



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

Case Reference : **RC/LON/00AH/OCE/2019/0182**

Property : **Flat, 89a Parchmore Road,
Thornton Heath, Croydon, Surrey
CR7 8LY**

Applicant : **Jamila Begum Chaudary**

Representative : **Harper & Odell Solicitors**

Respondent : **Douglas Smart**

Representative : **N/A**

Type of Application : **S50/51 Leasehold Reform Housing
and Urban Development Act 1993,
Missing Landlord**

Tribunal Members : **P M J Casey MRICS**

**Date and venue of
Hearing** : **Paper hearing on 2 December 2019
10 Alfred Place, London WC1E 7LR**

**Date of Decision
Review** : **14 January 2020**

REVIEW OF DECISION

Review of tribunal's decision

In the light of the comments in email correspondence from Margarita Diacou of Harper & Odell dated 3 January 2020, the tribunal has reviewed its decision and has corrected the typographical errors that appeared in the original. The revised decision is attached.

Decisions of the tribunal

- (1) The tribunal determines that the premium payable on the grant of a new lease of Flat, 89a Parchmore Road, Croydon, Surrey CR7 8LY (“the property”) is the sum of £36,400.
- (2) The tribunal makes the determinations as set out under the various headings in this decision

The application

1. The applicant seeks a determination by the tribunal pursuant to an order made under the provisions of S50(1) of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”) by District Judge Coonan sitting in the County Court at Croydon on 14 August 2019 of the premium to be paid into Court and other terms on the grant of a new lease of the property under the relevant provisions of the Act.
2. The order was made in response to a claim made to the Court on 27 March 2019 by Harper & Odell on behalf of the applicant in which it was said that the applicant was entitled to acquire a new lease of the property under the provisions of the Act but had been unable to exercise the right by serving the requisite notice under S42 on the landlord because his whereabouts were unknown.

The hearing

3. In response to the tribunal’s directions which provided for a determination on the papers to be submitted, the applicant’s solicitors provided a bundle of documents including a valuation report dated 18 November 2019 for use in tribunal proceedings addressed to the tribunal and prepared by Daniel Grove, Assoc RICS of Arnold & Baldwin Chartered Surveyors. The report contained the requisite declarations required of a Surveyor acting as an expert witness.
4. The Tribunal considered the hearing bundle on 2 December 2019. No inspection of the property was deemed necessary given the description, plans and photographs included in the report.

The evidence

5. From Mr Grove’s description of the property and the photographs it is a self-contained flat on the top two floors of a three storey former semi-detached house converted into two flats and dating from circa 1900. It comprises five rooms, kitchen and bath/wc and separate shower room. There is a section of the garden to the rear and shared car parking on the forecourt of the building. No want of repair is noted in the report.

Following the grant of planning permission in July 2015 the applicant carried out a loft conversion which added a floor containing two rooms and a shower room to the originally demised first floor flat. The gross internal area of the property as measured by Mr Grove is 94 m² but he calculates the area of the original demise at 61 m². Mr Grove treats the loft conversion as a tenant's improvement, the value of which falls to be disregarded under the Act and values the flat as it was arranged on the grant of the lease.

6. The property is held on a 99 year lease from 25 December 1975 subject to a ground rent payments of £35 per annum throughout the term. The lease would appear to include the roof space and surrounding airspace within the demise of the flat.
7. At the Valuation Date, 27 March 2019, the lease had 55.74years unexpired.
8. Mr Grove provides market evidence for the extended lease value of the property as at the Valuation Date by reference to three completed transactions involving similar properties at around that time the details of which are provided in the report. He also refers to two other sales but places little reliance on these. From this evidence he values the extended leasehold interest in the subject property at £265,000 and adds 1% to this to give the value of the freehold interest as being £267,500.
9. To capitalise the ground rent income for the unexpired term of the existing lease in his valuation of the existing freehold interest in the property he adopts a rate of 7% and he defers the reversion on the expiration of the existing lease term at 5%.
10. To calculate the marriage value and the landlord's entitlement to 50% thereof he has assessed the value of the existing lease term in the property, disregarding the value of the rights conferred by the Act, by reference to what are generally called graphs of relativity whereby various valuers practising in the field of enfranchisement and lease extensions express their opinions of the value in the "no Act world" that a lease for any given unexpired term would have as a percentage of the freehold value of the same property. An RICS working party produced a report in 2009 which published various of these graphs including five said to relate to Outer London and England. Mr Grove says the average of these five graphs suggest that the value of the existing lease term in the subject property with 55.74 years unexpired and without any rights under the Act is some 82.03% of the freehold value. However he recognized that they have been subject to some criticism as the evidence is historic and in the light of the Upper Chamber decision in *Sloane Stanley Estate v Mundy* he has also looked at the Gerald Eve graphs (1996) and (2016) and to Savills published research into both enfranchiseable leases (2015) and unenfranchiseable leases (2016) and

at the potential value of Act rights. Having considered all of this graph related evidence he adopts a relativity in the present case of 78.5% of freehold value for the value of the unexpired term of the existing lease resulting in a value of £210,105.

11. His valuation attached to his report produces a premium of £36,400.

The decision

12. The tribunal is satisfied that Mr Grove's valuations of the freehold and extended leasehold interests are well supported by the evidence he provides in his report. His 1% differential between long lease and freehold values is a fairly commonly adopted practice and his treatment of tenant's improvements is also accepted.
13. Mr Grove's use of a 7% rate to capitalize the passing ground rent and of 5% to defer the value of the reversion to the term date are perfectly proper and accepted by the tribunal.
14. Mr Grove refers to the Upper Chamber's guidance in *Sloane Stanley Estate v Mundy* but has been unable to find evidence of open market sales of properties held on shorter lease terms. It has been the tribunal's experience that in cases where reliable open market sales' evidence has been produced relativities lower than shown by any of the graphs generally result.
15. In the absence of sales evidence the use of so called graphs of relativity is a common practice. The five graphs referred to by Mr Grove are invariably used in any case outside the prime central London area because practitioners argue that the outer London market is less sophisticated and higher relativities result though none seem able to explain why lease length per se should affect values in different locations in this way. The graphs referred to all have their individual flaws and taking an average of the five does not as he recognizes make them more reliable. He has rightly considered the Gerald Eve – John D Wood (1996) graph, the only graph given some credence by the Upper Chamber in *Sloane Stanley*, and has considered their later graph and those of Savills. The relativity he adopts looks to the tribunal to be a fair assessment of the value of the existing lease given the lack of directly comparable sales evidence. His valuation is thus approved by the tribunal which has set out its own version below.
16. It is confirmed there are no outstanding demands for ground rent or service charges which have been lawfully demanded and have not been paid.
17. District Judge Coonan's Order of 14 August 2019 required also that the tribunal determines the terms of the new lease. The tribunal has been

provided with a draft of the deed of surrender and re-grant in the bundle and having carefully considered the document is satisfied that the proposed terms comply with the requirements of the Act.

Name: Patrick M J Casey

Date: 14 January 2020

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

S48 Leasehold Reform Housing and Urban Development Act 1993

**Determination of the premium payable for an extended lease of
Flat, 89a Parchmore Road, Thornton Heath, Croydon, Surrey CR7
8LY**

Valuation date: 27 March 2019 – Unexpired term 55.74 years

Diminution in Value of Freehold Interest

Capitalization of ground rent pa YP for 55.74 years @ 7%	£35 <u>13.957</u>	£488
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Reversion to F/H value with VP Deferred 55.74 years @ 5%	£267,650 <u>0.06589</u>	£17,635
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Less value of F/H after grant of new lease Deferred 146.74 years @5%	£267,650 <u>0.00082</u>	£218 £17,417 <u>£17,905</u>
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Marriage Value

After grant of new lease

Value of extended lease	£265,000	
Plus freehold value	<u>£218</u>	£265,218

Before grant of new lease

Value of existing lease @78.5% f/h	£210,105	
Plus freehold value	<u>£18,124</u>	£228,229
		<u>£36,989</u> £18,495

50% share to Freeholder £36,400

Premium Payable Say £36,400

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case. The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).