



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

Case reference : LON/00BC/OLR/2014/0479

Property : Ground Floor Flat, 104 Coventry Road, Ilford, Essex IG1 4RG

Applicant : Chandra Bhooshan Singh

Representative : Leasehold Doctors

Respondent : Ground Rents (Regis) Ltd (“the landlord”)

Representative : Pier Legal Services

Type of application : A new lease claim

Tribunal members : Angus Andrew
Marina Krisko FRICS

Date and venue of hearing : 15 July 2014
10 Alfred Place, London WC1E 7LR

Date of decision : 30 July 2014

DECISION

Decision

1. Relativity of 83.41% should be used to calculate the existing short lease value of the flat, which we determine at £170,990.
2. We determine the long lease value of the flat at £22,896.15 in accordance with the valuation annexed to this decision.

Background

3. 104 Coventry Road was an end of terrace house build during the early part of the last century. It has been converted to form two single storey flats. Both flats were sold on leases for terms of 99 years from 25 December 1974. Both leases reserve an initial ground rent of £30 arising to £44 after 30 years and £60 after 60 years. The lease of the ground floor flat was granted on 28 October 1976.
4. Mr Singh purchased the ground floor flat on 4 February 2002. On 9 September 2013 he gave notice of his claim to acquire an extended lease.
5. On 22 November 2013 the landlord gave a counter-notice admitting Mr Singh's claim.
6. On 27 March 2014 Mr Singh applied to this tribunal pursuant to section 48 of the Act for a determination of both the terms of the new extended lease and the price to be paid for it.

Hearing

7. At the hearing Mr Singh was represented by Mr S Blanking, FRICS and the landlord was represented by Mr P Holford BSc (Hones) MRICS. Both valuers had prepared valuation reports that were included in the hearing bundles. Mr T Harrison-Moore also attended the hearing as the head of the asset management with the landlord.
8. We allowed the surveyors a short adjournment both to enable them to conclude their negotiations and also to correct a number of arithmetical errors in their valuations. On reconvening they confirmed that the following has been agreed:
 - a. The valuation date at 9 September 2013.
 - b. The remaining term of the existing lease at 60.29 years.
 - c. A capitalisation rate of 6%.

- d. A deferment rate of 5%.
 - e. The extended lease value of the ground floor flat at £205,000.
 - f. The diminution in value of the landlord present interest at £11,782.80
 - g. The value of the landlord's interest following the grant of the new lease at £143.50.
 - h. The terms of the new lease that had been agreed by the parties' representatives prior to the hearing.
9. Only one issue remained in dispute. That was the relativity to be applied to the agreed extended lease value to ascertain the current short lease value of the ground floor flat.

Mr Holford's approach

10. Mr Holdford relied upon a composite graph prepared by Beckett and Kay that was annexed to his report. It is headed "*Beckett and Kay presentation of RICS data*" and is described as being the "*2011: second edition*". It is dated 12 April 2011 and we refer to it as "*the 2011 graph*". The 2011 graph incorporates individual relativity graphs published respectively by John D Wood and Gerald Eve, Austen Gray, Nesbitt and Co, South East Leasehold, Andrew Pridell Associates Ltd and Beckett and Kay. We say more about the individual graphs later in this decision. In addition Mr Holford relied upon the relativity graph produced by John D Wood & Co that is based on tribunal decisions in the London region although he did not attach a copy of that graph to his report. Having considered the individual graphs he discounted the Austin Gray, South East Leasehold, Andrew Pridell graphs for reasons that will become apparent. It is equally clear that he did not rely on the John D Wood and Gerald Eve graph presumably because it relates to prime Central London. In effect he therefore relied on the Beckett and Kay, Nesbitt and Co and John D Wood London tribunal graphs and taking an average of the three graphs concluded that the appropriate relativity was 79.66%.
11. Despite the date of the 2011 graph included in Mr Holford's report (12 April 2011) Mr Harrison-Moore said that the graph had actually been published at a later date and took into account 2012 and 2013 transactions. We gave Mr Harrison-Moore seven days to produce evidence in support of that assertion and we allowed Mr Blanking a further seven days to comment on that evidence. Mr Harrison-Moore has produced a further composite graph prepared by Becket and Kay that seems to be almost identical to the 2011 graph save that it is described as being the "*2013: second edition*". It is impossible to reconcile the descriptions on the two graphs and it is regrettable that Mr Holford did not disclose the papers or

explanations that must have underpinned them. Nevertheless we are satisfied that nothing turns on the point. For the purpose of our reasoning it matters not whether the 2011 graph includes transactional evidence from the two following years.

Mr Blanking's approach

12. Mr Blanking in his report put relativity at 85% but offered no explanation for that conclusion. At the hearing he said it was based on an average of the relativity graphs included in the RICS research report that was produced following judicial comment made in *Arrowdell Ltd v Coniston Court (North) Hove 2006 LRA/72/2005*. He also said this conclusion was supported by the sales of 3 flats details of which were annexed to his written report. He suggested that these three flats had been sold on the basis of short leases but there was nothing in the particulars to substantiate that assumption and in answer to Mr Holford's question he accepted that he did not know the remaining length of the three leases.

Reasons for our decisions

13. We did not find the three comparable transactions relied upon by Mr Blanking helpful. The particulars did not give details of the lease terms and searches at HM Land Registry undertaken by Mr Holford suggested that all three terms were considerably in excess of 60 years and that the leases were not therefore "short" leases. Furthermore none of the three flats were in Coventry Road and very little information was provided about them so that it is impossible to know whether they are comparable to the ground floor flat. Consequently in reaching our decision on relativity we discount them.
14. We were concerned that both valuers had quoted selectively from the RICS research report that was published in 2009. We therefore obtained a copy of the full report and we informed both valuers that we would have regard to it. We also obtained a copy of the John D Wood London tribunal graph referred to by Mr Holford. Neither valuer objected to this. We offered to make copies of the RICS report and the John D Wood London tribunal graph available to the valuers but they declined that offer.
15. On comparing the composite graph at page 25 of the 2009 RICS report with the 2011 graph an anomaly becomes apparent. In the RICS report Beckett and Kay put relativity for an unexpired term of 60 years at 85.17%. However in the 2011 graph they put relativity for an unexpired term of 60 at about 75%. The other individual graphs in the 2011 graph are all consistent with the information contained in the RICS report.
16. This substantial change in relativity over a relatively short time is surprising. It is generally assumed that relativity will remain constant overtime and certainly the Lands Tribunal made such an assumption in

Arrowdale when they recommended the publication of a standard graph. Mr Harrison-Moore provided a possible explanation for this apparent reduction in relativity recorded by the two Beckett and Kay graphs. In contrast to all the other graphs the Beckett and Kay graphs are based solely on mortgage dependent transactions. That is, they do not take the cash market into account. Mr Harrison-Moore said that following the financial crash of 2008 mortgage lenders had become more cautious. Whereas in the past they would lend on the security of leases with unexpired terms of 60 years they no longer do so. That change in policy had the effect of reducing the market for relatively short leases that resulted in a fall in prices that is reflected in the lower relativity recorded in the second Beckett and Kay graph.

17. In summary therefore the relativity graphs under consideration for an unexpired term of 60 years can be represented by the following table:

Graph	%
South East Leasehold	90.00
Beckett and Kay - Graph in RICS Report	85.17
Andrew Pridell	86.00
Austen Gray	85.47
Nesbitt & Co	83.00
John D Wood	82.00
Beckett and Kay - 2011 Graph	74.00

18. As will be seen Mr Holford discounted the four graphs in the RICS report with highest relativity and that accounted for the difference in relativity suggested by the two valuers. Mr Holford discounted the South East Leasehold graph because it was based on the sales of flats in purpose built blocks. He discounted the Austin Gray and Andrew Pridell graphs because he said they were based on the “*south coast/Brighton*”. That is not entirely correct. In the RICS report the Austin Gray graph is said to be based on the “*South East - primarily Brighton and Hove*” whilst the Andrew Pridell graph is said to be based on “*predominantly the South East and suburban London*”.
19. It is commonly accepted that different considerations apply to the prime central London area. However, that apart Mr Holford produced no evidence to suggest that relativity would vary in the different regions of Greater London and England or between different types of property. Furthermore it is noteworthy that the RICS research report dealt with Greater London and England as a single entity. Mr Holford had simply sought to exclude those graphs that were inconvenient to the landlord.
20. As pointed out in the RICS report the members of the working group were unable to agree a definitive graph. All the relatively graphs commonly used are open to criticism for the reasons stated in the report. Perfect evidence of short lease values in a “no act” world is no longer available. In such circumstances we agree with Mr Blanking that in considering relativity the widest possible “*basket of graphs*” should be considered. That approach

reduces the risk of relying on one or a small number of graphs that may be fundamentally flawed. We therefore have regard to the 3 graphs discounted by Mr Holford and also to the John D Wood London tribunal graph that has frequently been accepted by other tribunals.

21. That leaves the two Becket & Kay graphs. Both graphs are based on mortgage dependent transactions and are open to the criticism that they reflect only a segment of the market. Furthermore Mr Harrison-Moore's explanation for the drop in the relativity recorded in the second graph whilst plausible (although unsupported by any evidence) rather undermines its integrity. Given the current restrictions on mortgage lending it is difficult to justify the observation that low value properties in Greater London constitute a mortgage dependent market. A more accurate reflection of relativity might be gained by considering the whole market for short leases that may well produce a graph that is more consistent with those of the other firms.
22. Clearly the Beckett and Kay graph in the RICS report should be discounted because it has been overtaken by the 2011 graph. With some hesitation we have concluded that it is appropriate to have regard to the 2011 graph for each of two reasons. Firstly because Mr Blanking did not object to it being included in the "basket of graphs". Secondly because the Lands Tribunal appears to approve mortgage dependent graphs in paragraph 57 of its decision in Arrowdell that was quoted in both the introduction to the RICS research report and Mr Holford's report.
23. Consequently we conclude that a relativity of 83.41% should be applied to the agreed freehold value in accordance with the following table:-

Graph	%
South East Leasehold	90.00
Andrew Pridell	86.00
Austen Gray	85.47
Nesbitt & Co	83.00
John D Wood	82.00
Beckett and Kay – in the 2011 graph	74.00
Total	500.47
Average relativity (Divide by 6)	83.41

24. The freehold value having been agreed at £205,000 the long lease value is therefore £170,990.50.

Name: Angus Andrew

Date: 30 July 2014

104 COVENTRY ROAD, ILFORD, IG1 4RG

Matters Agreed

Valuation date: 9th September 2013.
Remaining term: 60.29 years.
Value of Term and Reversion: £11,782.80
Reversion in 150.29 years: £143.50.
Extended leasehold value: £205,000.

Matters Determined

Relativity: 83.41%
Existing leasehold value: £170,990.50

Valuation

Term and Reversion (as agreed) £11,782.80

Marriage Value

Extended leasehold value £205,000.00

Value of 150.29 years reversion £143.50

£205,143.50

Less

Existing leasehold value £170,990.50

Landlord's existing interest £ 11,926.30

£182,916.80

Marriage value £ 22,226.70 50% £11,113.35

Premium £22,896.15