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

Case Reference : **LON/00BK/OLR/2013/0503**

Property : **Flat 10 101 Mount Street London
W1K 2TQ**

Applicant : **Grosvenor West End Properties**

Representative : **Mr C Heather of Counsel**

Respondent : **Kirti Vasu**

Representative : **Mr J Fieldsend of Counsel**

Type of Application : **S.48 Leasehold Reform Housing
and Urban Development Act 1993**

Tribunal Members : **Mrs F J Silverman Dip Fr LLM
Mr P Tobin FRICS MCI Arb**

**Date and venue of
Hearing** : **13 and 14 August 2013.
10 Alfred Place, London WC1E 7LR**

Date of Decision : **27 August 2013**

DECISION

Decision of the tribunal

The tribunal determines that the price payable by the Respondent tenant to acquire an extended lease shall be £372,844.

Reasons

1. The applicant seeks a determination pursuant to s.48 Leasehold Reform Housing and Urban Development Act 1993.
2. The hearing of this matter took place before a Tribunal sitting in London on 13 and 14 August 2013 at which Mr C Heather of Counsel represented the Applicant landlord and Mr J Fieldsend of Counsel represented the Respondent tenant.
3. On behalf of the Applicant the Tribunal heard evidence from Mr Ryan FRICS and Mr Coombs MRICS and for the Respondent evidence was given by Mr Rangeley MRICS.
4. The parties supplied the Tribunal with a schedule of facts agreed and of those which remained in dispute which is appended at Schedule A.
5. The Tribunal inspected the subject property, together with the exterior and common parts of the building in which it is situated on the morning of 14 August 2013. 101 Mount Street (the building) is a Grade II listed building constructed at the end of the nineteenth century and forming part of a terrace of shops and flats facing on to Mount Street and backing on to Mount Street Gardens. The latter are public gardens, not belonging to the building, but are a tranquil haven in the middle of a busy cityscape. The building is well maintained with shops on the ground floor and flats on the upper floors. Park Lane and Hyde Park are a few minutes walk away as are the department stores and public transport facilities of Oxford Street. Comparable properties cited by the parties' surveyors were also viewed from the exterior.
6. The subject property is a one bedroomed flat on the third floor of the building facing on to Mount Street. The entrance hall to the building is gracious and elegant and the flat itself can be accessed either by a clean and well lit carpeted staircase or by a small lift serving the first three floors of the building. The subject property comprises a small entrance hall, a living room with a dining area in the bay of the front facing window, a double bedroom, small bathroom and small kitchen. The

bedroom window is set into the dormer providing the benefit of an alcove in which to site a dressing table but the disadvantage of slightly reduced headroom. The flat has no outside space. The top floor of the building comprises a penthouse apartment with a small roof terrace. Accessed by a staircase from the third floor, the penthouse suite is constructed only at the rear of the building overlooking the rear gardens and does not sit on top of the subject property .

7. For the Applicants Mr Ryan gave evidence as to the physical attributes of the property and comparables with Mr Coombes applying Mr Ryan's findings in his valuation. For the Respondent Mr Rangeley gave evidence relating to all aspects of the property including valuation.
8. Mr Ryan and Mr Rangeley are both experienced in leasehold valuation work and it is regrettable that both surveyors needed to make corrections to their figures in the course giving evidence to the Tribunal. Mr Ryan has an unrivalled knowledge and experience both of the local market and of the block in question having worked in the area since the 1970's and the Tribunal consider it proper to give weight to that experience in considering the evidence.
9. Mr Ryan had included the subject property itself in his comparables although this property had been excluded from Mr Rangeley's deliberations. The Tribunal considers that Mr Ryan was correct to include the subject property as a comparator. It had been the subject of an open market sale within a few days of the date of the service of the notice under the Leasehold Reform Housing and Urban Development Act 1993 and as such is an ideal example for comparison purposes since no adjustments are needed save for lease length.
10. Both valuers used the penthouse as a comparator. Although within the same block as the subject property the Tribunal preferred not to use this particular property for a number of reasons. First, the property is on the fourth floor of the building and the only access above third floor level is by means of 16 stairs; whereas all the other flats in the block have the benefit of access by lift and stairs . Secondly, the penthouse is almost 2.5 times larger than the subject property . It also has the benefit of higher ceilings, views over the gardens at the rear of the building and use of a roof terrace. It is noted that the latter does have some flaws in that the security of the access by staircase to the penthouse is not guaranteed , neither is the exclusive use of the roof terrace where other residents have the right to access the fire escape positioned on the roof. The roof terrace space is also of limited value because of unusable areas created by the top of the lift shaft and a glass panel giving light on to the common parts of the floor below.

11. The Tribunal accepts that Flats 4 , 7 and 8 in the same block as the subject flat, provided the appropriate adjustments are made, are good comparables. Flat 4 is on the first floor of the block facing the street and has French windows opening on to a small balcony area which , although far too small to be considered usable outside space, would nevertheless add light to the property and enable one or two plant tubs to be positioned on it. The Tribunal agrees that there should be a 1% adjustment to account for difference in floor levels and so applies 2% in this case to reflect the fact that this flat is on a lower floor of the building than the subject property and a 1% adjustment to allow for the benefit of the small balcony space.
12. In relation to Flat 8 an argument was suggested to the Tribunal that an adjustment of 2.5% should be made for quantity . Although this flat is larger than the subject flat the Tribunal did not consider that an adjustment for quantity would be relevant except in the case of extremely large or extremely small properties . Since Flat 8 fell into neither of these categories the Tribunal declined to make an adjustment on this basis.
13. Flat 7 is a one bedroom flat on the second floor of the building and appears to be a good comparable with the subject property although there are some differences for which adjustments such as ceiling height, floor level, and size, need to be made.
14. In addition to the above, Flat 6 at 18 Mount St was offered as a comparable by Mr Rangeley and Mr Ryan had therefore included a summary of this property in his own evidence but had not treated it as a comparable for analysis purposes . Number 18 Mount Street is situated on the north side of Mount Street almost opposite 101 Mount Street. The building itself is less imposing than no 101 and did not appear to be maintained to the same immaculate standard. The Tribunal was able to see the interior of the hallway which is less impressive than that belonging to no 101. Unlike no 101 there are no gardens to the rear of the building which appears to look over other residential and commercial buildings. Flat 6 is a two bedroom property with a substantially larger floor area than the subject property . Although the Tribunal does not criticise the inclusion of this property by Mr Rangeley, it chooses in this instance not to attach weight to this comparable , since there are excellent comparables within the block itself without the need to look elsewhere . Further , Flat 6 is the least suitable of the available comparables because it is not within the same building as the subject property, is situated in a building which is of less good quality than the subject property and differs substantially from it in floor area.
15. In relation to freehold vacant possession value Mr Rangeley had analysed his comparators and had added a weighting to them. Mr Ryan maintained that there was no need to apply a weighting because all the properties were in the same building. The Tribunal prefers Mr Ryan's

more straight-forward approach, which gives a freehold vacant possession value of £1,500,000 .

16. The value of the landlord's interest had been agreed by the parties as 99% of the full vacant possession figure ie 99% of £1,500,000 = £1,485,000.
17. In relation to both the treatment of ground rent and rent reviews the Tribunal prefers Mr Coombs' rationale and figures to those proposed by Mr Rangeley .
18. As far as the value of the tenant's existing interest is concerned, the Respondent had applied a relativity of 78.79% which is outside the range of opinion suggested by any of the graphs generally employed in these cases at 38 years unexpired. It is also above the figure of 71% decided in *Nailrile* in relation to a 44 years unexpired term. Similarly Mr Rangeley's figure of 81.78% in relation to the 43.25 year reversion does not sit happily with the figures cited in *Nailrile* above. Although the Tribunal accepts the wholly sensible point made by Mr Fieldsend that one should be wary of putting blind faith in the figures produced on established graphs , it also considers that it should treat with great caution any figures which are offered which, without good reason, fail to reconcile with the figures produced by established (and judicially recognised) graphs. Since Mr Rangeley's relativity figures are substantially outside the norms presented by the established graphs whereas Mr Ryan's figures can be reconciled with the graphs, we are persuaded in this case to adopt Mr Ryan's calculations.

The Law

19. Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (The Act) provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable for other loss.
- 20.. The value of the landlord's interests before and after the grant of the new lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the assumption that the tenant has no rights under the Act to acquire any interest in any premises containing the tenant's flat or to acquire any new lease.
21. Para 4 of the Schedule, as amended, provides that the landlord's share of the marriage value is to be 50%, and that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.

22. Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.
23. Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Premium payable by Tenant on Grant of New Lease

24. The Tribunal determines that the premium to be paid by the tenant on the grant of a new lease, in accordance with section 56 and Schedule 13 of the Leasehold Reform, Housing and Urban Development Act 1993 is £372,844 . A copy of the Tribunal's valuation is attached as Schedule 2.

Judge F J Silverman

.....
As Chairman

.....27 August 2013

Freehold with vacant possession:	£1,500,000;
Extended lease:	1,460,112
Existing landlord's interest:	248,912
Existing tenant's interest:	961,350
Annual ground rental after review:	1,233
Proposed landlord's interest:	1,986

Landlord's present interest

Current g/rent	£1,050	
YP for 19.09 years @ 5.5%	11.6393	£12,221
New g/rent:	£1,233	
YP for 19 years @ 5.5%	11.6077	
PV £1 in 19.09 years @ 5.5%	0.35984	4.1769
		5,150
Reversion to 133.25 year headlease	£1,500,000	
	@ 99%	
	1,485,000	
PV of £1 in 38.09 years @ 5%	0.15592	231,541
Value of present interest		£248,912

Landlord's proposed interest

G/rent nil;

Freehold with VP	£1,500,000	
Reversion to 43.2 years	@ 68.6%	£1,029,000
PV of £1 after 128.09 years @ 5%		0.00193
		£1,986
Diminution in value of landlord's interest		£246,926

Marriage value

Landlord's proposed interest	£	1,986
Extended leasehold interest		1,460,112
		1,462,098
Less I/I present interest	£248,912	
Tenant's present interest	961,350	1,210,262
Marriage gain		251,836 @ 50% =
		125,918
Premuim payable		£372,844

**Statement of Facts
for a Hearing before the First-tier Tribunal (Property Chamber)
13 August / 14 August 2013**

Flat 10, 101 Mount Street, London W1

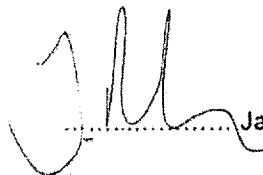
**Leasehold Reform, Housing and Urban Development Act 1993 (as amended)
Schedule 13**

Issues agreed		
1.	Valuation date:	22 November 2012
2.	Term date of underlease:	24 December 2050 (38.09 years unexpired)
3.	Underlease rent passing and calculation basis upon review:	<p>£1,050 per annum.</p> <p>Subject to further review on 24 December 2031. The review is to 0.1% of the open market capital value of the demised premises. This is defined in the lease as <i>"such capital sum as might reasonably be expected to be paid in the open market by a willing purchaser to a willing vendor for the grant of a lease of the demised premises with vacant possession for a term of 62 years from the first review date or the second review date as the case may be on the same terms as this lease (other than the rent) but at a rent equivalent to the rent payable for the demised premises in the twelve month period immediately preceding the first review date or the second review date as the case may be and with similar rent reviews at similar intervals and on the assumption (if not a fact) that all the obligations as to repair and decoration imposed herein on the tenant and the landlords has been complied with"</i>.</p>
4.	Capitalisation rate:	5.50% (for rent passing and on review)
5.	Deferment rate:	5.00%
6.	Gross Internal Area:	608 sq ft
7.	Extended lease/freehold relativity for the new underlease:	98.5% for 128.09 years
8.	Relativity for GWEP's existing reversion:	99% for 133.25 years

Issues in dispute	
a)	Value of proposed extended lease assuming vacant possession, disregarding the value of qualifying tenant's improvements if any.
b)	Value of Freehold in possession assuming vacant possession, disregarding improvements, calculated in accordance with agreed item 7 above.
c)	Value of GWEP's existing reversion with effect from 24 December 2050 (lease term 133.25 years), calculated in accordance with agreed item 8 above.
d)	Value of GWEP's proposed reversion with effect from 24 December 2140 (lease term 43.25 years).
e)	Value of tenant's existing interest (38.09 years), disregarding rights to enfranchise and tenant's improvements, if any.
f)	Value of rent on review on 24 December 2031, in accordance with agreed item 3 (62 year term).
g)	Resultant premium payable under Schedule 13.

Signed by

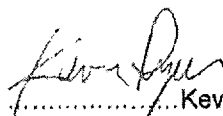
For the Claimant



James Rangeley MRICS JSS Egerton

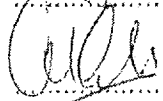
6 August 2013

For the Landlord



Kevin Ryan FRICS of Carter Jonas LLP

6 August 2013



Charlie Coombs MRICS of Gerald Eve LLP

6 August 2013

Gerald Eve LLP
Chartered Surveyors
CEHC/CAB/MH8259/368
6 August 2013

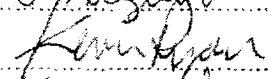
Flat 10, 101 Mount Street, London W1
 Schedule of Factual Information Regarding Properties Referred to by the Experts

Property	Floor	Beds	Date of Sale	Tenure Years	Sale Price £	GIA	Savills Central Flats	
Flat 10, 101 Mount Street, W1 Subject Property	3	1	Nov-2012	38	1,200,000	597 <small>(as per sales particulars)</small>	204.5	204.5
The Penthouse, 101 Mount Street, W1	4	2	Jul-2012	86	3,800,000	1,306	202.1	204.5
Flat 7, 101 Mount Street, W1	2	1	May-2012	38.5	1,390,000	709 <small>(as per sales particulars)</small>	201.0	204.5
Flat 8, 101 Mount Street, W1	3	2	Feb-2012	128	2,200,000	845	197.9	204.5
Flat 4, 101 Mount Street, W1	1	1	Nov-2010	115	1,300,000	687	171.6	204.5
Flat 6, 18 Mount Street, W1	3	2	Dec-12	119.25	1,950,000	1,022	205.0	204.5

For the Claimant  James Rangeley MRICS

JSS Egerton

Date 6 August 2013

For the Landlord  Kevin Ryan FRICS

Carter Jonas LLP

Date 6 August 2013