



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

**Case Reference** : CHI/00MS/OLR/2020/0037

**Property** : Flat 2 Landguard Court, Landguard Road,  
Southampton, SO15 5DL

**Applicant** : Swaren Singh Khaira

**Representative** : Dutton Gregory Solicitors

**Respondent** : Missing

**Representative** :

**Type of Application** : S48(1) Leasehold Reform & Urban  
Development Act 1993. (The Act) Lease  
Extension.

**Tribunal Member** : Mr W H Gater FRICS MCI Arb  
Regional Surveyor

**Date of Decision** : 7 May 2020

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## DECISION

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**The Tribunal determines that the premium payable is £28215 and the lease is approved.**

### **Background**

1. By an Order of District Judge Dack sitting at the County Court at Southampton and dated 6 January 2020, the Claimant was declared entitled to a vesting order, pursuant to Section 51 of the 1993 Act for a new lease over Flat 2, Landguard Court, Landguard Road, Southampton SO15 5DL.
2. It was ordered that proceedings be transferred to the First Tier Property Tribunal for determination of the terms of the new lease, and the premium payable, in accordance with sections 51,56 and 57 of the 1993 Act.
3. It was further ordered that the appropriate sum to be paid into Court by the Claimant pursuant to Practice Direction 56 of the Civil Procedure Rules once the premium has been determined by the First Tier Property Tribunal.
4. A valuation report prepared by Simon P Dancer FRICS has subsequently been provided, assessing the premium payable at £24672.
5. An inspection of the property has not been made.

### The Lease

6. The applicant currently holds a long leasehold title to the property, registered with title number HP 117161 ,for a term of 99 years from 25 December 1967 .

### **Evidence**

7. Mr Dancer's expert report describes the property as a self-contained first floor apartment in a purpose-built development constructed in the mid-1960s.
8. It has two bedrooms a sitting room, kitchen, and bathroom. There is no formal heating. The windows are upvc double glazed units.

9. There is a dedicated parking space and a garage in an adjacent block which Mr Dancer assumes is owned by this flat.
10. The flat is 560 square feet in area.
11. In valuing the leasehold interest, Mr Dancer referred to three comparable properties.
12. 6A Nightingale Grove Southampton SO15 3HQ sold in April 2019 for £138,000
13. This property comprises a two bedroom first floor self-contained flat, with well-planned accommodation, having a lease in excess of 80 years, that was converted many years ago in a good residential area. There is no garage. He considers this to be a better property than the subject property.
14. Flat 2 Dorval House Silverdale Road Southampton SO15 2NH sold on 4th January 2019 for £140,000
15. This property is a purpose-built first floor apartment built in the mid 1930s with a lease remaining in excess of 80 years. It has similar accommodation to the subject property with two bedrooms. There is parking but no garage.
16. The property has good well-planned accommodation in a desirable residential area. He considers this to be a better than the subject property .
17. 14 Dymott Close Southampton SO15 3HG sold in June 2019 for £126500
18. Described as very similar to the subject property in a secondary residential area with two bedrooms held on a lease with in excess of 85 years remaining.
19. The flat was sold in a fairly basic condition. Mr Dancer considers this to be the best comparable evidence.
20. None of the comparable properties have been internally inspected by Mr Dancer.
21. He states that the subject property was in need of general modernisation and decoration when inspected and places a value to reflect this at £125000.
22. Had the property been modernised and refurbished and the building upgraded generally to improve the condition of the common parts , he places the value in excess of £150000 with a new lease.

23. In estimating the value of the short lease in accordance with the Act, Mr Dancer adopts relativity graphs produced by Savills and Gerald Eve, averaging the two to arrive at a relativity of 70.93%.
24. He therefore arrives at the value of the short lease as 70.93% of £125000 = £88663.
25. In the valuation appended to his report Mr Dancer adopts a yield of 6% to capitalise the ground rent and 5% to defer the reversionary value.

### **Consideration**

26. The date of the valuation is 1 November 2019, the date the Claim was issued in the Southampton County Court.
27. The assessment of the existing value of the flat under the Act must disregard improvements but it should also assume that the tenant's covenants regarding repair and maintenance have been complied with. The property must be valued in "lease maintained condition".
28. Mr Dancers view that the modernised and refurbished flat with upgrading of the building to improve common parts is of limited assistance as upgrading the building is outside of the control of the flat owner.
29. In order to reflect these factors and having regard to the evidence he Tribunal finds that the relevant value of a long lease in the flat is £135,000.
30. In adopting 70.93% relativity for the short lease Mr Dancer does not appear to have deducted sufficiently for the loss of rights under the 1993 Act assumptions. The relativity graphs provided valuation show the following relativities: Gerald Eve 2016 68.15%; Savills Enfranchiseable 76.12% and Savills Unenfranchiseable 68.52%. Savills places the Value of Act Rights at 9.98%
31. In order to adopt a relativity which excludes the value of 1993 Act rights the Tribunal finds that the correct relativity is 68.33%.
32. In a departure from established case law Mr Dancer shows no differential between the notional FHVP value and the value of the extended lease. The Tribunal finds that this differential, in the absence of any direct evidence that the FHVP value is 1/0.99 times the extended lease value.

### **Determination**

33. The Tribunal determines that the premium payable is **£28215** as shown in the attached calculation.

## **Form of new lease**

34. A draft of the new lease is in Tab 2 of the bundle. The changes to the original lease are specified in Schedule 2 and relate to deletion of an obsolete clause, an increase in the term from 99 to 189 years and reducing the ground rent to a peppercorn.
35. The applicants have confirmed that there are no outstanding rents or charges due under the lease.
36. The Tribunal approves the new lease as drafted.

W H Gater FRICS MCI Arb

7 May 2020

Regional Surveyor

## **PERMISSION TO APPEAL**

1. A person wishing to appeal the decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

**First Tier (Property ) Tribunal Enfranchisement Valuation**

**Flat 2 Landguard Court Southampton.**

**1. Diminution in value of freehold interest**

**(i) Capitalisation of ground rent**

Ground rent:	£10.00	
x YP 47.17 years @ 6%:	<u>16</u>	
		£160

**Freehold reversion**

Unencumbered FHVP value:	£136363 <sup>1</sup>	
x PV of £1 in 47.17 years @ 5%	<u>0.1</u>	
		<u>£13636</u>
		£13796

**(ii) Less proposed FHVP value**

Unencumbered FHVP value: £136363 (long lease val/.99)		
x PV of £1 in 137.17 years @ 5%	<u>0.0012</u>	
		<u>(£162)</u>
Diminution in value of freehold interest:		<u>£ 13634</u>

**2. Marriage value**

**(i) Value of proposed interests**

(i) Leasehold:	£135000	
(ii) Freehold:	<u>£ 162</u>	
		£135162

**(ii) Less value of present interests**

(i) Leasehold:	£92205	(£135000 x 68.33%)	
(ii) Freehold:	<u>£13796</u>		
	106001		(£ 106001)

Marriage value: £ 29161

50% of marriage value to freeholder: £14580

**Premium payable:** £28214

Say **£28215**

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<sup>1</sup>Long leasehold value £135000 /.99