



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

Case reference	:	LON/00AY/OLR/2017/0512
Property	:	Flats 1,8,9,10 and 17 Thorncliffe Court, London SW4 8EW
Applicants	:	Kevin John Edwards & Michelle Anne Clarke (Flat 1); Karen Louise Sanson & Giles Dempsey (Flat 8); Daniel Patrick Chan Tung Sang (Flat 9); Gillian Rose Edwards (Flat 10) and Kevin Joseph Heffernan (Flat 17)
Representative	:	Mr. R Sivapalan BSc(Hons), MRICS
Respondent	:	Brickfield Properties Limited
Representative	:	Mr. R Sharp, BSc, FRICS
Type of application	:	Lease extensions
Tribunal members	:	Judge LM Tagliavini Mr. D Jagger FRICS
Date of determination and venue	:	30 August 2017 10 Alfred Place, London WC1E 7LR
Date of decision	:	12 October 2017

DECISION

Summary of the tribunal's decision

- 1, The tribunal determines that the approach taken by Mr. Sharp for the Respondent is preferred for the market values of the unimproved long leasehold interest. However, the tribunal prefers Mr. Sivapalan's approach to relativity to that of Mr. Sharp and determines the premiums payable are: Flat 1: £44,476; Flat 8: £43,630; Flat 9: £44,431; Flat 10 £40,899 and Flat 17: £44,476

Background

2. This is an application pursuant to section 48 of the Leasehold Reform, housing and Urban Development act 1993 ("the Act"). The Applicants seek the tribunal's determination as to the premiums payable for Flats 1,8,9,10 and 17. The subject properties are five flats in a purpose built walk-up 1930's mansion block arranged over ground floor and three upper floors set within communal grounds. Flats 1 and 8 are three bedroom flats on the ground floor; Flat 9 is a first floor three bedroom flat and Flat 10 is a two bedroom flat also on the first floor. Flat 17 is a three bedroom flat on the second floor of the block. The freehold interest is held by St. Leonard's Properties Limited and the head lease by the Respondents for a term of 999 years commencing 25th October 2010 at a peppercorn ground rent and is the competent landlord for the purposes of this application. An initial section 42 notice specified premiums payable of between £30,898 to £36,175 while counter-notices gave figures of 99,952 to £115,688 in respect
3. The parties agreed the following:
 - (i) The valuation dates are between the 26th and 30th September 2016.
 - (ii) All five flats are demised for a term of 99 years commencing 24th June 1979 with 61.74 years remaining.
 - (iii) Flats 1,8 and 17 have a passing ground rent of £200 per annum for each flat at the date of valuation.
 - (iv) Flat 9 has a passing ground rent of £160 per annum at the date of valuation.
 - (v) Flat 10 has a passing ground rent of £120 per annum at the date of valuation.
 - (vi) Lease terms for all five flats are fairly standard for a flat in this type of location.
 - (vii) Freehold vacant possession value (FVP) should be 1% higher than the determined unimproved long leasehold value of the subject flat.
 - (viii) The square footage for Flats 1,8,9, 10 and 17 are 897, 840, 897, 754 and 892 respectively.
 - (ix) The deferent rate is 5%.
 - (x) The capitalisation rate is 6%.

4. The parties seek the tribunal's determination as to:
 - (i) The market value of the long leasehold interest; and
 - (ii) The existing lease value and the relativity to be applied.
 - (iii) The premiums payable for lease extensions.

The hearing

5. The parties were each represented by their valuers Mr Sivapalan and Mr. Sharp who gave oral and written evidence on the Applicants and Respondent's behalf respectively. The tribunal did not carry out an inspection of the subject property as it was not considered necessary to do in order for the tribunal to reach its decision.

The Applicant's case

6. In support of the Applicants' case Mr. Sivapalan spoke to his report dated 17th August 2017. In his evidence, he relied on comparable sales of properties at Flat 25, Flat 32, Flat 30 and Flat 29 Thorncliffe Court. Additionally, Mr. Sivapalan also relied on sales of Flat 2 Kintyre Court, Flat 32, Crescent Court and Flat 18, Robins Court. Mr. Sivapalan made adjustments of this comparable evidence for improvements, location and private outside space but decided that an adjustment for floor level was not appropriate. Mr. Sivapalan then applied a 50% weighted average to the average rates per sq. ft. on both sets of comparables i.e. Flats 25, 32 and 30 Thorncliffe Court and those outside of the subject property as listed above arriving at averages of £547.50 per sq.ft. for three bed flats and £585 per sq.ft. for two bed flats. Mr. Sivapalan applied these figure to the subject properties arriving at a long lease (LL) value and the FHVP values as:

Flat 1: £490,000 (LL) and £494,900 (FHVP)
Flat 8: £460,000 (LL) and £464,600 (FHVP)
Flat 9: £490,000 (LL) and £494,900 (FHVP)
Flat 10: £440,000 (LL) and £444,400 (FHVP)
Flat 17: £490,000 (LL) and £494,900 (FHVP)

7. In determining the appropriate relativity to apply, Mr. Sivapalan provided the tribunal with supplementary evidence on relativity as an addendum to his original report in which he relied upon the recently published Leasehold Valuers 2017 graph. He explained that although he was aware of the Upper Tribunal decision in *Sloan Stanley v Munday* (UKUT 2016), the subject flats were not in Prime Central London (PCL) and referred the tribunal to the Upper Tribunal decision in *Denholm v Stobbs* (UKUT 2016) which, recognised a distinction was to be made between properties in PCL and non-PCL. Mr. Sivapalan explained that by applying a 50% weighting to the relativity produced by an average of the 2009 RICS Greater London graphs previously

adopted in his original report of 87.11% and 50% weighting to the relativity suggested by the Leasehold Valuers 2017 graph of 86.64% this equates to an appropriate relativity of 86.87% to be applied to the subject flats and produced revised (upwards) premiums of: -

Flat 1: £43,813
Flat 8: £41,238
Flat 9: £43,462
Flat 10: £38,820
Flat 17: £43,813

The Respondent's case

8. In his oral evidence Mr. Sharp spoke to his valuation report dated August 2017. Unlike the Applicants, Mr. Sharp solely relied upon comparable sales of properties within Thorncliffe Court with extended leases. These comprised two bed flats at Nos 23 and 29 and three bed flats at Nos 25, 30 and 32 Thorncliffe Court. Mr. Sharp adjusted the sales price for time and made an adjustment for the ground floor flat (Flats 1 and 8) as he considered these less valuable due to it having no direct communal garden access and the concerns about security, thereby reducing it by 1%. Mr. Sharp also made with a further 1% deduction for Flat 8 as being the smallest three-bedroom example. This approach produced extended long lease values of: -

Flat 1: £500,000 - adjusted by 1% for near freehold value of £505,050
Flat 8: £495,000- adjusted by 1% for near freehold of £500,000
Flat 9: £505,000 - adjusted by 1% for near freehold value of £510,000
Flat 10: £471,000 - adjusted by 1% for near freehold value of £475,757
Flat 17: £505,000 - adjusted by 1% for near freehold value of £510,101

9. In considering the existing leasehold value Mr. Sharp stated he had looked for, but was unable to find reliable market evidence for un-extended leases of two and three-bedroom flats in Thorncliffe Court. Mr. Sharp firstly relied upon the two PCL graphs (Savills and Gerald Eve) which produced a relativity of 79.4%, Otherwise he felt the most reliable graph for the suburbs was the Beckett & Kay graphs of 2014 and 2017 which indicated a relativity of 74%. Mr. Sharp also referred the tribunal to a number of previous First-tier tribunal decisions and the 2009 RICS research document graph lines, as well as the Nesbitt graph. Mr. Sharp stated he considered it reasonable to take an average of the relativities indicated by the most reliable graphs as 79.44% and 74 % resulting in a figure of 76%. Mr. Sharp stated that the tribunal should prefer the Becket & Kay graphs as these have been updated and various First-tier tribunals had in previous decisions commented that relativity has changed.

10. Applying the figure of 76% to his valuations Mr. Sharp produced figures for the premiums payable as: -

Flat 1: £72,108

Flat 8: £71,405

Flat 9: £72,461

Flat 10: £67,326

Flat 17: £72,812

The tribunal's determination

Extended lease value

10. The tribunal prefers the approach taken by Mr. Sharp to that of Mr. Sivapalan in respect of valuing the extended lease. The tribunal determines that it should only use the comparable evidence in the block comprising of two comparable properties for the two bedroom units and three comparable properties for the three bedroom flats. The tribunal considers that this key evidence is sufficient for valuation purposes, albeit one is some 15 months old, and a double check is not really needed in this instance.
11. The tribunal determines the comparable properties relied upon by the parties are not improved properties and finds, therefore no adjustment as suggested by Mr. Sivapalan of 5% or any other figure, should be made. The tribunal finds that the evidence provided by the Applicant's valuer did not clearly show significant refurbishment and in part was based on the small thumbnail photos which were difficult to decipher. The kitchens and bathroom fittings in the comparable flats appear to have been replaced over the years as ably expected and in compliance with the terms of the lease.
12. For analysis purposes, the tribunal prefers to adopt a floor area for the comparable property of Flat 29 Thorncliffe Court of 646sqft as per the floor plan contained in Mr. Sharp's evidence rather than the 732 sq.ft. as per Mr. Sivapalan's report for analysis purposes. Like Mr. Sivapalan, the tribunal makes no allowance for the differences in floors between the subject flats as the tribunal find from its experience, that people generally have different reasons for preferring a ground floor flat to one located on a higher floor, e.g. lack of security versus carrying shopping bags and buggy up to third floor.

Relativity

13. The tribunal finds there is no good reason to use Gerald Eve/Savills PCL graphs for these non-PCL flats. Further, the tribunal finds the 2014 Beckett and Kay graph is somewhat discredited, as the tribunal does not know of the geographical spread, percentage split on opinion/settlement data and the graph has a hand drawn thick line

which tends to obscure data. For these reasons, the tribunal does not regard this is the appropriate graph to consider.

14. The tribunal also considered The Leaseholders 2017 graph, based on 503 settlement cases. Although apparently current, the tribunal notes there is no RICS accreditation and it is not an independent graph and used by leaseholders presumably to provide a balance. For these reasons, very little weight is placed on this graph by the tribunal.
15. This leaves the tribunal with the 2009 RICS Greater London graphs. The graphs are all flawed in their own way, however the tribunal finds that the best and most appropriate way to iron out any shortcomings is to take an average of all the graphs. Although Mr. Sharp comments that the graphs are now historic and the world has changed since the 2008 crash, no evidence was put before the tribunal to show that relativity has significantly changed, if at all. Therefore, the tribunal finds that the appropriate applicable relativity figure is based upon the average of 2009 RICS Greater London graphs excluding the Leasehold 2017 graph, of 87.11%. Therefore, the premiums payable for the subject properties are as per the tribunal's valuations attached:

Flat 1: £44,476
Flat 8: £43,630
Flat 9: £44,431
Flat 10: £40,899
Flat 17: £44,476

Signed: Judge LM Tagliavini

Dated: 12 October 2017

APPENDIX A**1 Thorncliffe Court Kings Avenue SW4 8EW****The Tribunal's Valuation****Assessment of the premium for a lease extension****In accordance with Leasehold Reform, Housing and Urban Development Act 1993****LON/00AY/OLR/2017/0512****Components**

Valuation date:	30 th September 2016	
Yield for ground rent:	6.0%	
Deferment rate:	5.0%	
Long lease value	£505,000	
Freehold value	£510,101	
Existing leasehold value	£444,349	
Relativity	87.11%	
Unexpired Term	61.64 years	
Ground rent currently receivable	£200	
Capitalised @ 6.0% for 28.74 years	13.5438	£2,709
Rising to:	£300	
Capitalised @ 6% for 33 years	14.2302	
Deferred 28.74 years @ 6.0%	0.1874	£800
Reversion to:	£510,101	
Deferred 61.74 years @ 5%	0.0492	<u>£25,097</u>
Freeholder's Present Interest		£28,606
Landlords interest after grant of new lease	£510,101	
PV of £1 after reversion @ 5% 0.0006	£306	£28,300
Marriage Value		
Extended lease value	£505,000	
Plus freehold reversion	<u>306</u>	
	£505,306	
Landlord's existing value	£28,606	
Existing leasehold value	<u>£444,349</u>	
	£472,955	
Marriage Value	£32,351	
Freeholders share @ 50%		£16,176
LEASE EXTENSION PREMIUM		<u>£44,476</u>

APPENDIX A
8 Thorncliffe Court Kings Avenue SW4 8EW
The Tribunal's Valuation
Assessment of the premium for a lease extension
In accordance with Leasehold Reform, Housing and Urban Development Act 1993
LON/00AY/OLR/2017/0512

Components

Valuation date:	30 th September 2016	
Yield for ground rent:	6.0%	
Deferment rate:	5.0%	
Long lease value	£495,000	
Freehold value	£500,000	
Existing leasehold value	£435,550	
Relativity	87.11%	
Unexpired Term	61.64 years	
Ground rent currently receivable	£200	
Capitalised @ 6.0% for 28.74 years	13.5438	£2,709
Rising to:	£300	
Capitalised @ 6% for 33 years	14.2302	
Deferred 28.74 years @ 6.0%	0.1874	£800
Reversion to:	£500,000	
Deferred 61.74 years @ 5%	0.0492	<u>£24,600</u>
Freeholder's Present Interest		£28,109
Landlords interest after grant of new lease	£500,000	
PV of £1 after reversion @ 5% 0.0006	£300	£27,809
Marriage Value		
Extended lease value	£495,000	
Plus freehold reversion	<u>300</u>	
	£495,300	
Landlord's existing value	£28,109	
Existing leasehold value	<u>£435,550</u>	
	£463,659	
Marriage Value	£31,641	
Freeholders share @ 50%		£15,821
LEASE EXTENSION PREMIUM		<u>£43,630</u>

APPENDIX A**9 Thorncliffe Court Kings Avenue SW4 8EW****The Tribunal's Valuation****Assessment of the premium for a lease extension****In accordance with Leasehold Reform, Housing and Urban Development Act 1993****LON/00AY/OLR/2017/0512****Components**

Valuation date:	30 th September 2016	
Yield for ground rent:	6.0%	
Deferment rate:	5.0%	
Long lease value	£505,000	
Freehold value	£510,101	
Existing leasehold value	£444,349	
Relativity	87.11%	
Unexpired Term	61.64 years	
Ground rent currently receivable	£160	
Capitalised @ 6.0% for 28.74 years	13.5438	£2,167
Rising to:	£240	
Capitalised @ 6% for 33 years	14.2302	
Deferred 28.74 years @ 6.0%	0.1874	£640
Reversion to:	£510,101	
Deferred 61.74 years @ 5%	0.0492	<u>£25,097</u>
Freeholder's Present Interest		£27,904
Landlords interest after grant of new lease	£510,101	
PV of £1 after reversion @ 5% 0.0006	£306	£27,598
Marriage Value		
Extended lease value	£505,000	
Plus freehold reversion	<u>306</u>	
	£505,306	
Landlord's existing value	£27,904	
Existing leasehold value	<u>£444,349</u>	
	£472,253	
Marriage Value	£33,053	
Freeholders share @ 50%		£16,527
LEASE EXTENSION PREMIUM		<u>£44,431</u>

APPENDIX A**10 Thorncliffe Court Kings Avenue SW4 8EW****The Tribunal's Valuation****Assessment of the premium for a lease extension****In accordance with Leasehold Reform, Housing and Urban Development Act 1993****LON/00AY/OLR/2017/0512****Components**

Valuation date:	30 th September 2016	
Yield for ground rent:	6.0%	
Deferment rate:	5.0%	
Long lease value	£471,000	
Freehold value	£475,757	
Existing leasehold value	£414,432	
Relativity	87.11%	
Unexpired Term	61.64 years	
Ground rent currently receivable	£120	
Capitalised @ 6.0% for 28.74 years	13.5438	£1625
Rising to:	£180	
Capitalised @ 6% for 33 years	14.2302	
Deferred 28.74 years @ 6.0%	0.1874	£480
Reversion to:	£475,757	
Deferred 61.74 years @ 5%	0.0492	<u>£23,407</u>
Freeholder's Present Interest		£25,515
Landlords interest after grant of new lease	£475,757	
PV of £1 after reversion @ 5% 0.0006	£285	£25,230
Marriage Value		
Extended lease value	£471,000	
Plus freehold reversion	<u>285</u>	
	£471,285	
Landlord's existing value	£25,515	
Existing leasehold value	<u>£414,432</u>	
	£439,974	
Marriage Value	£31,338	
Freeholders share @ 50%		£15,669
LEASE EXTENSION PREMIUM		<u>£40,899</u>

APPENDIX A**17 Thorncliffe Court Kings Avenue SW4 8EW****The Tribunal's Valuation****Assessment of the premium for a lease extension****In accordance with Leasehold Reform, Housing and Urban Development Act 1993****LON/00AY/OLR/2017/0512****Components**

Valuation date:	30 th September 2016	
Yield for ground rent:	6.0%	
Deferment rate:	5.0%	
Long lease value	£505,000	
Freehold value	£510,101	
Existing leasehold value	£444,349	
Relativity	87.11%	
Unexpired Term	61.64 years	
Ground rent currently receivable	£200	
Capitalised @ 6.0% for 28.74 years	13.5438	£2,709
Rising to:	£300	
Capitalised @ 6% for 33 years	14.2302	
Deferred 28.74 years @ 6.0%	0.1874	£800
Reversion to:	£510,101	
Deferred 61.74 years @ 5%	0.0492	<u>£25,097</u>
Freeholder's Present Interest		£28,606
Landlords interest after grant of new lease	£510,101	
PV of £1 after reversion @ 5% 0.0006	£306	£28,300
Marriage Value		
Extended lease value	£505,000	
Plus freehold reversion	<u>306</u>	
	£505,306	
Landlord's existing value	£28,606	
Existing leasehold value	<u>£444,349</u>	
	£472,955	
Marriage Value	£32,351	
Freeholders share @ 50%		£16,176
LEASE EXTENSION PREMIUM		<u>£44,476</u>