



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

<b>Case reference</b>	:	<b>LON/00BK/OLR/2024/0335</b>
<b>Property</b>	:	<b>Flat 2E, Hyde Park Mansions, Chapel Street, London NW1 5BL</b>
<b>Applicant</b>	:	<b>Fung Tai Engineering Company Limited</b>
<b>Representative</b>	:	<b>Mr D C Cooper BA (Hons) BSc (Hons) MRICS</b>
<b>Respondent</b>	:	<b>Deritend Investments (Birkdale) Limited</b>
<b>Representative</b>	:	<b>Mr R D Sharp FRICS</b>
<b>Type of application</b>	:	<b>Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993</b>
<b>Tribunal members</b>	:	<b>Judge Dutton Mrs S Phillips MRICS</b>
<b>Date of determination and venue</b>	:	<b>10 December 2024 by video hearing</b>
<b>Date of decision</b>	:	<b>13 January 2025</b>

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**DECISION**

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**Summary of the tribunal's decision**

- (1) The appropriate premium payable for the new lease is  
**£159,000.**

**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 Flat 2E, Hyde Park Mansions, Chapel Street, London NW1 5BL (the “property”).

2. By a notice of a claim dated 6 October 2023 served pursuant to section 42 of the Act, by Rina Khan the previous owner of the property exercised the right for the grant of a new lease in respect of the subject property. At the time the existing lease dated 30 December 1994 between Metropolitan Properties Company Limited (1) and Saoud Al-Derbas 2), for a term of 99 Years from 24 June 1979 was held by the said Rina Khan at an annual ground rent of £150 rising to £600 per annum. The proposed premium was £180,720 for the new lease.
3. On 11 December 2023, the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £399,690 for the grant of a new lease.
4. On 25 April 2024, the applicant applied to the tribunal for a determination of the premium.

### **The issues**

#### **Matters agreed**

5. The following matters were agreed:
  - (a) The subject property is a self-contained flat on the first floor within a 6/7 storey block of flats constructed in about 1883;
  - (b) The gross internal floor area is 1,439 square feet;
  - (c) The valuation date: 9 October 2023;
  - (d) Unexpired term: 54.71 years;
  - (e) Ground rent: agreed at a capitalised sum of £6,000;
  - (f) Capitalisation of ground rent 6% per annum; and
  - (g) Deferment rate: 5%.
  - (h) There are no improvements to be disregarded
  - (i) The property sold for £1,170,000 on 9 February 2024 having previously sold for £990,000 on 26 February 2021.

#### **Matters not agreed**

6. The following matters were not agreed:
  - (a) The “no-Act world” short leasehold (unimproved) value: the applicant contending at the hearing for £1,035,000 and the respondent contending for £1,054,018;
  - (b) The freehold (unimproved) value: the applicant contending for £1,242,500 and the respondent contending for £1,517,445; and

- (c) The premium payable. The Applicant contended for a premium of £143,000 and the Respondent for £279,015

### **The hearing**

7. The hearing in this matter took place on 10 December 2024 by video. The applicant was represented by Mr Cooper, and the respondent by Mr Sharp. Both acted as advocate and expert.
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 Cooper dated 19 November 2024 and the respondent relied upon the expert report and valuation of Mr Sharp also dated 19 November 2024.

### **Existing Lease value**

10. For the Applicant Mr Cooper relied on the purchase of the property by his clients in February of this year at £1,170,000. He made adjustments for 'no act' rights, based on the Savill's Value of Act Rights for an unexpired term of 54.71 years, which he said equated to 7.68%. This gave an adjusted value of £1,080,000.
11. He then applied an adjustment for the passage of time gleaned from the Land Registry House Prices Index between February 2021 and February 2024, which as a checking process he applied to the sale price in February 2021 of £990,000 which gave a lower figure than the price achieved in February 2024 of £1,170,000. He explained this away by reference to the possibility that the Applicant bought with the knowledge of s42 Notice. He also put forward a comparable at 13B Hyde Park Mansions, but it was not clear that this had actually sold. The adjustment for time applied to the February 2024 sale price, together with the adjustment for 'no act' rights gave a value of £1,035,000 for the existing lease.
12. For the Respondent Mr Sharp appeared to accept the sale in February 2024 at £1,170,000, although he had not been able to trace any estate agent's particulars. He adjusted for 'no act' rights at 6%. He commented on the use of the February 2021 sale price and that this would have produced a lower existing lease value. However, he assessed the existing lease value at £1,054,018

### **The tribunal's determination**

13. The tribunal determines that the existing lease value, with adjustments for 'no Act world' and time is £1,053,709.

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

14. There appeared to be agreement that the sale in February 2024 was the best evidence, although Mr Sharp did refer to the earlier sale in 2021. We

did not think that helped us. However, Mr Sharp drew our attention to the case of Daejan v Collins in respect of 207 Ashley Gardens [2024]UKUT 26 (LC), in which he participated, when the Upper Tribunal at paragraph 69 (there is misnumbering) concluded that the appropriate 'no act' world discount for a lease of this length should be 5.85% and recommended the approach they adopted for future use, which we do.

15. Accordingly taking the starting point of £1,170,000 and adjusting for 'no act' rights at 5.85% and for time gave a short lease value of £1,053,709, which is close to the value argued for by Mr Sharp.

### **Freehold vacant possession value**

16. Both valuers had produced a schedule of comparable properties, many the same. Mr Cooper in his report has commented on each one, which we have noted. He has taken the average square footage adjusted for those matters set out on the schedule and arrived at a rate per square foot of £855 for the comparables. Applying that to the square footage of the property of 1439 gave, in his opinion, an extended lease value of £1,230,000, which when uplifted by the agreed 1.0% gives a freehold vacant possession value of £1,242,500.
17. Mr. Sharp had used an old sale of flat 1F and 1M dated respectively July 2018 and December 2019. We did not think them appropriate when there were a number of flats closer to the valuation date that we could rely upon. He rejected the use of 12F Hyde Park Mansions as this had no lift and was on the fourth floor of the block. Mr Cooper had included a sale of 4C Hyde Park Mansions, a raised ground floor flat with a sale price of £1,475,5000, not as shown on the schedule. Mr Sharp challenged this and produced the day before the hearing a further short report setting out a settlement for this flat with a valuation date of 4 November 2020 of £222,000. By reference to earlier marketing history, he threw doubt on the actual sale price achieved in June of 2022. Like Mr Cooper he did provide details of each comparable which we noted. Taking into account the 1% uplift he valued the freehold at £1,517,445.

### **The tribunal's determination**

18. We find that the appropriate value for the freehold of the flat is £1,287,303.

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

19. We conclude that in the round we preferred the evidence of Mr Cooper as his comparables were closer to the valuation date. In addition, the attack on the comparable 4c Hyde Park Mansions was not sustainable as the use of settlement evidence in the face of actual sale evidence is not compelling. Whilst there is a point to be made about the flat at 12F Hyde Park Mansions and the lack of lift, it nonetheless gave a further reasonable comparable to be considered.

20. We have applied a holistic adjustment - i.e. adding all %s together to arrive at one % to then adjust the figure by rather than doing individual adjustments.

21. Mr. Sharp put an argument forward that where comparable properties have a lesser value for the short lease than the long lease, they should be disregarded. We agreed with Mr Cooper when questioned about this, that this is a reflection of the market at the valuation date. It could also be that the housing crisis in London has resulted in this phenomenon and furthermore that buyers are more aware of their ability to extend their leases and accordingly the shorter lease length is of a lesser concern to them now and are willing to pay more to have the opportunity to extend the lease in the future.

22. Mr Sharp argued that the number of bathrooms should be factored into adjustment. We consider that the bathroom is factored into the sq. ft. of the property and their value is therefore included within the overall price for the property and does not need an adjustment reflecting in the figures. There was also some concern raised by him as to the accuracy of some of the estate agent's particulars in particular the accompanying photographs. However, there was, in our finding, no real evidence to support the suggestions that the photographs were taken at a different time, and we have accepted them at face value.

23. We have applied a rate of 1% per floor adjustment rather than the 2% that the Applicant has proposed. Given the nature of this area which appears to be largely investor owned and possible Air BnB usage the impact might be less but nevertheless there will be some additional benefit in having a property further away from the hustle and bustle of the street level.

### **The premium**

24 By reason of our findings in respect of the existing and freehold values we determine the appropriate premium to be **£159,000**. A copy of the valuation calculation is annexed to this decision as is the schedule of the flats and our adjustments. We would like to take this opportunity of thanking the valuers, Mr Cooper and Mr Sharp for their help.

**Name:** Judge Dutton

**Date:** 13 January 2025

**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).

**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**

**Please see attached**