



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

Case Reference : CHI/40UD/OLR/2020/0147

Property : Flat 2, 2a Colmer Road, Yeovil, Somerset,
BA21 4BS

Applicant : Kerry Ann Lewis

Representative : Bhavani Hogarty of Pardoes Solicitors LLP

Respondent : Mr Charles Davies (deceased)

Representative :

Type of Application : Lease extension Section 51(1)-(5)
Leasehold Reform Housing and Urban
Development Act 1993 (Missing Landlord)
(The 1993 Act)

Tribunal Member : Mr W H Gater FRICS MCI Arb

Date of Decision : 27 November 2020

DECISION

The Tribunal determines that the premium payable is £12,000 and approves the new lease as drafted and contained in the bundle provided.

Background

1. By an Order of the County Court at Yeovil dated 3 August 2020, the Claimant was declared entitled to a vesting order, pursuant to Section 50(1) of the 1993 Act for a new lease over Flat 2, 2a Colmer Road, Yeovil, Somerset, BA21 4BSR .
2. It was ordered that proceedings be transferred to the First Tier Property Tribunal for determination of the terms of the new lease, in accordance with sections 51(1) -55 of the 1993 Act.
3. A valuation report prepared by Philip J Roberts, BSc, FRICS has subsequently been provided, assessing the premium payable at £11500.
4. An inspection of the property has not been made.

The Lease

5. The applicant currently holds a long leasehold title to the property, registered with title number ST 94303, for a term of 99 years from 29 September 1987 .The ground rent is fixed for the entire term at £1 p.a.

Evidence

6. Mr Roberts' expert report describes the property as a ground floor flat in a two-storey end of terrace, late Victorian house converted into two flats. It is believed that the conversion took place around 1987.
7. It has two bedrooms, a living room, kitchen, and bathroom/wc. There is a conservatory. The windows are upvc double glazed units.
8. The flat has a gross internal area of 57 sq. metres.

9. There are small gardens to the front and rear and the right to park on land adjacent to the rear boundary.
10. The flat has full gas fired central heating.
11. The condition of the property is described as fair for the age and construction of the building.
12. In valuing the leasehold interest, Mr Roberts referred to four comparable properties.
13. 25 Crofton Park, Yeovil, BA21 4EB – an upper floor two bedroom converted maisonette. Gross Internal Area 63 sq m. Average condition. Shared rear garden, but no parking. This property sold in January 2020 for £92,000.
14. Flat 9, Brendon House, Sparrow Road, Yeovil, BA21 4BT – a purpose built 1970's ground floor, two bedroom flat. Gross Internal Area 69 sq m. Single garage in block. Sold in December 2019 for £106,000.
15. 7 Kings Court, Yeovil, BA21 4DP - a purpose built first floor two bedroom flat, with allocated car parking, but no garden. Gross Internal Area 65 sq m. Average condition. Sold in December 2019 for £115,000.
16. 9 Higher Kingston, Yeovil, BA21 4AS – a purpose built first floor two bedroom flat. Gross Internal Area 78 sq m, therefore significantly larger. No parking or garden though. Currently under offer at just below the guide price of £130,000.
17. Mr Roberts considers that the Market Value of the subject Premises, with the benefit of the lease extension, is approximately £115,000. A discount of 15% is appropriate, given that there are currently only 66 years unexpired on the lease. This is shown in his valuation calculation at £97750.
18. Mr Roberts appends a valuation calculation which uses the Leasehold Advisory Service online calculator in part.
19. The calculated premium is £10891 and he adopts £11500 as his valuation of the premium.

Consideration

20. The date of the valuation is the date the claim was issued in the Yeovil County Court. The application is dated 2 July 2020 and in the absence of more evidence the Tribunal determines that this is the valuation date, not, as stated by Mr Roberts, 3 July 2020, the date of his inspection. This is not however material to the determination.

21. At that date there were 66 years and 89 days, or 66.25 years remaining on the lease.
22. Mr Robert's helpfully provides a worked valuation, although the constituent parts are at variance with established caselaw and practice in some areas.
23. The Upper Tribunal case of Trustees of Sloane Stanley Estate v Mundy and Lagesse [2016] UKUT 223 (LC) Mundy laid down guidance on valuation methodology in these cases.
24. In addition to the value of the extended leasehold interest, the valuer must assess the "virtual freehold" value (FHVP) of the unencumbered property with full vacant possession. Current practice suggests that the long lease interest is worth 99% of FHVP. Since Mr Roberts offers no evidence on this the tribunal adopts this relativity.
25. 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. Mr Roberts offers no evidence as to such improvements and in the absence of such evidence the Tribunal determines that there were none.
26. In considering the value of the existing short leasehold, Mr Roberts adopts a reduction of 15% from the long leasehold value. He provides no evidence of comparable short lease sales to support this opinion.
27. The recent Upper Tribunal decision in Deritend Investments (Birkdale)Ltd v Treskonova [2020] UKUT 164 (LC). (Deritend) provides that where no market evidence is available the appropriate method is to adopt graphs of relativity between FHVP and short lease values. The approved graphs are Gerald Eve and Savills 2016.
28. These graphs also address the requirement to exclude the right to enfranchise under the Act from these valuations. This is referred to as valuing in the "No Act World".
29. These relativity graphs show the following relativities: Gerald Eve 2016 82.54%: Savills Enfranchiseable 86% and Savills Unenfranchiseable 82.3%. The tribunal determines that the correct relativity adopting Deritend is 82.4% of FHVP value of £116161 = £95716 for the short leasehold value.
30. The Tribunal accepts Mr Roberts evidence on the value of the extended leasehold value at £115000. Adopting the relativity at 25 above, i.e. 1/.99 above the Tribunal determines the FHVP value at £116161.

Determination

31. The Tribunal determines that the premium payable is **£12000** as shown in the attached calculation.
32. Whilst the difference between the determined sum and Mr Roberts valuation is small, the Tribunal considers that, in these cases, where one party is absent, it is important that the correct process is followed.

Form of new lease

33. The Tribunal approves the new lease as drafted and contained in the bundle provided.

W H Gater FRICS MCI Arb

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, 2 Colmer Road Yeovil Somerset.

1. Diminution in value of freehold interest

(i) Capitalisation of ground rent

Ground rent:	£1	
x YP 66.25 years @ 6%:	<u>16.315</u>	
		£16.32

Freehold reversion

Unencumbered FHVP value:	£116161 ¹	
x PV of £1 in 66.25 years @ 5%	<u>0.0395</u>	
		<u>£4588.36</u>
		4604.68
		Say £4605

(ii) Less proposed FHVP value

Unencumbered FHVP value: £116161	
x PV of £1 in 156.25 years @ 5%	
<u>0.00049</u>	
	- <u>£56.91</u>
Diminution in value of freehold interest:	<u>£ 4547.77</u>

Say **£4548**

2. Marriage value

(i) Value of proposed interests

(i) Leasehold:	£115000	
(ii) Freehold:	<u>£ 56.91</u>	
		£115056.91

(ii) Less value of present interests

(i) Leasehold:	£95716	(£116161 x 82.4%)	
(ii) Freehold:	<u>£4604</u>		
	100320		(£ 100320)

Marriage value: £ 14736.91

¹Long leasehold value £115000 /.99

Say **£14737**

50% of marriage value to freeholder:

£7368.50

Premium payable: £ 7368.50 + £4548 =

£11,916.50

Say **£12,000**