



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

**Case reference** : **MAN/00EE/OLR/2023/0010**

**Property** : **Ground Floor Flat, 9 Garnet Street,  
Saltburn by the Sea, TS12 1EQ**

**Applicant** : **Mr Robert Patrick Sturges and Ms  
Joanne Mary Sturges**

**Representative** : **Brady Solicitors**

**Respondent** : **Persons Unknown**

**Representative** : **Not applicable (missing landlord)**

**Type of application** : **Application under sections 50 and 51 of  
the Leasehold Reform Housing and  
Urban Development Act 1993**

**Tribunal member** : **Ian B Holdsworth FRICS  
Vernon Ward FRICS**

**Venue** : **Remote**

**Date of paper  
determination** : **26 March 2024**

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**DECISION REVISED TO AMEND SALUTATION**

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## **Decisions of the Tribunal**

- (1) The tribunal determines that the price to be paid by the applicant for the new lease on statutory terms is **£15,900**.

## **The Background**

1. This is an application under section 50 and 50(1) of the Leasehold Reform Housing and Urban Development Act 1993 (**“the 1993 Act”**) pursuant to an order made by Deputy District Judge Morrill sitting at the County Court of Middlesbrough on 23<sup>rd</sup> May 2023.
2. Sections 50 and 50(1) of the 1993 Act concerns claims for a statutory lease extension where the relevant landlord cannot be found. It enables the court to make a vesting order in respect of any interests of the landlord which are liable to acquisition.
3. Under section 51 of the 1993 Act, the role of the tribunal is to determine the appropriate sum to be paid into court in respect of the landlord’s interests.
4. The applicants in this matter are Mr Robert Patrick Sturges and Ms Joanne Mary Sturges. They are the qualifying tenants of the ground floor flat, 9 Garnet Street, Saltburn by the Sea, Redcar and Cleveland TS12 1EQ (**“the Property”**). The respondent freehold owner or owners are Persons Unknown.
5. On 12<sup>th</sup> December 2022, the applicants issued a Part 8 Claim at the County Court at Middlesbrough for an order pursuant to section 50(1) of the 1993 Act seeking a new lease in the Property. The applicant has been unable to ascertain the whereabouts of the respondents after a comprehensive search and enquiries. For this reason it is not reasonably practicable for the applicants to serve a notice pursuant to section 42 of the Act on the respondents.
6. The applicant subsequently applied for a vesting order under section 49(3) of the 1993 Act. The vesting order was granted subject to the determination of this tribunal.
7. The applicant has provided the tribunal with a valuation report prepared by Mr Joe Fraser MSc FRICS of Joe Fraser Chartered Surveyors dated 14<sup>th</sup> September 2022
8. Mr Fraser is of the view that the premium to be paid for the statutory lease extension is £9,200.

## **The Determination**

9. The tribunal accepts the opinions expressed by Mr Fraser in his valuation report dated 14<sup>th</sup> September 2022 save that:
- (i) The valuation date adopted by Mr Fraser in his premium calculation at page 34 of the bundle is 12<sup>th</sup> September 2022. The tribunal note that the date of issue of the Part 8 claim is 12<sup>th</sup> December 2022. The valuation date to be adopted in accordance with prescribed procedure under the Act provisions is the date of the application to Court for a vesting order. The issue date is shown as 12<sup>th</sup> December with the application dated 1<sup>st</sup> December 2022 so the tribunal has taken the issue date as the relevant date for the premium valuation.
  - (ii) The Expert proposes a freehold vacant possession value of £75,000 for the property based upon four comparable transactions submitted at page 44 of the bundle. These one bed flat transactions vary in sale dates from October 2021 to March 2022 and in value from £120,000 to £95,000. No sales details are provided for the submitted comparable transactions. There is no adjustment to the sale prices to reflect the date of the transaction relative to the valuation date.

Two properties, Flat 11 The Zetland, Marine Parade, Saltburn and Flat D, 32 Amber Street, Saltburn offered long lease terms at sale with unexpired terms of 999 years and 91 years respectively. The tribunal has relied upon this transaction evidence rather than the short lease sales Flat 5, Park View, 89 Marine Parade, Saltburn and 29 Rugby Street, Saltburn in determination of the freehold vacant possession value.

The average of the long lease sale prices is £101,000 with no adjustment of the sales evidence for the passage of time from sales date to the valuation date.

The Expert makes reference to the “*dated state of repair and condition having regard for its age and type*” of the property at section 8 of his report, page 36 of the bundle. He provides no evidence in his report to support any adjustment to value he made to reflect the condition. In the absence of any cogent evidence the tribunal make no deduction from the freehold value calculated above based upon the average of the preferred sales evidence.

- (iii) The revised valuation date adopted by the tribunal results in a slightly longer unexpired lease length at valuation date of 54.05 years compared to the 54.3 years used by Mr Fraser in his calculation.

- (iv) The Expert has adduced some limited and partial long lease evidence to support his assertion the leasehold relativity for this transaction is 80.66%. The tribunal do not accept this relativity.

In determining the relativity, the tribunal relies upon the guidance given by the Upper Tribunal (UT) on sources of relativity prevalent at the valuation date. The authorities given most weight are:

*Sinclair Gardens Investments (Kensington Ltd) [2017] UKUT 494 (LC)*, which was a decision about properties situated at George Court, Chelmsford. These properties situated beyond PCL were assessed by the UT with a relativity of just under 82% for an unexpired term of 66.8-years. The Upper Tribunal relied solely upon the Savills's 2015 graph as the source of this relativity;

*Judith Reiss –v– Ironhawk Ltd [2018] UKUT 311 (LC)*, a decision involving 76 Hampden Lane, Tottenham, London N17. The subject property was assessed and the Upper Tribunal relied upon the 2015 Savills's un-enfranchiseable graph to determine the relativity rate of 86.9% for an unexpired term of 75.23-years.

In *Oliyide –v– Elmbirch Properties plc [2019] UKUT 190 (LC)*, and the *Trustees of Barry & Peggy Foundation –v–Zucconi & Ancor [2019] UKUT 242 (LC)*, the Upper Tribunal also relied upon the Savills and Gerald Eve unenfranchiseable graphs to determine relativities. The properties in all of these cases are situated beyond central London and the data drawn from the relativity graphs was deemed appropriate without adjustment.

In *Midland Freeholds Limited and Speedwell Estates Limited appeals [2017] UKUT 463 (LC)*, the Upper Tribunal decided the same graphs could be appropriately used to determine leasehold relativity in the Midlands and the Northern counties.

In determining relativity the tribunal must focus on the state of the market in Redcar and Cleveland area at the valuation date in the absence of comprehensive and detailed evidence of local transactions, it must consider what relativity graph was used by the local market at the time, or which graph best reflects the operation of that local market. The Upper Tribunal has directed that Savills 2015 and Gerald Eve 2016 unenfranchiseable graphs are reliable sources of relativity data beyond central London. It is our opinion the market reflects recent and relevant tribunal guidance on the calculation of lease premiums.

- (v) The tribunal take an average of the relativities for an unexpired term of 54.05 years from the GE's 2016 and Savills's 2015 graphs.

This produces a figure of 73.83% and this relativity is adopted by the tribunal.

10. The adjusted calculation has resulted in a premium payable of **£15,900**. This premium is in return for the grant of a new lease on statutory terms. A copy of the tribunal premium calculation is appended at Appendix A
11. Accordingly, the Tribunal determines that the premium to be paid in respect of the new lease is £15,900 less the court assessed costs which are still to be determined. These monies to be paid into Court.
12. The Tribunal also approves the proposed draft new lease included in the bundle at pages P130-P139 subject to the inclusion at paragraph LR7 “**Premium**”, that the premium is in the sum of £15,900.
13. This matter should now be returned to the County Court sitting at Middlesbrough under **Claim Number JooMB961** in order for the final procedures to take place.

Valuer Chairman: Ian B Holdsworth

26 March 2024

## Appendix A: Premium Calculation

<b>Property: Ground Floor Flat, 9 Garnet Street, Saltburn by the Sea, TS12 1EQ</b>				
Reference: MAN/00EE/OLR/2023/0010				
<b>Lease and Valuation Data</b>				
Lease Term:		01/01/1978		
Lease Expiry date:		31/12/2076		
Unexpired term as at valuation date:	54.05		years	
Date of Valuation		12/12/2022		
Rent receivable by landlord:				
Payable from valuation date for 54.05 years	£	5.00		
<b>Values</b>				
Extended lease value on statutory terms	£	99,990		
Notional Freehold	£	101,000		
LHVP with current term unexpired	£	74,568	Relativity	73.83%
Capitalisation rate (%)		8.00		
Deferment rate (%)		5.25		
<b>Value of Freeholders present interest</b>				
<b>Term 1</b>				
Ground rent payable	£	5.00		
YP @ 54.05 years @ 8%		12.30486	£	62
Reversion				
Freehold in vacant possession	£	101,000		
Deferred @ 54.05 years @ 5.25%		0.06294	£	6,356
Current value of the freeholders interest			£	6,418
Less				
Freehold value after leasehold extension	£	101,000		
PV of £1 in 144.05 years at 5.25%		0.00063	£	64
Freeholders interest value			£	6,354
<b>Marriage value</b>				
Value of flat with long lease on statutory terms	£	99,990		
Landlords proposed interest	£	64	£	100,054
Less				
Value of Leaseholders existing interest	£	74,568		
Value of Freeholders current interest	£	6,418	£	80,986
Marriage value	<b>Total</b>		£	19,067
Division of Marriage Value equally between				
Freeholder			£	9,534
Leaseholder			£	9,534
<b>Price payable to Freeholder</b>				
Value of freeholders current interest			£	6,354
Plus share of marriage value			£	9,534
			<b>Total</b>	<b>£ 15,888</b>
			<b>Say</b>	<b>£ 15,900</b>
11.3.24				