



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

**Case reference** : **LON/00AE/OLR/2021/0859**

**HMCTS Code** : **P: PAPER REMOTE**

**Property** : **First Floor Flat, 48 Ashford Road,  
London NW2 6TT**

**Applicants** : **Mr Jacinto Ervalho De Matos (1)  
Mr Jacinto Ferreira De Matos (2)**

**Representative** : **Holmes & Hills LLP**

**Respondent** : **Jagdish Naryan Gupta**

**Representative** : **Not applicable (missing landlord)**

**Type of application** : **Application under Section 50 and  
Section 51 of the Leasehold Reform,  
Housing and Urban Development  
Act 1993**

**Tribunal members** : **Judge D Brandler  
Mr K Ridgeway MRICS**

**Date of determination  
and venue** : **15<sup>th</sup> December 2021 at  
10 Alfred Place, London WC1E 7LR**

**Date of decision** : **15<sup>th</sup> December 2021**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote hearing on the papers which has not been objected to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same. The documents that we were referred to are in the Applicants'

bundle of 116 pages. The Respondent has played no part in these proceedings, being a missing landlord. The order made is described at the end of these reasons.

### **Summary of the tribunal's decision**

- (1) The tribunal determines that the premium payable by the applicants for the enfranchisement of the subject property situated at First Floor Flat 48 Ashford Road, London NW2 6TT is **£48,000**.
- (2) The terms of the lease extension are approved.

### **Background**

1. This is an application further to the order dated 07/07/2021 of Deputy District Judge Paul sitting at the County Court at Willesden, in the following terms:

*“IT IS ORDERED THAT*

*a) The Claimants are qualifying tenants for the purposes of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) and accordingly are entitled to a statutory lease extension of their leasehold interest in the property known as First Floor Flat, 48 Ashford Road, London NW2 6TT (‘the Flat’).*

*b) That the Claimants are not precluded by any provision of Chapter II of the Act from giving a valid notice under s42 with respect to the Flat.*

*c) The whereabouts of the Defendant remain unknown and the Court is satisfied that no further steps are required for the purpose of tracing the Defendant*

*d) the Claimants are prevented from giving notice to the Defendant Landlord (or superior title holder), pursuant to the provisions of s42 Leasehold Reform, Housing and Urban Development Act 1993, because the whereabouts of the Defendant are not known/the Defendant Landlord cannot be found.*

*IT IS DECLARED THAT*

- 1. The need to serve a notice pursuant to s42 of the Act upon the Defendant is hereby dispensed with.*
- 2. The Claimants be granted a new lease of the Flat for a term of 90 years plus the unexpired term, for a peppercorn ground rent and*

*for a premium and upon such terms to be determined and approved by the Leasehold Valuation Tribunal.*

3. *The claim is hereby transferred to the Leasehold Valuation Tribunal who shall determine*
  - a. *The price/premium payable for a statutory lease extension in accordance with the provisions of the Act; and*
  - b. *The form of lease giving effect to the statutory lease extension...”*

### **Evidence**

2. We have been provided with a detailed valuation report by Mr Brendan Conway MSc BSc (Surv) FRSA, dated 04/02/2021. We are advised by a letter from the Applicants’ representatives, Holmes & Hills LLP dated 23/11/2021, that that date is wrong and ask the Tribunal to accept that the date of the valuation is 29/03/2021. It is clear from the report that Mr Conway’s instructions are dated 04/02/2021 and the Tribunal therefore accepts on balance that the date of the valuation put forward by Holmes and Hills LLP Is correct. Mr Conway computes the premium to be £44,800.

### **Lease details**

3. The Respondent missing landlord is the lessor of the 48 Ashford Road, NW2 which comprises a two-storey mid-terrace house which has been converted into two flats. The First Floor flat is accessed from the front of the property via a tiled pathway to a porch with a wooden and glazed panned door. The boundary is a continuation of the ground floor property with a brick wall forming the next door boundary.
4. The front door leads to a short hallway which has a cupboard storage to the right. A single flight of carpeted stairs leads to the first floor flat which is all on one floor. The first floor flat comprises of two double bedrooms, and open plan kitchen/diner and a family bathroom.
5. The first floor flat is subject to a lease dated 2<sup>nd</sup> April 1982 for a term of 99 years from 1/1/1982. The ground rent is £50 pa.
6. The particulars of the first floor flat is as follows:
  - (i) This is subject to a lease dated 2<sup>nd</sup> April 1982, for a term of 99 years from 1<sup>st</sup> January 1982, with some 59 years unexpired.

- (ii) It is located in an end of terrace Victorian property which was constructed in the early 1900s. Ashford Road is in Cricklewood in the London Borough of Camden. There are good transport links. Ashford Road is a predominantly residential road that runs North East to South West off the A5 running into Olive Road. The building lies at the junction of Pine Road on the northside of the road.

### **Valuation date**

- 7. The valuation date is 29/03/2021, namely the date of the application to the Court.
- 8. The three comparable sales evidence considered by Mr Conway were all sold for £450,000 with varying lengths of lease.

### **Reasons for the tribunal's determination**

- 9. The tribunal do not accept the valuation report of Mr Conway for three reasons.
  - (i) He has used the wrong date for the beginning of the 99-year lease. The correct date being 1/1/1982.
  - (ii) He has rounded up the relativity to 85. The Tribunal consider 83.8 to be more accurate. This difference is in part due to the difference in valuation dates provided.
  - (iii) The correct valuation date is 29/03/2021 being the date of issue of the applicants' claim in the County Court.
- 10. The Tribunal substitute its own calculations as set out at Appendix 1 to this decision.
- 11. The tribunal now remits the application back to the County Court at Willesden for any final orders that may be required.

### **The premium**

- 12. The tribunal determines the appropriate premium to be **£48,000**. A copy of its valuation calculation is annexed to this decision.

**Name:** Judge D Brandler

**Date:** 15<sup>th</sup> December 2021

**Appendix 1:** Valuation setting out the tribunal's calculations

### **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).

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

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

**Premium payable for the lease extension for the First Floor Flat 48  
Ashford Road, London NW2 6TT**

**Valuation date: 29/03/2021**

**Valuation of lease extension**

**First Floor Flat**

Valuation for lease extension

48B Ashford Road, London, NW2 6TT

Valuation Date	29/03/2021			
Lease Commencement	01/01/1982			
Lease Term	99.00	years	Expiry Date	1/12/2080
Unexpired Term	59.76	years		
Long Lease value	£450,000			
Freehold VP value	£454,500	+1% long lease value		
	Term 1	Term 2	Term 3	
Ground rent	£50.00	£0.00	£0.00	
Reversion years	59.76	0.00	0.00	
Capitalisation rate	6%			
Deferment rate	5%			
Compensation	£0.00			
Relativity	83.40%			

**Diminution of Landlord's interest**

Ground rent				£50	
YP	59.76	yrs @	6.00%	<u>16.15431254</u>	£808
Rent Review 1				£0	
YP	0.00	yrs @	6.00%	0	
PV of £1	59.76	yrs @	6.00%	<u>0.030741248</u>	£0
Rent Review2				£0	
YP	0.00	yrs @	6.00%	0	

PV of £1	59.76	yrs @	6.00%	<u>0.030741248</u>	£0
Reversion to VP value				£454,500	
PV	59.76	yrs @	5.00%	<u>0.05416609</u>	£24,618
<b>Value existing freehold</b>					<u>£25,426</u>
<b>L/lord's interest on reversion of new lease</b>					
FH VP				£454,500	
PV	149.76	yrs @	5.00%	<u>0.00067095</u>	-£305
					<u>£25,121</u>
<b>Landlord's share of Marriage Value</b>					
Val. Tenant's interest new long lease				£450,000	
Val. l/lord's interest after reversion of new lease				<u>£305</u>	
					<u>£450,305</u>
<b>Less</b>					
Val. tenant's interest existing lease		Relativity	83.40%	£379,053	
Val. l/lord's interest existing lease				<u>£25,426</u>	
					<u>£404,479</u>
					<u>£45,826</u>
Marriage Value at 50%					<u>£22,913</u>
Compensation					<u>£0</u>
<b>PREMIUM</b>					<b>£48,034</b>