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

Case reference : **MR LON/00AU/OLR/2013/1636**

Property : **Flats 25, 31, 36 & 46 Parkhurst Court, Warlters Road, London N7 0SD**

Applicants : **Barnaby John Calman, Flat 25 (1)
Richard George Kirby, Flat 31 (2)
David Leo Alexander Ferner, Flat 36 (3)
Dag Boyum Rorvik, Flat 46 (4)**

Representatives : **Percy Short & Cuthbert Solicitors
Mr John Roe FNAEA ICIQB of
Drivers and Norris Chartered
Surveyors**

Respondents : **Headline Investments Limited (1)
Anston Investments Limited (2)**

Representative : **Pier Legal Services**

Type of application : **An application under section 48 of
the Leasehold Reform, Housing
and Urban Development Act 1993**

Tribunal member(s) : **Ms N Hawkes
Miss M Krisko BSc(EstMan) BA
FRICS**

Date and venue of hearing : **23.4.14 at 10 Alfred Place, London
WC1E 7LR**

Date of decision : **23.4.14**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the total premium payable in respect of Flat 25 is £8,030.82 (£500 of which is payable to the Second Respondent and the remainder of which is payable to the First Respondent).
- (2) The Tribunal determines that the total premium payable in respect of Flat 31 is £4,191 (£500 of which is payable to the Second Respondent and the remainder of which is payable to the First Respondent).
- (3) The Tribunal determines that the total premium payable in respect of Flat 36 is £4,191 (£500 of which is payable to the Second Respondent and the remainder of which is payable to the First Respondent).
- (4) The Tribunal determines that the total premium payable in respect of Flat 46 is £5,293 (£500 of which is payable to the Second Respondent and the remainder of which is payable to the First Respondent).

Background

1. By notices served between 12th and 29th April 2013, each of the applicants claims to exercise the right to acquire a new lease of their flat. The landlord has served counter notices dated 14th June 2013. Applications to the Tribunal were made by the applicants on various dates in December 2013.
2. The flats are situated in Parkhurst Court, Warlters Road, London, N7 0SD which is a purpose built 1930s block of flats on five floors with two lifts. Mr Roe describes the flats as all having two bedrooms, a reception room, a kitchen, a bathroom and a WC. The Tribunal was informed that the flats are similar in size although there are variations in configuration and layout.
3. None of the parties requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
4. The only matters in dispute are the premiums payable.

The hearing

5. The applicants were represented by Mr John Roe FNAEA ICIOB of Drivers and Norris Chartered Surveyors at the hearing and the Respondents were not represented.

6. At 9.55 am, the Tribunal telephoned the respondents' solicitor to ascertain whether or not the respondents intended to be represented at the hearing. The solicitor stated that she would call the Tribunal back. At 10.15 am, the Tribunal attempted to telephone the respondents' surveyor but his phone diverted directly to voicemail. The Tribunal was then informed by the respondents' solicitor that she believed that the premium had been agreed. However, she went on to state that the respondents' surveyor was ill and that Tribunal should proceed in his absence.
7. By a letter dated 23.4.14, which arrived during the course of the day, the respondents' solicitor states: "We write to apologise to the Tribunal for our Client's valuer's non-attendance at the Hearing this morning. We received confirmation last night from him that the premiums for the leases had been agreed. We had prepared a letter to go to you this morning to that effect. However, upon speaking to your Mr Rush today we understand that the Applicant's valuer is in attendance and that an agreement may not have been reached. We have tried to get in touch with our client's valuer this morning, however, he is not in the office. The application itself is on the premium and costs do not form part of the application. Therefore we will have to let the Tribunal proceed based on the evidence in the bundle. Once again, we apologise for any inconvenience caused to the Tribunal."
8. Mr Roe informed the Tribunal that, whilst without prejudice negotiations had taken place the day before the hearing, no agreement had been reached. Accordingly, at 10.45 am, the Tribunal proceeded to determine the premiums payable.

The Evidence

9. A valuation report and a memorandum of agreed facts was provided by Mr Roe. No valuation report was submitted by the respondents' surveyor.

The Law

10. 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.
11. 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.

12. 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 (as is the case in respect of each of the respondents' leases) the marriage shall be taken to be nil.
13. Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease. Schedule 13 also provides for the valuation of any intermediate leasehold interests.

The Tribunal's determination

14. The Tribunal was informed that Mr Roe proposed an investment yield of 7% for the term but that Mr Bridges, the respondents' expert, had in negotiations argued that an investment yield of 6% would be appropriate. Mr Roe relied upon past Tribunal decisions. The Tribunal noted from the leases that the ground rents are payable in equal half yearly payments in advance and that the value of the ground rents as compared to the cost of recovery would not render the investment very profitable. Accordingly, the Tribunal determines that the figure of 7% is appropriate.
15. Mr Roe considered that the relevant market value of each of the flats with an extended lease is £250,000. He has recorded that Mr Bridges argued in negotiations that this figure should be £275,000 per flat but noted that Mr Bridges has produced no evidence.
16. Mr Roe relied upon some comparables and he placed particular reliance upon the sale of Flat 12 Parkhurst Court on 8.4.13 for £242,000; the sale of Flat 5 Parkhurst Court on 11.7.13 for £250,000; and the sale of Flat 7 Parkhurst Court on 27.9.13 for £267,500.
17. The Tribunal questioned Mr Roe carefully as to whether there were any material differences between the condition of these properties and the subject flats; as to whether there were any material differences between the leases of these properties and the leases of the subject flats; and as to why Flat 30 Parkhurst Court was sold for a considerably higher sum, namely £275,000, on 14.12.12. Mr Roe had very limited information about the proposed comparables.
18. Doing its best on the basis of the limited information available and having regard to the fact that there is no marriage value in the present cases (and it would therefore not be proportionate for the Tribunal to investigate at length possible alternative valuations which would have a negligible effect on the premium), the Tribunal finds on the balance of probabilities that the relevant market value for the subject flats with extended leases is £250,000.

19. Accordingly, the Tribunal adopts Mr Roe's valuations (copies of which are attached) save that in respect of Flats 31 and 36 there is an error in the third calculation in the term where 84.44 should be 88.40 thus altering the premiums from £4,187 to £4,191.
20. Mr Roe submitted that the intermediate interest of the second respondent should be valued at £500 in each case with the remainder of each premium going to the first respondent on the grounds that the second respondent's interest is of limited financial value. The Tribunal accepts this submission.
21. The applicants have used a figure of 5% for the calculation of the reversion which was apparently not disputed by the respondents. The Tribunal sees to no reason to depart from this figure.

Costs

22. Mr Roe invited the Tribunal to make an order for wasted costs against the respondents pursuant to section 13 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013. It became apparent during the course of his submissions that the costs sought are potentially substantial. Further, the reasons for Mr Bridges non-attendance at the hearing remain unclear.
23. Accordingly, the Tribunal directs the applicants to file and serve their application for costs and submissions and any evidence relied upon in support by **4 pm on 2nd May 2014**. The respondents are directed to file and serve any submissions and evidence in opposition to the application for wasted costs by **4 pm on 14th May 2014**. The Tribunal will determine the wasted costs application on the papers unless either party requests an oral hearing before **4 pm on 14th May 2014**.

Judge Naomi Hawkes

23.4.14

An estimated guide for negotiation purposes only in respect of the payment for a Premium for a New Lease Extension in accordance with Schedule 13 of the Leasehold and Reform Housing and Urban Act 1993

Flat 25 Parkhurst Court London N7 0SD

Valuation Date 29/04/2013
Lease Details
 Term Start Date 29/09/1994
 Term 99 years
 Expiry Date 28/09/2093
 Unexpired Term **80.42 years**

	£ 100.00	£200.00	£ 300.00	£ 400.00	£ 250,000
rent yield	7%	7%	7%	7%	
rev yield	5%	5%	5%	5%	
years	6.42	25	25	24	170.42

Term	rent			£ 100.00		
	YP for	6.42 yrs	@	7.0%	5.0332	£ 503.32
	rent			£ 200.00		
	YP for	25 yrs	@	7.0%	11.6540	
	PV £1 def'd	6.42 yrs	@	7.0%	0.648	7.550000
						£ 1,510.00
	rent			£ 300.00		
	YP for	25 yrs	@	7.0%	11.6540	
	PV £1 def'd	31.42 yrs	@	7.0%	0.119	1.387000
						£ 416.10
	rent			£ 400.00		
	YP for	24 yrs	@	7.0%	11.4690	0.252
	PV £1 def'd	56.42 yrs	@	7.0%	0.022	£ 100.80

Total

Reversion	MV at			£ 250,000		
	PV of £1	80.42 yrs	@	5%	0.022	£ 5,500.00
Term + Reversion				say		<u>£ 8,030.82</u>

Prepared by J.C. Roe
 5th August 2013

An estimated guide for negotiation purposes only in respect of the payment for a Premium for a New Lease Extension in accordance with Schedule 13 of the Leasehold Reform Housing and Urban Development Act 1993

Flat 31 Parkhurst Court London N7 0SD

Valuation Date 29/04/2013
Lease Details
 Term Start Date 29/09/1977
 Term 125 years
 Expiry Date 28/09/2102
 Unexpired Term **89.42 years**

rent	£ 60.00	£ 85.00	£ 110.00	£ 135.00		
yield	7%	7%	7%	7%		
rev yield	5%	5%	5%	7%		
years	14.42	25	25	25	89.42	179.42

Term	rent			£ 60.00			
	YP for	14.42 yrs	@	7.0%	8.9010		
						£	534.06
	rent			£ 85.00			
	YP for	25 yrs	@	7.0%	11.6540		
	PV £1 def'd	14.42 yrs	@	7.0%	0.3770	4.3930000	
						£	373.41
	rent			£ 110.00			
	YP for	25 yrs	@	7.0%	11.6540		
	PV £1 def'd	39.42 yrs	@	7.0%	0.0690	0.8040000	
						£	84.44
	rent			£ 135.00			
	YP for	25 yrs	@	7.0%	11.6540	£	0.15
	PV £1 def'd	64.42 yrs	@	7.0%	0.013	£	20.38

Total

Reversion	MV at			£ 250,000			
	PV of £1	89.42 yrs	@	5%	0.0127	£	3,175.00
Term + Reversion				say		<u>£</u>	<u>4,187.00</u>

Prepared by J.C. Roe
 5th August 2013

An estimated guide for negotiation purposes only in respect of the payment for a Premium for a New Lease Extension in accordance with Schedule 13 of the Leasehold Reform Housing and Urban Development Act 1993

Flat 36 Parkhurst Court London N7 0SD

Valuation Date 29/04/2013
Lease Details
 Term Start Date 29/09/1977
 Term 125 years
 Expiry Date 28/09/2102
 Unexpired Term **89.42 years**

rent	£ 60.00	£ 85.00	£ 110.00	£ 135.00		
yield	7%	7%	7%	7%		
rev yield	5%	5%	5%	5%		
years	14.42	25	25	25.00	89.42	179.42

Term	rent			£ 60.00			
	YP for	14.42 yrs	@	7.0%	8.9010		£ 534.06
	rent			£ 85.00			
	YP for	25 yrs	@	7.0%	11.6540		
	PV £1 def'd	14.42 yrs	@	7.0%	0.3770	4.3930000	
							£ 373.40
	rent			£ 110.00			
	YP for	25 yrs	@	7.0%	11.6540		
	PV £1 def'd	39.42 yrs	@	7.0%	0.0690	0.8040000	
							£ 84.44
	rent			£ 135.00			
	YP for	25 yrs	@	7.0%	11.6540	£ 0.15	
	PV £1 def'd	64.42 yrs	@	7.0%	0.013		
							£ 20.38

Total

Reversion	MV at			£ 250,000			
	PV of £1	89.42 yrs	@	5%	0.0127	£ 3,175.00	
Term + Reversion				say		<u>£ 4,187.00</u>	

Prepared by J.C. Roe
 13th September 2013

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An estimated guide for negotiation purposes only in respect of the payment for a Premium for a New Lease Extension in accordance with Schedule 13 of the Leasehold Reform Housing and Urban Development Act 1993

Flat 46 Parkhurst Court London N7 0SD

Val. Date 29/04/2013
Lease Details
 Term Start Date 29/09/1979
 Term 125 years
 Expiry Date 28/09/2104
 Unexpired Term **91.42 years**

rent	£ 150.00	£200.00	£ 250.00	£ 300.00		
yield	7%	7%	7%	7%		
rev yield	5%	5%	5%	5%		
years	16.42	25	25	25	91.42	181.42

Term	rent			£ 150.00		
	YP for	16.42 yrs	@	7.0%	9.5820	£ 1,437.00
	rent			£ 200.00		
	YP for	25 yrs	@	7.0%	11.6540	
	PV £1 def'd	16.42 yrs	@	7.0%	0.329	3.8300000
						£ 766.00
	rent			£ 250.00		
	YP for	25 yrs	@	7.0%	11.6540	
	PV £1 def'd	41.42 yrs	@	7.0%	0.061	0.7100000
						£ 177.50
	rent			£ 300.00		
	YP for	25 yrs	@	7.0%	11.6540	0.128
	PV £1 def'd	66.42 yrs	@	7.0%	0.011	£ 38.00

Total

Reversion	MV at			£ 250,000		
	PV of £1	91.42 yrs	@	5%	0.0115	£ 2,875.00
Term + Reversion				say		<u>£ 5,293.00</u>

Prepared by J.C. Roe
 5th August 2013

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