



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

Ckase reference : **LON/00AE/OLR/2024/0229**

Property : **53 Danes Court, North End Road,
Wembley HA9 0AE**

Applicant : **Andrews & Boyd Projects Limited**

Representative : **Mr Michael Stapleton FRICS**

Respondent : **LKB Investments Limited**

Representative : **Mr Eric Shapiro FRICS FCI Arb**

Type of application : **s.48(1) – Leasehold Reform Housing &
Urban Development Act 1993**

Tribunal members : **Judge Tagliavini
Mrs S Redmond MRICS**

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

Date of hearing : **1 April 2025**
Date of decision : **30 April 2025**

DECISION

Decisions of the tribunal

- (1) The tribunal determines that the appropriate rate of relativity to be applied is 63.93%.
- (2) There being no other matters to be agreed, the valuation prepared by Mr Shapiro which results in a premium payable for a 90 year lease extension of the flat at £72,251 has been checked and is confirmed. The premium payable for the garage of £16,899 is agreed by the parties. The total premium payable is therefore £89,150 (eighty nine thousand one hundred and fifty pound).

The application

1. This is an application made pursuant to s.48(1) of the Leasehold Reform Housing & Urban Development Act 1993. The subject premises at **53 Danes Court, North End Road, Wembley HA9 0AE ('the property')** comprises a third floor flat in a purpose built block of a traditional brick construction, with two bedrooms, lounge, kitchen and bathroom/w.c.
2. A Notice of Claim dated 5 August 2023 proposed a premium payable of £40,000 in respect of the flat and a premium of £1,000 for the garage. A Counter-Notice dated 9 October 2023 proposed a premium of £130,108 of which £109,628 was said to be in respect of the flat and £20,480.00 for the garage.
3. Before and during the hearing the parties agreed the following:

Term of remaining lease:	51.62 years
Term of remaining lease of garage:	10.62 years
Valuation date:	8 August 2023
Floor area:	689 sq.ft
FHVP of flat:	£330,000
Ground rent:	Agreed
Deferment rate of flat and garage:	5%
Capitalisation rate:	6%

Premium payable for garage: £16,899

The issue

4. The only issue that remained to be determined by the tribunal is the relativity that is required to be applied in determining the premium payable. The applicant contended for 72% and the respondent submitted 63.93% was the appropriate relativity.

The hearing

5. The tribunal was provided with a 308 page digital bundle that was relied upon by the parties. A video hearing was held at which the applicant was represented by Mr Michael Stapleton FRICS who spoke to his signed report dated 18 March 2025. The respondent was represented by Mr Eric Shapiro FRICS FCI Arb who spoke to his report although this appeared to be neither signed or dated.

The applicant's submissions

6. In his report, Mr Stapleton asserted that:

As the Tribunal are aware there have been a number of "relativity graphs" produced over the years, all of which have been criticised for one reason or another. Following the 2019 Upper Tribunal decision in Trustees of The Barry and Peggy High Foundation v Zucconi there has been acceptance in the outer London areas to follow this decision, as a basis for determining relativity. In the absence of any other persuasive guidance or clear current untainted market evidence to demonstrate the relativity, this approach has become the industry standard. The resultant relativity is 72% and this is the relativity I have adopted for the purpose of my calculations...

7. In presenting his case he agreed the premium for the garage, capitalisation rate of 6% and the GIA of the flat at 689 sq.ft. On questioning by Mr Shapiro, Mr Stapleton stated he had thought about short-lease evidence of sales even though none had been included in his report. He regarded sales more than 3 months from the subject date to be too far away. He considered that Mr Shapiro's calculation was out of line with the previous FtT determinations for the estate. In any event, as the parties had agreed the FHVP it was not necessary or permissible to look behind this agreement. Mr Stapleton told the tribunal he had followed a three-stage approach in that he (i) looked at the Gerald Eve graphs (ii) checked these against the decisions of the Leasehold Valuation Tribunal, which he considered were an unreliable tool and (iii) looked at 5 short-lease sales (although not included in his report). This approach produced a relativity figure of 72%.

The respondent's submissions

8. In his report, Mr Shapiro provided evidence of both long lease and short lease comparables as well as previous tribunal decisions in which he had acted. Mr Shapiro preferred to rely on market evidence and stated:

The subject estate is unusual in that there is a good amount of short lease evidence to avoid the necessity of using a theoretical approach to the short lease values (rather than utilising real-world evidence). This follows the dictum in the case of Deritend Investments (Birkdale) Limited V Ms Kornella Treskonova [2020] UKUT0164 (LC).

9. Mr Shapiro also stated in his report that in 3 previous decisions of the tribunal referred to in the appendices of his report:

It was unequivocally determined, by all three judgements, that Empire and Danes Court was a micro market irrespective of whether a flat was a 1 bedroom flat or a 2 bedroom flat. There was compelling evidence from both long and short lease sales showing a homogeneous rate per sq ft which in itself provided a unique relativity that was different from the relativity graphs.

6.2.3 In the decision dated 24 November 2016 (Appendix EFS 2) the FTT it was determined that for a 59.40 year lease the relativity was 71.70%. This decision was in respect of 8 flats.

6.2.4 In the decision dated 13 July 2017 (Appendix EFS 3) the FTT it was determined that for a 58.70 year lease the relativity was 69.47%.

6.2.5 In the decision dated 10 May 2021 (Appendix EFS 4) the FTT it was determined that for a 55.08 year lease the relativity was 70.18%.

6.2.6 In this case I have followed the same approach and have produced both long and short lease evidence, thus rendering the use of relativity graphs as unnecessary. I would remind the Tribunal that the use relativity graphs produces a theoretical value, not proven by the market and hence the preference for market evidence.

10. In his evidence on the issue of relativity, Mr Shapiro stated in his report:

As stated in Section 6.1 (of report) I was able in the earlier cases relating to this development to provide evidence using a number of both long lease and short lease comparables which proved the

micro market relativity, and all the tribunals accepted that evidence and agreed that the graphs, which are theoretical, should not be used. I have, therefore, adopted the same approach again.

11. Mr Shapiro included in his report Schedules of both the long lease and short lease sales at Empire Court and Danes Court adjusting for time where necessary using the index-linked Land Registry London Borough of Brent Houses Prices Index for Flats. He made further adjustments for condition, floor and location, and for the short leases to reflect the 'no Act world' and lease length. Comparing the short and long lease/effective freehold value results he concluded a relativity of 63.93% on the basis of this analysis. He went on to consider the previous F&T decisions on the estate. Mr Shapiro stated:

The 3 earlier tribunal decisions were based on the evidence at the relevant valuation date and this will explain why the third decision of relativity of 70.81% for a 55.08 years was higher than the second decision of 69.47% for a 58.70 year term. The average Gerald Eve 2016 and Savills Unenfranchiseable 2015 graph shows a reduction 77.32% to 74.65% for the term falling 58.70 years to 55.08 years. If the percentage fall in the Gerald Eve / Savills average was applied to the 58.70 year term this would have given a relativity for the 55.08 year term of 67.07% compared with the decision at 70.18%. The reduction in the Gerald Eve / Savills graph from 55.08 years to 52.62 years is a reduction from 74.65% to 72%. Consequently, if the 67.07% relativity was utilised for the 55.08 years, the relativity for the 51.62 year term would be 64.68% which proves that 63.93% relativity is realistic.

12. In closing, Mr Shapiro criticised Mr Stapelton's absence of any reference to short lease sales in his evidence and submitted the tribunal should prefer his report and the oral evidence he gave to support it.

The tribunal's determination and reasons

13. The tribunal determines the appropriate rate of relativity is 63.93%.
14. The tribunal preferred the evidence of Mr Shapiro to that of Mr Stapleton. The tribunal determines that it is necessary to look at market evidence in determining the rate of relativity. Where there is sufficient evidence that it should be used in preference to graphs. FHVP for the subject property had been agreed, however, this did not prevent the analysis of market evidence to arrive at relativity. In this case sufficient market evidence was produced to allow an assessment of relativity on real world evidence. The Tribunal accepts that there are numerous factors to be taken into consideration in carrying out such analysis and both parties had the opportunity to do so.

15. The tribunal found Mr Stapleton's failure to include any market evidence in his report and 'cherry-picked' evidence of sales in his oral evidence to be unsatisfactory and unpersuasive.
16. In contrast, the tribunal found Mr Shapiro's evidence was full and thorough and that he was able to explain to the tribunal his reasoning.
17. Therefore, having preferred the evidence of Mr Shapiro the tribunal accepts his figure for the rate of relativity of 63.93%. There being no other matters to be agreed, the valuation prepared by Mr Shapiro which results in a premium payable for a 90 year lease extension of the flat at £72,251 has been checked and is confirmed. The premium payable for the garage of £16,899 is agreed by the parties. The total premium payable is therefore £89,150 (eighty nine thousand one hundred and fifty pound).

Name: Judge Tagliavini

Date: 30 April 2025

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-ptapplication-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).