



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

**Case Reference** : LON/00BH/OLR/2015/1066

**Property** : 289 Francis Road, London E10  
6NW

**Applicant** : Nicholas David Rockhold

**Representative** : Leaseholder Doctors and Mr F  
Blanking FRICS of Blanking  
Associates

**Respondent** : Miho Georgiev Evropov

**Representative** : Davies & Co Solicitors and Mr M  
Price BSc (Hons) MRICS of Peter  
Barry Surveyors

**Type of Application** : Determination of the Premium  
payable pursuant to s48 Leasehold  
Reform, Housing and Urban  
Development Act 1993 (the Act)

**Tribunal Members** : Tribunal Judge Dutton  
Mrs S F Redmond BSc (Econ)  
MRICS

**Date and venue of  
Hearing** : 20<sup>th</sup> October 2015 10 Alfred Place,  
London WC1E 7LR

**Date of Decision** : 23rd October 2015

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**DECISION**

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**The Tribunal determines that the premium payable for a lease extension under the Act for the property 289, Francis Road, London E10 6NW (the Property) is £21,867 for the reasons set out below and as set out on the attached valuation schedule.**

## **BACKGROUND**

1. By an application dated 9<sup>th</sup> June 2015 the Applicant sought a determination from the Tribunal as to the premium payable for the extended lease of the Property under s48 and schedule 13 of the Act
2. The initial Notice put forward a figure of £8,850 and the counter-noticed from the Respondent suggested a figure of £24,000.
3. The evidence for the Applicant was provided by Mr F Blanking FRICS of Blanking Associates and for the Respondent by Mr M Price BSc (Hons) MRICS of Peter Barry Surveyors. Both had provided written valuations and attended the hearing on 20<sup>th</sup> October 2015.
4. In addition to the written valuations we had, in the bundle provided for the hearing, the application, the notices and the draft lease which we were told had been agreed.
5. The flat is a self-contained purpose built maisonette with its own access, front and rear gardens on the ground floor of a two storey terrace built c 1900. It comprises hall, three living rooms, kitchen, bathroom/WC with GIA of 621 sq ft.

## **HEARING**

6. Mr Blanking gave his evidence first. His report, he told us had been prepared to enable a figure to be inserted into the initial Notice. It was succinct, consisting really of nothing more than a valuation after briefly describing the Property and other matters. The report told us that the valuation had been prepared in accordance with the RICS Red Book. It contains no "independent expert" statement and indeed in evidence he said this "the valuation is at the lower end which I must use for my client's benefit". He assesses the premium at £11,016.
7. The comparable evidence consisted of copies of extracts from Rightmove and the HM Land Registry in respect of properties at 77a Claude Road, 2b Hainault Road, 31 Oliver Road, 10 Francis Road, 102a Dawlish Road and finally 43 Grange Road. There had been no analysis of these comparables and such information as could be obtained had to be teased out of him at the hearing. He was of the view that the figure for the extended lease should be £165,942 apparently arising from a freehold value of £166,000, said to be net of tenant's improvements, although he made no deduction for same in his calculations and indeed indicated in evidence that there was no discount for improvements.
8. He was of the view that it was inappropriate to make use of comparables after the valuation date, which had been agreed as 8<sup>th</sup> October 2014. As to relativity, which he had assessed at 90.5%, he told us this was based on the RICS graphs, using an amalgam of the data contained therein.
9. He was challenged on the size of various of the comparables, it being put to him that his evidence did not indicate the square footage of the flats. Mr Price had obtained some information on the sizes of some of

- the flats by reference to the “Energy Performance Certificates” for the flat at Oliver Road, 10 Francis Road, 102a Dawlish Road and 77a Claude Road, all of which appeared to indicate smaller sizes than that suggested by Mr Blanking. He could not say why he had only used one comparable in Francis Road.
10. For the Respondent we heard from Mr Price. He thought it wholly appropriate to make use of comparables after the valuation date as unless the comparable was almost identical each had its own weaknesses. He accepted that future sales may be less relevant but did not think them unhelpful.
  11. In his report he cited the UT case of Erkman, no copy supplied, where it was said this gave guidance as to allowances to be made to adjust for lease length. His submission was that as the UT had assessed the long leasehold value at 98% of the freehold value for a lease of 100+ years; 99% for a lease over 130 years and 98.5% for a lease over 115 years, he could deduce value for leases of lesser length by reducing for each year under 100 by 0.03333%. This is not an argument he has run before. He also cited the case of Cadogan v Cadogan Square Limited [2011] UKUT 154(LC), again no copy included, in respect of adjustment for Act rights where he drew assistance in assessing the ‘No Act World’ rights by reference to two prime central London graphs produced by Savills and J D Wood/Gerald Eve. He was of the view that the conclusions drawn from these PCL graphs would apply to properties anywhere in England.
  12. He referred to comparables at 249, 278, 241, 265, 47, 262 and 254 Francis Road. The first four related to sales after the valuation date, from June to August 2015. The last three were in respect of sales which occurred in May June and August of 2014. In respect of all he had applied his adjustment under the principles of the Erkman case, considered adjustments for condition and for the period of time utilising the HM Land Registry data which was included in the bundle and assessed the value which he equated to a square footage price. Using these seven comparables he assessed the price at a rate per square foot to be applied to the Property of £593 giving a freehold value of £368,847. There were one or two errors in the calculations in the figures used, for example the sale price of 254 Francis Road was £340,100 and not £345,643 as recited in his report at para 5.11.
  13. He then embarked upon an assessment of relativity by reference to two long leases of first floor flats in Francis Road, which sold after the valuation date and a short lease flat selling before the valuation date. He made the same adjustments as before and arrived at a relativity of 81.7%. He did the same exercise in respect of two flats in Seymour Road, which for a 48.92 year lease gave a relativity of 62.5%. This information was reviewed and he settled for a relativity of 83% based on his data and the RICS Graphs. He concluded that the premium for the extended lease should be £36,487.
  14. On questioning from Mr Blanking he confirmed that any lease above 80 years should be reviewed, as he had done, using the principles set out in Erkman. He said he had adopted a consistent approach to the comparables. He told us that he had prepared the figure to be inserted in the Counter-notice of £24,000 but as a result of a more detailed

analysis he concluded that the figure was too low and should be £36,487.

## **FINDINGS**

15. We should say at the outset that the evidence of Mr Blanking had to be viewed by us as being anything but independent, indeed he admitted so, see para 5 above. He sought to resile from this but his evidence was sadly lacking. He had no answer as to why he had not used the comparables available in Francis Road, although it must be said that Mr Price had not referred to 10 Francis Road in his report. The evidence in respect of the comparable properties was limited and there had been no assessment of their worth or adjustments to reflect the passage of time or condition. We had no explanation as to why the values of these properties were so far below the comparables put forward by Mr Price.
16. In contrast Mr Price had carried out a more forensic assessment of his comparable properties. However, we are concerned about the use of properties after the valuation date. It seems to us that he did not need to do this. He has put before us 3 comparables that are before the valuation date but close thereto. His use of the Erkman case was difficult to understand. The case was not provided so we could not assess its worth. In any event he had, he admitted, no justification for the use of reductions below 100 years on a percentage basis other than his own opinion.
17. The relativity comparable evidence was based on first floor flats, post dating the valuation date, requiring numerous adjustments and producing a percentage figure which he did not adopt. The Seymour Road evidence did not assist us. Further although he had made adjustments for condition these seemed to be based on an assessment of limited photographic evidence include in sales particulars of the properties and had no evidence to support the adjustment he made.
18. Doing the best we can with the evidence before us we make the following findings.
19. We reject the comparables put forward by Mr Blanking. He accepted that he had concentrated on the lowest values he could find and there is no explanation given as to why the sale prices are so much below those put forward by Mr Price for comparables in Francis Road. The only property in the road which he put forward is number 10, but again no explanation is given, or was offered, to show why the sale price of 10 Francis Road at £150,000 was so below the other evidence put to us by Mr Price
20. We have used as a starting point the actual sale figures for flats 47, 262 and 254 Francis Road, all sold before the valuation date. In the case of 262 we agree the value assessed by Mr Price of £357,555 for a freehold, the flat being sold with a share of the freehold. For flat 47 taking the sale price of £305,000 and adjusting for time and uplifting for freehold by 2%, which we consider to be a fair uplift, we assess the freehold value at £323,188. Doing the same exercise for 254, starting at £340,100 gives a value, adjusted for time and freehold uplift of £379,192. The average of these three flats gives a value, slightly adjusted of £352,000 for the freehold value of the Property. We should mention at this point that the time adjustments were based on the Land

Registry data provided by Mr Price. The document contained no explanatory wording and we have accepted it on the clear understanding that it related to houses and flats in the London Borough of Waltham Forest, as we were told was the case.

21. A reduction to this of 2% needs to be made which reduces the figure for the long lease value to £348,480.
22. As to relativity we have noted all that has been said by Mr Price. We were not persuaded by his use of comparables in Francis Road and Seymour Road. His assessment of the relativity at 83% appeared to be somewhat vague. Although we have not been impressed with the evidence of Mr Blanking his assessment of relativity using the various graphs from the RICS at 90.5% seems to us to be more realistic. We do not consider that the Becket and Kay graph is of help, being opinion based. Utilising the others, as shown at appendix EFS 15 leads us to conclude that Mr Blanking's assessment at 90.5% is about right and we have applied this. With the agreed capitalisation rate of 6.5% and the deferential rate of 5% we find that the premium payable for the extended lease of the Property is £21,867 as set out on the attached valuation.

Tribunal Judge Dutton

23rd October 2015

**VALUATION FOR PREMIUM FOR A NEW LEASE**  
**Leasehold Reform & Urban Development Act 1993**  
**289 Francis Road London E10 6NW**

**Facts and matters agreed**

Lease 99 years commences 25/12/1982

Ground rent £38 per annum

Valuation date 8th October 2014

Unexpired term 67.25 years

GIA 621 sq ft

Capitalisation rate 7%

Deferment rate 5%

Improvements none

**Matters determined**

Virtual freehold value £352,000

Existing lease (unimproved) £318,560

Long lease value (99%) £348,480

Existing lease relativity as %age of FHVP value 90.50%

**Diminution in Value of Freeholder's interest**

	£	£	£
Present value of Freeholder's interest			
Ground rent		38	
YP 67.25 years @ 6.5%		15.3700	584
Value of term			
Reversion			
Virtual freehold market value unimproved		352,000	
Deferred 67.25 years @ 5%		0.037585	<u>13,230</u>
Freeholder's present interest			13,814
less Value of Reversion after extension		352,000	
deferred 157.25 years @ 5%		0.000466	<u>164</u>
			13,650

**Calculation of Marriage Value**

Value of proposed interests:

Landlords'	164	
Tenant's new 157.25 year lease at a peppercorn	<u>348,480</u>	348,644

Less value of existing interests:

Landlords'	13,650	
Tenant's existing lease	<u>318,560</u>	332,210

Marriage Value		16,434
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50% marriage value attributed to landlord	say	<u>8,217</u>
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**TOTAL PREMIUM PAYABLE**

**£21,867**