notice dated 16 December 2022 the respondent admitted the applicant's right to a new lease and proposed a premium of £25,500

The issues

4. Subsequently, the parties agreed the issues in dispute between themselves including the terms of the new lease except for the value of the subject Property with the original lease.

The issues agreed were:

Description of the Property: bedroom	A 673 sq ft two retirement flat built circa 2001 without private parking but communal areas which include a right to use gardens and parking area.
with	
Valuation date and unexpired term: years	31 October 2022 – 77.17 unexpired (leased dated 26 July 2017)
Deferment rate:	5%

Compensation for loss of ground rent:	£3,450
Value of property with new 1993 Act lease:	£330,00
Addition for freehold vacant possession:	1%
Price paid for the property with original Lease (completion on 7 November 2022)	£319,000

The hearing

5. An oral hearing was held by way of video at which the tribunal were provided with a hearing bundle of 240 electronic pages on which both parties relied. The applicant was represented by Mr James Gilmartin MRICS and the respondent was represented by Mr Ian C Davies MRICS RICS (Registered Valuer). Both representatives also acted as valuer experts and spoke to their reports dated 13 January 2024 and 16 January 2024, respectively.

The tribunal's reasons

6. Having heard the oral evidence of the parties' respective valuers the tribunal preferred the evidence of Mr Gilmartin to that of Mr Davies and the former's reliance on comparable sales within the block rather than the graph led evidence preferred by Mr Davies.
7. In his report he proposed a premium of £15,071. In reliance of that premium, Mr Gilmartin referred to a number of comparable sales in the block in which the Property is situated which he relied upon as providing the best comparable evidence rather than a reliance on the Savills graphs which he considered to be inherently unreliable given *'That there is no guarantee that the relationship between values of unextended leases and FHVP values of retirement flats is the same as ones for non-retirement flats'*.
8. In his evidence, Mr Gilmartin relied on the sales of Flats 20; 32 and 28. However, he submitted that the best evidence was the latest sale of the subject Property at £319,000 as although there were other properties available within the block, this was the price the applicant needed to pay in order to secure it in the face of competition in the open market.
9. In contrast Mr Davies proposed a premium payable of £23,000. In his evidence to the tribunal, Mr Davies submitted the sale of the subject flat with the original short lease on 7 November 2022 for £319,000 was too high and not properly reflective of the open market at that date. Mr Davies referred to the sales of Flats 16, 20, 28 and 32 as supporting this argument as when tested against the Gerald Eve and Savills graphs a

relativity of 88.56% was achieved. However, when the subject Property was tested against these graphs with a deduction for the no act world assumption of 2.5% made from the sale figure of £319,000 against a FHVP value of £333,333, this produced a relativity of 93.33% and well in excess of the average of the graphs at 88.56%.

10. The tribunal found Mr Davies' assertions that an inflated price had been paid for the subject Property in November 2022 was unsupported by any or any persuasive evidence. The tribunal considers the sale of the subject Property was conducted by the buyer with full knowledge of the market particularly in respect of retirement flats available in the same block.
11. Therefore, the tribunal preferred the approach taken by Mr Gilmartin to that of Mr Davies and finds the respondent has not demonstrated the purchase price of the subject Property is 'unsafe.' Further, the tribunal questioned the independence and objectivity of Mr Davies as an expert when he remarked in his evidence 'Not fair landlord should be punished' and accepts Mr Gilmartin's submission that the tribunal is not required by the 1993 Act to consider a landlord's aspirations in respect of lease extensions and finds the landlord was 'happy' to carry out lease extensions where s.42 Notices had not been served.
12. In conclusion, the tribunal accepts the evidence of Mr Gilmartin and finds the value of the subject Property is £319,000 and therefore the premium payable for the grant of a new lease is £15,071 (fifteen thousand, seventy one pounds).

Name: Judge Tagliavini

Date: 13 February 2024

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).