



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY) SITTING
AT 10 ALFRED PLACE, WC1E 7LR**

Case references : LON/00BH/OLR/2020/1057

HMCTS code : V: CVPREMOTE

Properties : Flats 5,6,7,8,13,14 and 15 Hanson
Court, 5 Ghandi Close, London E17 8NA

Applicants : Stephen Routledge, Doretta Reese,
David Reese, Spiketruce Limited &
Beverly Milan

Representative : Mr D Reese

Respondent : Sinclair Gardens Investment
(Kensington) Limited

Representative : Mr G Holden

Type of application : Lease extensions

Tribunal members : Judge Tagliavini
Mr M Taylor MRICS

Date of hearing. : 6 July 2021

Date of decision : 2 August 2021

DECISION

Covid-19 pandemic: description of hearing

This has been a remote paper hearing which has been consented to by the parties. The form of remote hearing was V: VIDEOREMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. The documents that the tribunal was referred are contained in the applicants (electronic) bundle 1 to 509.

The tribunal's summary decision

- (1) The tribunal determines that the premiums payable for flats 5, 7 and 8 is £34,020.**
 - (2) The tribunal determines that the premium payable for flats 6, 13, 14 and 15 is £28,880.**
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The application

1. This is an application seeking a determination by the tribunal of the terms and premium payable for a lease extension in respect of the subject premises.

The premises

2. The subject premises comprise purpose built located on various floor of a 3-storey apartment block set on an estate of similar blocks. Flats 6, 13, 14 and 15 comprise one-bedroom flats. Flats 5, 7 and 8 comprise two-bedroom flats.
3. The parties agreed the following issues:
 - (i) A valuation date of 24 January 2020.
 - (ii) That the lease terms for all properties being 99 years from 15 August 1985.
 - (iii) The unexpired term for all properties is 65.56 years.
 - (iv) The Ground Rent for flats 5, 7 & 8 amounts to £70 per annum rising to £150 and £225 for the last 33 years period.

The Ground Rent for flats 6, 13, 14 & 15 amounts to £70 per annum rising to £140 per annum and £210 for the last 33 years period.

- (v) The deferment rent is 5%.
- (vi) The capitalisation rate is 6%.
- (vii) The long leasehold value of flats 5, 7 & 8 is £307,500.
- (viii) The long leasehold value of flats 6, 13, 14 & 15 is £260,000.
- (ix) The terms of the new lease(s).

The issues remaining

- 4. The issues that the tribunal is required to determine for the subject flats are (i) relativity (ii) the short lease value of the subject flats and (iii) the premium(s) payable.

The applicants' case

- 5. The applicants relied upon a valuation report prepared by Mr Daniel Reese of Abbeymove Limited dated 15 June 2021, which appeared on pp 7-324 of the hearing bundle. Mr Reese also represented the applicants, both as an advocate with the purpose of putting the applicant's best case to the tribunal and as an independent valuation expert. In the absence of any declarations as to any potential conflicts of interest and on questioning by the tribunal, Mr Reese admitted the following:
 - (i) He is the son of applicants Dorothy and David Reese.
 - (ii) He is the nephew and employee of the applicant Stephen Routledge.
 - (iii) He is the Secretary of the applicant company Spiketrucce Limited.
 - (iv) Beverley Millan is a client of Abbeymove Limited.
- 6. Despite this apparent lack of independence and objectivity, Mr Reese told the tribunal that he accepted that his duty lay first and foremost to the tribunal. Mr Reese told the tribunal, that most of the flats in Hanson Court, are owned by buy-to-let investors and that the subject flats are all owned by buy-to-let investors.
- 7. In his report Mr Reese relied upon several market sales of similar properties in and around the local area of which the average sale price adjusted by LHHPI and the extra value of improvements to produce an unimproved value to the subject flats of £217,073 and takes this as the long lease value of the subject flats.

8. Mr Reese used his experience of sales in the area and referred the tribunal to the guidance provided by the Upper Tribunal in *The Sloane Stanley Estate v Mundy* [2016] UKUT 0223 (LC) to derive an opinion of relativity of 88.67% later revised in the hearing to 85.32%
9. Therefore, Mr Reese arrived at premiums payable for flats 6,13,14 and 5 of £20,100 and premiums payable for flats 5,7 and 8 of £23,625.

The respondent's case

10. The respondent relied upon the expert valuation report dated 15 June 2021 and the oral evidence of Mr Geoff Holden FRICS of Lease X Limited which appeared on pp 326-509 of the hearing bundle.
11. Mr Holden spoke to his report in his oral evidence and told the tribunal that he looked at the market evidence although there was no transaction at around the valuation date involving the subject leases and had therefore looked at other flat sales in the 'real world' on similar nearby estates. Mr Holden stated he had found these unhelpful as they had occurred several years before the valuation date and had therefore relied on the published relativity graphs and Upper Tribunal decisions including *Deritend Investments v Treskonova* [2020] UKUT 0164 (LC).
12. Using the Gerald Eve graph and Savills graph these provided an average figure for relativity of 81.965%. This provided premiums of £34,020 for flats 5, 7 and 8 and a premium of £28,880 for flats 6, 13, 14 and 15.

The tribunal's decision and reasons

13. In light of Mr Reese's failure to voluntarily disclose his relationship with the applicants and his apparent conflict of interest, the tribunal considered that the evidence Mr Reese provided, was not sufficiently objective, as he had a personal interest in achieving the lowest payable premiums and lacked credibility. Consequently, the tribunal preferred the evidence of Mr Holden and accepted that he had adopted an approach to the valuation in line with previous Upper Tribunal decisions and guidance.
14. Therefore, the tribunal determines that the premiums payable for flats 5, 7 and 8 is £34,020 and the premium payable for flats 6, 13, 14 and 15 is £28,880.

Name: Judge Tagliavini

Date: 2 August 2021

Rights of appeal from the decision of the tribunal

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).