



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

Case reference : **LON/00AW/OLR/2021/0110**

HMCTS code (paper, video, audio) : **V: CVPREMOTE**

Subject property : **Second and Third Floor Flat, 49
Hornton Street, London W8 7NT**

Applicant : **Kapital (Drayton Bridge) Limited**

Representative : **Ms G Crew of counsel**

Respondents : **(1) Mr A Langdale
(2) Mr O Langdale
(3) Ms G Langdale**

Representative : **Mr C Fain of counsel**

Type of application : **Section 48 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal members : **Judge S Brilliant
Ms M Krisko FRICS**

Date of determination and venue : **24 August 2021 at 10 Alfred Place,
London WC1E 7LR (Remote)**

Date of decision : **10 September 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has been not objected to by the parties. The form of remote hearing was by video V: CVPREMOTE. 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 electronic bundle totalling 375 pages.

© CROWN COPYRIGHT

Summary of the Tribunal's decision

The appropriate premium payable for the new lease is **£427,480**.

Background

1. This is an application made by the applicant leaseholder pursuant to section 48 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 the Second and Third Floor Flat, 49 Hornton Street, London W8 7NT ("the Flat").

2. By a notice of claim dated 27 August 2020, served pursuant to section 42 of the Act, the applicant's predecessor in title, Ms K Ardagh, exercised the right for the grant of a new lease in respect of the Flat. At the time Ms K Ardagh held the existing lease granted on 08 September 1972 for a term of 99 years commencing on 24 June 1972 and expiring on 23 June 2071. The annual ground rents are £100 per annum until 24 June 2005, £125 per annum until 25 March 2038, and £150 thereafter.

3. Ms Ardagh proposed to pay a premium of £350,000 for the new lease.

4. On 04 September 2020, Ms Ardagh assigned the benefit of the notice to the applicant. On 19 October 2020, the respondent freeholders served a counter-notice admitting the validity of the claim and counter-proposed a premium of £835,000 for the grant of a new lease.

The Flat

5. The Flat is situated on the top two floors of a Victorian semi-detached five-storey house in Kensington ("the House"). It is close to three underground stations. Access is via a communal front door at raised ground floor level with a single staircase leading up to the entrance of the Flat which is on the second floor. There is no lift.

6. The Flat comprises two reception rooms, a kitchen, a bedroom and a bathroom on the second floor. There are three further bedrooms, a bathroom, a store room and a plant room on the third floor. The Flat has no rights to an outside area. The House is opposite a block of flats owned by the local authority.

The application

7. On 25 January 2021, the applicant applied to the Tribunal for a determination of the premium in respect the Flat.

8. Originally, there was a difference between the parties as to other proposed terms of the lease, but those matters have now been settled.

9. Directions were given on 18 May 2021.

The hearing

10. The hearing in this matter took place remotely on 24 August 2021. The applicant was represented by Ms G Crew of counsel. The respondents were represented by Mr C Fain of counsel. We are grateful to both of them for their submissions.

11. The Tribunal did not consider it necessary to carry out a physical inspection of the Flat to make its determination.

12. The applicants relied upon the expert report and valuation of Mr D Nesbitt MRICS dated 01 February 2021 and the respondents relied upon the expert reports and valuations of Mr A Balcombe FRICS dated 30 July 2021 and 12 August 2021.

Matters agreed between the experts

13. By the hearing the following matters were agreed:

- (1) The valuation date is 27 August 2020.
- (2) The unexpired term at the valuation date was 50.82 years.
- (3) The ground rents are as set out above.
- (4) The capitalisation rate is 6.5%.
- (5) The deferment rate is 5%.
- (6) The floor area is 2,082 ft².
- (7) The freehold value has a 1% uplift.
- (8) The relativity figure is 71.43%.
- (9) The recent sale of the Flat to the applicant has no value as a comparable. Ms Ardagh required a quick sale because of her declining health. The Applicant also paid a substantial introduction fee to an agent.

The issue

14. Unusually, there is now only one issue in these proceedings, and that is the value of the current long lease to be granted.

15. Mr Nesbitt draws attention to the very poor condition of the common parts, the significantly oversized area of the Flat, the amount of space which cannot be used because of poor configuration, and the proximity to the local authority block.

16. Mr Balcombe accepts that the common parts are not in excellent condition, but says they are not in a terrible condition either. The refurbishment works to the Flat may well have increased the wear and tear common parts. He denies the Flat is oversized. Leaseholders in this area expect large rooms. The local authority block does not detract from the value of the Flat. It is a well-kept estate built some distance away from the road with vegetation front.

The comparables

Mr Nesbitt

15. Mr Nesbitt relies upon the following three comparables:

49B Hornton Street	£1,300,000	A three bedroom lower ground and
--------------------	------------	----------------------------------

		ground floor flat in the House. Sold in November 2019, reflecting £1,371 per ft ² .
27A Hornton Street	£1,075,000	A three bedroom lower ground floor conversion in the same road. Sold in March 2021, reflecting when time adjusted £1,270 per ft ² .
29A Hornton Street	£1,370,000	A raised ground floor conversion in the same road. Sold in June 2018, reflecting when time adjusted £1,455 per ft ² .

16. Mr Nesbitt makes the following adjustments:

49B Hornton Street

17. This flat has its own private garden, is in a superior condition and is of a size (948 ft²) which is more akin to an average size for a three-bedroom flat. Mr Nesbitt deducts 20% for the garden, 20% for the better size and £50 per ft² for condition. This gives an adjusted figure of £773 per ft², and a capital value of £1,610,000 for the Flat.

27A Hornton Street

18. This flat has its own private courtyard, is in a better condition and is of a size (927 ft²) which is more akin to an average size for a three-bedroom flat. Mr Nesbitt deducts 10% for the courtyard, 20% for the better size and £30 per ft² for condition. This gives an adjusted figure of £859 per ft², and a capital value of £1,788,000 for the Flat.

29A Hornton Street

19. This flat is in a better position and is of a size (950 ft²) which is more akin to an average size for a three-bedroom flat. Mr Nesbitt deducts 10% for floor position, 20% for the better size and £50 per ft² for condition. This gives an adjusted figure of £969 per ft², and a capital value of £2,000,000 for the Flat.

20. Mr Nesbitt adopts a valuation of £900 per ft², and a capital value of £1,900,000 for the Flat.

Mr Balcombe

21. Mr Balcombe relies upon eight comparables. Four of these are in Mansion Blocks: 91 Campden Hill Court, Campden Hill Road; 34 Campden Hill Court, Campden Hill Road; Flat 5, 118 Campden Hill Road and 32 Phillimore Court, Argyle Street.

22. We do not regard these four as true comparables. There is too much difference between a flat in a Mansion Block and one in a converted house.

23. Mr Balcombe relies upon 49B Hornton Street, as does Mr Nesbitt.

24. Mr Balcombe also relies upon the following comparables and reflects market adjustment:

49B Hornton Street	£1,300,000	A three bedroom lower ground and ground floor flat in the House. Sold in November 2019, reflecting when market adjusted £1,533 per ft ² .
62 Hornton Street	£1,737,500	A three bedroom lower ground and ground floor conversion. Sold in March 2020, reflecting when market adjusted £1,511 per ft ² .
44 Hornton Street	£2,345,000	A four-bedroom converted maisonette on three floors. Sold in November 2019, reflecting when market adjusted £1,450 per ft ² .
Flat 6, 35 Hornton Street	£1,292,500	A two bedroom third and fourth floor conversion. Sold in December 2020, reflecting when market adjusted £1,246 per ft ² .

25. Mr Balcombe gives most weight to Flat 5, 118 Campden Hill Road and 44 Hornton Street. He takes into account the fact that the Flat does not have any external space. He does not adjust the individual flats, but stands back and looking at the comparables as a whole he adopts a figure of £1,3000 per ft², and a capital value of £2,739,100.

Discussion

26. In our view, the best comparables are (1) 62 Hornton Street, (2) 49B Hornton Street, (3) 44 Hornton Street and (4) Flat 6, 35 Hornton Street.

27. We do not regard the Flat as being oversized or having a particularly poor configuration. The local authority block of flats across the road does not diminish its value. However, the Flat was in very poor condition at the time of valuation date and the common parts are tired. There is no lift and no outside space. In respect of each comparable provided by Mr Balcombe as adjusted for time by him, we have further adjusted for condition, open space, floor level and size.

62 Hornton Street

28. This flat is significantly smaller than the Flat. It has a 999 year lease with a share of the freehold. It is in better condition than the Flat, particularly the kitchen, and the floor position is better. In our judgment, the market adjusted selling price of £1,511 ft² should be reduced by 25% to reflect these factors, producing a figure of £1,133 per ft².

49B Hornton Street

29. This flat is better situated on the lower ground and ground floors of the Building. It has the benefit of the garden and is in good condition. In our judgment, the market adjusted selling price of £1,533 ft² should be reduced by 25% to reflect these factors, producing a figure of £1,165 per ft².

44 Hornton Street

30. This flat is in very good condition situated on the first and second floors and has a communal garden. In our judgment, the market adjusted selling price of £1,450 per ft² should be reduced by 20% to reflect these factors, producing a figure of £1,160 per ft².

Flat 6, 35 Hornton Street

31. This flat is in very good condition, is situated on the third and fourth floors and has the benefit of a roof terrace. It has a mansard roof on the fourth floor and has no lift. In our judgment, the market adjusted selling price of £1,246 per ft² should be reduced by 15% to reflect these factors, producing a figure of £1,059 per ft².

32. Averaging out these four comparables, one arrives at the figure of £1,129 per ft². This produces a capital value of £2,350,578.

Conclusion

33. We have stated the premium at the commencement of this decision. Our calculations are set out in the appendix attached.

Name: Judge Simon Brilliant **Date:** 10 September 2021

Appendix:

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Subject 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 subject 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).

TRIBUNAL VALUATION

Second and Third Floor Flat 49 Hornton Street London WB 7NT

Valuation date 27th August 2020

Term 50.82 years

Term value agreed

Reversion E2,374,084 1,954

50.82 years @ 5% 0.0838
 Less
 Future reversion 198,948
 140.82 years @ 5% 0.0010
 Marriage value 2,374 198,528
 Landlord's future interest Lessee's proposed interest
 Less 2,374

Landlord's existing interest 200,902
 Existing lease value 1,694,146
 457,904 228,952
 Premium 427,480
 Yields 6,500/0
 5.00%
 Relativity 71.36%
 Existing lease value
 Extended lease value
 Freehold value