



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

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**
Case reference : **LON/00AE/OLR/2020/1265**

Property : **45 Leopold Road, Willesden,
London NW10 9LG**

Applicant : **Superscale Investment Limited**

Representative :

Respondent : **Mr Manir Ahemed**

Representative :

Type of application : **Section 42 of the Leasehold
Reform, Housing and Urban
Development Act 1993- Missing
Landlord**

Tribunal members : **Judge Daley
Mr K Ridgeway MRICS**

Date of determination and venue : **29 July 2021 at
10 Alfred Place, London WC1E 7LR-
Heard remotely as a paper
determination**

Date of decision : **26 August 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing on the papers which has been not objected to by the parties. The form of remote hearing was P:PAPERREMOTE, A face-to-face hearing was not held because no-one requested the same, and all issues could be determined on paper. The documents that the Tribunal were referred to are in a bundle of 166 pages, the contents of which have been noted.

Summary of the tribunal's decision

- (1) The appropriate premium payable for the new lease is **£42,270.00**.

Background

1. This is an application made by the applicant leaseholder pursuant to section 42 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for a determination of the premium to be paid for the grant of a new lease of 45 Leopold Road, Willesden, London NW10 9LG (the "property").
2. On 4 June 2020, District Judge Kumrai sitting remotely at the Willesden County Court made the following Order.
3. Upon reading the Claim, Witness Statements of Praveen Younas dated 21 January 2020 and William Maclean Brown dated 29 January 2020 and correspondence from Hodders Law. And upon being satisfied that the Claimant has the right to acquire a new lease under section 39 of the Leasehold Reform Housing and Urban Development Act 1993 ('the Act') and that the Defendant cannot be found following - reasonable enquiries IT IS ORDERED that: 1. The service of an initial notice under section 42 of the Act shall be dispensed with. 2. The Claimant is entitled to a vesting order under section 50(1) of the Act providing for the surrender of the lease of the flat, the address of which is First Floor Flat, 45 Leopold Road, Willesden NW10 9LG with title number NGL 677752 ("the flat"), and for the granting to the Claimant of a new lease upon such terms as may be determined by the First Tier Tribunal (Property Chamber - Residential) ("the Tribunal"). 3. The matter be transferred to the Tribunal for a determination of the premium and the terms of acquisition.

The issues

Matters not in issue

- (a) The subject property is a self-contained flat on the first and second floor within a two/three storey Mid- terrace converted house, built approximately 120 years ago, which had subsequently been converted into two flats. A ground floor flat, and the subject flat which is on the first floor. Access to the property is via a communal entrance. The flat comprised of on the first floor a kitchen/breakfast room, bedroom and bathroom.
- (b) block of flats constructed in about [Date] and containing xx flats of similar kinds;
- (c) The valuation date: 12 February 2020;

- (d) Unexpired term: 68.87 years;
- (e) Ground rent: The ground rent was £50.00, which was due to increase to £100.00 on 25 December 2022 and finally to £150.00 on 25 December 2055;
- (f) Long leasehold (unimproved) value: 99% of the freehold (unimproved) value;
- (g) Capitalisation of ground rent: 6% per annum; and
- (h) Deferment rate: 5%.

The hearing

4. The paper determination took place on 29.07.2021. The applicant was represented by William Maclean Brown, the respondent was not a party to the proceedings as the matter was dealt with pursuant to Section 50(1) of the Leasehold Reform Housing and Urban Development Act 1993.
5. The Tribunal did not inspect the property as the tribunal did not consider it necessary to carry out a physical inspection to make its determination.
6. The applicant relied upon the expert report and valuation of Andrew M Lester MRICS dated 22 January 2021.
7. In his report Mr Andrew Lester stated at paragraph 8.2 & 8.4 “I measured this flat with an electronic measuring device and estimate that it has a current gross internal floor area (GIA) of 83 square metres (890 square feet). The enfranchisement legislation requires that leaseholders’ authorized improvements which add value are to be ignored and the properties are to be valued on an “unimproved” basis. In this case the leaseholder has converted the original roof space into two extra bedrooms. The roof space does not belong to the leaseholder and therefore technically the creation of these two additional bedrooms is unlawful. At Appendix D is a draft witness statement produced by Fahim Khan (the company secretary of the claimant leaseholder) and also a copy of an entry from the London Borough of Brent’s website which shows that an application for building regulation approval was made in 2010. Both documents show that this work of alteration was carried out in 2009/10.”
8. Mr Lester assessed the value of the property on the basis of the roof space being unimproved and on the basis of the improvement subject to the tenant’s rights of accretion. With two valuations, the original demised flat had a gross internal floor are of 57 square metres, or (615 square metres). In his report Mr Lester set out the factors which were at play in the market which he assessed as reasonably buoyant on and around the valuation date.

The Freehold Vacant Possession Value

9. In the appendix to his report Mr Lester set out the comparables which had been considered by him in determining the freehold vacant possession value. He took the sales of 62A St Mary's Road and 11A Hawkshead Road as the best evidence as their condition, which he stated reflected the requirement that the valuations are to reflect an unimproved basis. He also noted that both flats were marketed as having roof space potential, which reflects the requirement of valuation 2.
10. He considered that a rate of £550 per square foot was appropriate for the FHVP of the first floor flat only with roof space potential and as a result consider that the FHVP for LE valuation 2 (without the unauthorised extension, in unimproved condition) was £338,250. He stated that he had been unable to find any sales of flats at first/second floor level in order to establish direct evidence. However, he considered that a discount should apply to the second floor and accordingly applied a rate of 75% to the £550 per square foot, making £412.50 the rate for the second floor. This produces a FHVP of £451,687.50, which was rounded to £450,000.

The marriage Value

11. As the property has less than 80 years remaining, the legislation states that then marriage value should be included in the calculation. Marriage value effectively is the amount of value that is unlocked by the granting of the lease extension, with both the leaseholder and freeholder leaseholder sharing the marriage value equally. Relativity is the percentage of the current lease value divided by the freehold unimproved vacant possession.
12. Mr Lester stated that -: "... at Appendix G is a table produced by a well-known enfranchisement lawyer Piers Harrison and presented at a Valuers' Conference held on 6 November 2019, which illustrates various deductions made by the Upper Tribunal in cases. Various different lease terms mentioned of 67.49/68.62/68.67/66.81 years are similar to the lease term remaining of 68.86 years and in all cases the deduction is 3.50%. This produces a without Act rights relativity of 83.99%. By taking this percentage and the other two detailed under 19.14 of 83.79% and 84.21% produces an average of precisely 84% and I consider this percentage of 84% to be the correct relativity to be applied in this valuation.
13. At paragraph 20.1 to 20.06 Mr Lester set out the two basis of the valuation he stated as follows-:

“VALUATIONS 20.1 LE valuation 1 20.2 My opinion as to the price which I consider reasonable to be paid to statutorily extend the current leasehold interest in the subject property and assuming that the property includes the second floor as currently presented, as at 12 February 2020, is £42,270 (forty- two thousand, two hundred and seventy pounds). 20.3 The calculation showing how this price been reached, considering all the factors described in this report, is at Appendix J. 20.4 LE valuation 2 20.5 My opinion as to the price which I consider reasonable to be paid to statutorily extend the current leasehold interest in the subject property and assuming that the property includes the roof space (which has not been developed), as at 12 February 2020, is £31,970 (thirty- one thousand, nine hundred and seventy pounds).

The tribunal’s determination and Reasons for the tribunal’s determination

14. The tribunal determines that we have considered the report prepared for the Tribunal by Mr Lester, we have used our own independent judgment and consider that his report is balanced and fair. We accepted his conclusions concerning the valuation of the premises.

The premium

- (2) The tribunal determines the appropriate premium to be **£42,270.00**.
15. A copy of its valuation calculation is annexed to this decision.

Name: Judge Daley

Date: 26 August 2021

Appendix: Valuation setting out the tribunal’s calculations

Valuation for lease extension

45B Leopold Road, London, NW10 9LG

Valuation Date	12/02/2020			
Lease Commencement	25/12/1989			
Lease Term	99.00	years	Expiry Date	24/12/2088
Unexpired Term	68.86	years		
Long Lease value	£445,500			
Freehold VP value	£449,955	+1% long lease value		
	Term 1	Term 2	Term 3	
Ground rent	£50.00	£100.00	£150.00	
Reversion years	2.86	33.00	33.00	
Capitalisation rate	6%			
Deferment rate	5%			
Compensation	£0.00			
Relativity	84.00%			

Diminution of Landlord's interest

Ground rent				£50	
YP	2.86	yrs @	6.00%	<u>2.558389764</u>	£128
Rent Review 1				£100	
YP	33.00	yrs @	6.00%	14.23022961	
PV of £1	2.86	yrs @	6.00%	<u>0.846496614</u>	£1,205
Rent Review2				£150	
YP	33.00	yrs @	6.00%	14.23022961	
PV of £1	35.86	yrs @	6.00%	<u>0.123746143</u>	£264
Reversion to VP value				£449,955	
PV	68.86	yrs @	5.00%	<u>0.03474600</u>	£15,634
Value existing freehold					<u>£17,231</u>
Landlord's interest on reversion of new lease					
FH VP				£449,955	
PV	158.86	yrs @	5.00%	<u>0.00043040</u>	-£194
					<u>£17,037</u>

Landlord's share of Marriage Value

Val. Tenant's interest new long lease			£445,500	
Val. l/lord's interest after reversion of new lease			£194	
			<u>£445,694</u>	
Less				
Val. tenant's interest existing lease	Relativity	84.00%	£377,962	
Val. l/lord's interest existing lease			<u>£17,231</u>	
			<u>£395,193</u>	
			<u>£50,501</u>	
Marriage Value at Compensation	50%			£25,250
				<u>£0</u>
PREMIUM				£42,287
Say				£42,270

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).

CASE REFERENCE LON/00AC/OLR/2014/0106

**First-tier Tribunal
Property Chamber (Residential Property)**

**Valuation under Schedule 13 of the Leasehold Reform Housing and
Urban Development Act 1993**

Premium payable for an extended leasehold Interest in [Property]

Valuation date: [Date]