



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

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**
Case reference : **LON/00AH/OLR/2021/0287**

Property : **Flat 1, 158 Clifton Road, London SE25 6QA**

Applicant : **Stephen Boateng**

Representative : **Anthony Gold Solicitors**

Respondent : **Mick Maurice Fray
Sybil Adina Cardoza**

Representative :

Type of application : **Section 48 (1) of the Leasehold Reform, Housing and Urban Development Act 1993- Application to determine the premium to be paid- Missing landlord**

Tribunal members : **Judge Daley
Mrs S Redmond MRICS**

Date of determination and venue : **26 January 2022 at
10 Alfred Place, London WC1E 7LR-
Heard remotely as a paper determination**

Date of decision : **10 February 2022**

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 **£21,600.00**.

Background

1. This is an application made by the applicant leaseholder pursuant to section 50 (5) 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 Flat 1, 158 Clifton Road London SE25 6QA (the “property”).
2. On 8 February 2021, District Judge Rowland sitting at the Croydon County Court made the following Order.
3. “Upon hearing Mr Blakeney Counsel on behalf of the Claimant and the Defendants neither attending nor being represented... And upon being satisfied that the Claimant is a qualifying tenant in accordance with Section 5 of the Act and who accordingly has a right to acquire a new lease of the flat and that the Second Defendant who is one of the registered freeholders in respect of the flat cannot be found ... IT IS ORDERED that: 1. ...(3) There shall be a vesting order under section 50(1) of the Act.(4) The Claimant may make an application to the First Tier Tribunal (Property Chamber - Residential) for a determination of the lease terms together with the sums payable under section 51(5) of the Act.”

The issues

Description of the premises and matters of fact and determined

- (a) The subject property is a self-contained ground floor flat situated in South East London in close proximity to South Norwood Station in a mixed residential and commercial location. The property comprises Reception Room/kitchen Bedroom, small box room and a shower room, The gross internal Floor Area is 45 sqm. The flat is within a Victorian building.
- (b) The lease is for 99 years from 25 March 1985;
- (c) The valuation date: 11 March 2020;
- (d) Unexpired term: approximately 64.08 years;
- (e) Ground rent: The ground rent was £50.00, which was due to increase to £100.00 and then £150.00 rising every 33 years.;
- (f) Long Leasehold Value unimproved at valuation date: £185,000

- (g) Long leasehold (unimproved) value: 99% of the freehold (unimproved) value;
- (h) Relativity of existing leasehold: 81%
- (i) Capitalisation of ground rent: 7% per annum; and
- (j) Deferment rate: 5%.

The paper determination

- 4. The paper determination took place on 26.01.20221.
- 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 Roger Anthony Armstrong FRICS dated 27 October 2021.

The Freehold Vacant Possession Value

- 7. In his report Mr Armstrong set out the comparables which had been considered by him in determining the freehold vacant possession value. He took account of Flat 3, 8 Upper Grove, London SE 25 6JU this was a top floor flat which was close to the subject premises and he described it as being of a similar size with a long 189-year lease from 1987. This property sold on 7 February 2020 for £186,000.
- 8. He also considered flat 51a Clifton Road, which was located close to the centre of Thornton Heath, this property was also of a similar specification but larger at 59 sqm. The date of sale was 9 July 2020 at £195,000 with 129 years unexpired. The final flat used as comparable evidence was flat D 23 Oliver Grove, London SE25, this flat had a 120-year lease and was sold on 29 May 2020 for £173,000 with 88 years unexpired.
- 9. Mr Armstrong stated that having regard to this evidence, in his opinion the Freehold value of the flat based on the averages of the three comparables was £184,667 rounded up to £185,000. Mr Armstrong used a relativity of 81.00% (Zuconi graph of Relativity) to derive the value of the existing leasehold with approximately 64.08 years unexpired, and valued the existing un-extended lease at £151,364.00

The Value of the Landlord's Existing Interests

- 10. In his report Mr Armstrong set out that Having arrived at the valuation for the freehold reversion, he assessed the capitalisation rate for the ground rent and determined that 7% was appropriate to be applied to

the rising ground rent income and calculated that the capital value for this was £1488.00

11. He also adopted the deferment rate used in Sportelli of 5%, arriving at a present value for the freeholder's reversion in possession .
12. In the appendix to his report, Mr Armstrong set out his calculations, in which he arrived at a marriage value of £24,052, with the Respondent's share being £12,026. The appendix also contained his step by step calculation arriving at a premium of £21,600.

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

13. The tribunal in reaching its decision considered the report prepared for the Tribunal by Mr Armstrong, and would make the following observations concerning his report. The Tribunal noted that although Mr Armstrong set out the elements that made up his valuation, his reasoning was not always fully developed. The Tribunal consider that his explanation of why he had adopted the percentage for capitalisation was not fully set out, this was also the case for his explanation concerning Relativity.
14. In his report, Mr Armstrong in his comparable evidence relied upon properties which were proximate to the subject property, both in time and the location of the property and specification. He did not adjust for time, nor did he refer to any improvements to be ignored. However, on the basis of the comparables he presents and the Tribunal's own knowledge and experience the Tribunal determines the long lease valuation unimproved at £185,000. The Tribunal noted that there was no short lease comparable evidence, this may have been because of the lack of available short lease evidence, however, this was not fully explained in his report. It would have been helpful if he had commented on the availability of short lease evidence.
15. The Tribunal noted that Mr Armstrong referred to Barry and Peggy High Foundation-v- Zucconi and Anor (2019)UKUT 242, although Mr Armstrong refers to the "Zucconi Graph", the Tribunal noted that in this case the upper tribunal referred to the approach to be adopted where there is a lack of short lease comparable properties.
16. The Upper Tribunal suggested that the approach to be adopted was to use a blended graph approach (including the Gerald Eve, and the Savills Graph), "the blended graph approach". The Tribunal are satisfied that this was the approach adopted by Mr Armstrong, although this was not fully explained.

17. The Tribunal having stood back from the report and considered the evidence are satisfied that Mr Armstrong's valuation has adopted the correct approach.
18. Accordingly, The Tribunal accepted his conclusions concerning the valuation of the premises.

The premium

- (2) The tribunal determines the appropriate premium to be **£21,600.00**.

Name: Judge Daley

Date: 10.02.2022

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/00AH/OLR/2021/0287

**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 Flat 1 158
Clifton Road London SE 25 6QA £21,600.00**

The Tribunal adopts the valuation as set out in appendix 5 of the Report of Mr
Roger Anthony Armstrong