



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

**Case Reference** : LON/00BK/OLR/2021/0005

**HMCTS** : V: CVPREMOTE

**Property** : 11 Oslo Court, Prince Albert Road, London,  
NW8 7EN

**Applicant** : Yelena Konnova

**Representative** : Richard Roberts

**Respondent** : Brickfield Properties Ltd

**Representative** : Eric Shapiro FRICS

**Type of Application** : Enfranchisement

**Tribunal Members** : Judge Robert Latham  
Sarah Phillips MRICS

**Date and venue of  
Hearing** : 3 August 2021 at  
10 Alfred Place, London WC1E 7LR

**Date of Decision** : 12 August 2021

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**DECISION**

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The Tribunal determines that the premium payable by the Applicant in respect of the extension of its lease at 11 Oslo Court, Prince Albert Road, London, NW8 7EN is £57,500. The calculation is annexed to this decision.

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

This has been a remote video hearing which has not been objected to by the parties. The form of remote hearing was V: CPVEREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The parties have provided a Bundle of Documents for the hearing.

## **Introduction**

1. This is an application made 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 and the terms for a new lease.

## **Background**

2. The background facts are as follows:
  - (i) The flat: 11 Oslo Court, Prince Albert Road, London, NW8 7EN
  - (ii) The subject flat currently comprises a living room with kitchen, bedroom and en-suite bathroom.
  - (iii) Date of Tenant’s Notice: 29 April 2020
  - (iv) Valuation Date: 29 April 2020
  - (v) Tenant’s leasehold interest:
    - Term of Lease: 99 years from 25 December 1974, with an unexpired term of 53.65;
    - Ground Rent: the current ground rent is £100 pa, rising to £150pa in March 2040.

## **The Hearing**

3. The hearing of this application took place on 3 August 2021. The Applicant, tenant, was represented by Richard Roberts. He is a law graduate and has worked for 15 years in the financial sector specialising in company valuations. The Respondent, landlord, was represented by Mr Eric Shapiro, FRICS, FCI Arb. Both provided written reports and gave evidence.
4. On 29 April 2020, the Applicant served her Section 42 Notice of Claim proposing a premium for a lease extension of £40,500. On 24 June 2020, the Respondent served its Counter-Notice proposing a premium of £125,987. This is almost twice the amount for which the landlord now contends.
5. The Standard Directions required the parties to serve a copy of Agreed Facts and Disputed Issues. The parties failed to agree this. However, at the hearing the parties agreed the following:
  - (i) Valuation Date: 29 April 2020;
  - (ii) Unexpired Term: 53.65 years;
  - (iii) Deferment Rate: 5%;
  - (iv) Capitalisation Rate: 6.5%;
  - (v) There should be a 1% uplift to the long lease value to determine the NFV;

- (vi) Tenant's improvements have added £5,000 to the value of the Subject Flat.
- (vi) The terms of the new lease.
- (vii) Adjustments for time should be made by use of the Savills Index for North West London flats.

6. The following issues are in dispute:

(i) The size of the Flat. Mr Roberts contended that it is 431 sq ft; Mr Shapiro that it is 457 sq ft.

(ii) The freehold value possession value (FHVP): Mr Roberts contended for £449,190; Mr Shapiro for £491,500.

(iii) The short lease value: Mr Roberts contended for £398,961; Mr Shapiro for £390,000.

(iv) The Premium: Mr Roberts contended for £39,848; Mr Shapiro for £66,841.

7. By the end of the hearing, the difference between the parties had narrowed significantly. Both parties provided revised valuations:

(i) The FVPV: Mr Roberts contended for £449,190; Mr Shapiro for £494,474.

(ii) The short lease value: Mr Roberts contended for £373,895; Mr Shapiro for £402,160.

(iii) The Premium: Mr Roberts contended for £52,381; Mr Shapiro for £62,341.

### **Issue 1: The size of the Flat**

8. It is a matter of regret that the parties were unable to agree the size of the Flat. Mr Roberts contended that it is 431 sq ft; Mr Shapiro that it is 457 sq ft. Neither Mr Roberts nor Mr Shapiro had measured the Flat. No evidence was adduced from anyone who had measured it. The parties were not willing to split the difference.

9. The Tribunal have had to determine the issue on the basis of the following evidence:

(i) On 25 November 2018, the parties had asked the tribunal to determine the premium in a previous application (LON/00BK/OLR/2018/0543). Mr Roberts had represented the

Applicant and Mr Shapiro the Respondent. The parties had agreed that the size of the Flat was 431 sq ft. The size had been suggested by Mr Shapiro. This was based on measurements taken by two employees from Chestertons, the firm of which Mr Shapiro is a Senior Director.

(ii) The Applicant has recently marketed the Flat for sale through Chestertons with an asking price of £475,000 (at p.183-187). The Flat is described as being 460 sq ft (p.187). Chestertons add their normal rider to this measurement. Mr Shapiro stated that Chestertons no longer carry out their own measurements. They now contract this out to a contractor who use more sophisticated digital infrared devices.

(iii) Mr Shapiro also refers to the Sales Particulars for Flat 3 which seems to be almost a mirror index to the subject Flat. This records the flat at 454 sq ft (at p.220).

(iv) Mr Roberts stated that the subject Flat is now being marketed by KFH. They have assessed the size as 431 sq ft. This is apparently based on the measurements which they have made.

(v) The flats at Oslo Court have one bedroom, but their sizes vary. The flats are not rectangular, but rhomboid. It has a herringbone design so as to afford the largest number of flats a limited view of Regents Park from their balconies. This makes the flats difficult to measure. Thus Flat 30 is measured as 503 sq ft (at p.324), but as 485 sq ft (at p.130). Flat 93 is measured as 493 sq ft (at p.267) and 526 sq ft (at p.103). The experts agreed to split the difference on these two flats. However, there was no such agreement in respect of the Subject Flat.

10. Mr Shapiro asks us to take an average of 460 sq ft and 454 sq ft, namely 457 based on (ii) and (iii) above. Mr Roberts argued against this, albeit that it does not seem to have been in the Applicant's interest for him to do so. On balance, we are minded to accept Mr Shapiro's submissions on this point. In particular, we have regard to the fact that the more recent measurement of the Subject Flat by Chestertons is supported by the independent measurement of Flat 3.
11. Whether there is a difference in the size of Flats 3 and the Subject Flat is a matter of surmise. In considering the long lease values of the two flats, we are satisfied that a purchaser would not notice any perceptible difference in size. Our determination of the size of the Subject Flat, is therefore only relevant to our assessment of the short lease value.

## **Issue 2: – Freehold Vacant Possession Value (FVPV)**

### **The Subject Property**

12. There is a good basket of comparables of sales of both long and short leases at Oslo Court. The valuation date is 29 April 2020. Quite unusually, we have the sale of Flat 3 on a long lease of 1 May 2020 and the sale of Flat 30 on an identical short lease on 30 April 2020.
13. In respect of the long lease value, Mr Shapiro relies on sales of Flats 72, 54, 3, 100, 111, 56, 93 and 114 (the sales being between 19 May 2021 and 25 April 2018). Mr Roberts relies on the sales of Flats 54, 111, 56, 93, 114, 21 and 66 (the sales being between 8 December 2020 and 15 August 2017). He had not had regard to the sale of Flat 72, as his researches had predated May 2021
14. It is necessary to adjust for time. Mr Shapiro has used the Savills Index for North West London flats. Mr Roberts stated that he had used the Land Registry Central London Flat Price Index. Mr Shapiro responded that the Land Registry does not produce an Index for Central London; it is rather based on boroughs. Mr Roberts was unable to produce the index that he had used. He therefore agreed that the Tribunal should use the Savills Index.
15. The Savills Index is kept on a quarterly basis. It demonstrates the rollercoaster state of the market in this location. In June 2016, it was at a peak of 192.5, dropping to 173.0 in December 2019. There was then a modest recovery in March 2020, before dropping to 169.5 in December 2020. It had increased to 172.2 by June 2021. This demonstrates why the best comparables are sales closest to the valuation date of April 2020. Two matters arose from this:
  - (i) The comparables include the sale of Flat 3 on a long lease on 1 May 2020 and the sale of Flat 30 on a short lease on 30 April 2020. These are the best comparables, provided that we are satisfied that these are market sales.
  - (ii) Mr Roberts agreed that the Tribunal should not have regard to the sales of Flats 21 and 6 which were in October and August 2017.
16. Mr Shapiro considered that his best comparable is the sale of Flat 3 Oslo Court. We agree. This sold for £485,000 on 1 May 2020. The unexpired term is 143 years. It is also on the ground floor. The layout is almost identical to that of the Subject Flat, so no adjustment needs to be made for size. Mr Shapiro describes its condition as “tired”. However, the photographs of the flat at p.222-223 suggest that the flat is in a reasonable condition and that new kitchen and bathrooms have been installed since the flat was granted in 1974.
17. The only reduction which we need to make is the agreed £5,000 reduction for the tenant’s improvements at the Subject Flat. We thus

determine a long lease value of the Subject Flat of £480,000 and apply a 1% uplift to reach a FVPV of £484,400.

18. Mr Roberts argued that we should not have regard to this comparable because it was a private sale. He suggests that the Land Registry documentation at p.213-215 was a sale from Mr George Hamboullas to his daughter, Athenoulla Hamboulla. Mr Shapiro responds that this was still a market sale and that it would need to be at market value for tax purposes. There is no evidence that it was below market price. Had it been, it would have been in the Applicant's interests, and not the Respondent's, to rely upon it.
19. There is cogent evidence that this was at a market price. Whilst it sold for less than Flat 54, which sold for £500,000 on 8 December 2020, and Flat 100 which sold for £520,00 on 20 November 2019, both these flats are on higher floors and both parties agreed that adjustments need to be made for this. When adjustments are made for time and floor level in Table 3, the adjusted FVPVs are Flat 54: £529,230; Flat 3: £491,317 and Flat 100: £471,729. Further adjustments then need to be made for the size of the three flats. No such adjustment needs to be made if we rely solely on Flat 3.
20. Mr Roberts did not have regard to the sale of Flat 100, because this was a sale by a mortgagee. Again, there was no evidence that the sale was not at a market price. Had it been below the market price, it would have been in the Applicant's interests to rely on it.
21. Overall, we prefer the approach which has been adopted by Mr Shapiro. His comparables in Table 3 support the approach which we have adopted. It is difficult to rely on the Table prepared by Mr Roberts as it is unclear what index he has used to make adjustments for time.

### **Issue 3: Relativity – Short Lease Value**

22. We have regard to the guidance given by the Upper Tribunal in *The Trustees of the Sloane Stanley Estate v Mundy* [2016] UKUT 223 (LC); [2016] L&TR 32, a decision subsequently upheld by the Court of Appeal reported at [2018] EWCA Civ 35; [2018] 1 P&CR 18. The current case is one in which there is good evidence of market sales of short leases.
23. Mr Shapiro relies on sales of Flats 125, 41, 30 and 32 (the sales being between 14 April 2021 and 15 October 2018). Mr Roberts relies on the sales of Flats 41, 30, 32, 43, 42 and 2 (the sales being between 2 March 2021 and 26 February 2016). Mr Roberts agreed that the Tribunal should not have regard to the sales of Flats 43, 42 and 2 as these had been between February 2016 and May 2017. Apart from the time gap, the market for short leases was influenced by the Upper Tribunal decision in

*Mundy* which was given on 10 May 2016. The market took time to respond to this decision.

24. Mr Roberts had not had regard to the sale of Flat 125, as his researches had predated April 2021. Thus, the experts agreed that we should primarily have regard to the basket of comparables identified by Mr Shapiro.
25. We prefer the adjustments which Mr Shapiro has made to the comparables. First, Mr Roberts has made no adjustments for the lease length. Whilst all the leases ran from the same date, the sales had been completed on different dates so the unexpired terms would have differed. We remain unclear what adjustments Mr Roberts had made for time. He accepted that the Savills Indexation was more appropriate.
26. The parties differed on the approach that we should take in computing the adjustment which should be made for Act Rights. Both parties agreed that we should have regard to the difference between the enfranchisable and the unenfranchisable figures in the Savills' Analysis of Relativity (June 2016) for an unexpired term of 53.65 years. This gives an Enfranchisable Relativity of 80.1% and Unenfranchisable Relativity of 73.7%. Mr Roberts takes the difference of 6.4% as the value of Act Rights. Mr Shapiro disagrees. One should rather take a percentage of the two figures. He gives an example. Take a property with a FVPV of £1m. The Enfranchisable short lease value is £801k; whilst the Unenfranchisable Relativity is £737k. The difference is £64k, namely 8% (i.e. £64 divided by £801). We agree with the approach adopted by Mr Shapiro.
27. Turning to Mr Shapiro's Table 4 (at p.177), the parties agreed that the GIA for Flat 30 flat should be 494, rather than 503 sq ft. The adjusted short lease rate per sq ft should be £880, rather than £864.
28. Both parties agreed that Flat 30 is the best comparable. The sale date was 30 April 2020, just three days after the valuation date. We are satisfied that this was a market sale, as confirmed by an analysis of the other comparables in Table 4 (at p.177). We therefore compute the short lease value to be £402,160, (namely £880 x 457).

### **Conclusions**

29. We make the following determinations on the issues in dispute:
  - (i) The size of the Flat: 457 sq ft.
  - (ii) The long leasehold value: £480,000.
  - (iii) The freehold vacant possession value: £484,800.
  - (iv) The short lease value: £402,160.
  - (v) The Premium: £57,500.

**Judge Robert Latham**  
**12 August 2020**

**RIGHTS OF APPEAL**

1. 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.
2. The application for permission to appeal must arrive at the Regional office within 28 s after the Tribunal sends written reasons for the decision to the person making the application.
3. 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.
4. 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.



Tribunal's Valuation  
 29.04.2020  
 53.65  
 457 £100.00  
 £150.00  
 6.50%  
 5%  
 £480,000.00  
 £484,800.00  
 £402,160.00  
 Valuation Date (VD)  
 Unexpired Term  
 GIA  
 Ground Rent at VD  
 Ground Rent at Term 2  
 Capitalisation Rate  
 Deferment rate  
 Extended Lease Value  
 Freehold Value  
 Existing Lease Value  
 Calculations  
 Diminution of Freehold  
 Ground Rent Term 1  
     £100.00  
 6.50% 10.9913  
  
     £150.00  
 6.50% 13.54818  
 6.50% 0.28556  
  
     £484,800.00  
 5.00% 0.07297  
  
     £484,800.00  
 5.00% 0.0009  
 19.9  
 33.75 19.9  
 53.65  
 53.65  
 Years Purchase@  
 £1,099.13  
 Ground Rent Term 2

Years Purchase	years @		
PV of £1 in years @			
£580.32			
Reversion			
Capital Value			
PV of £1 in years @			
£35,375.86			
£37,055.31 less Freehold after Extension			
Capital Value			
PV of £1 in years @			
Marriage Value Calculation			
Value of Proposed Interests		£436.32	£36,618.99
Freeholder	£436.32		
Leaseholder			
less			
Value of Existing Interests			
Freeholder	£36,618.99		