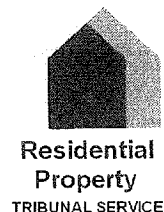


2396



LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION
UNDER SECTION 51 LEASEHOLD REFORM, HOUSING AND URBAN
DEVELOPMENT ACT 1993**

**Case Reference:
LON/00AJ/OLR/2011/1336**

**Premises:
19 Barbican Road,
Greenford UB6 6DH**

Applicant: Dermot Burke

Represented by: Elliots, Bond and Banbury, Solicitors

Respondent: Tufail Ahmed (Missing Landlord)

Represented by: None

Premises: 19 Barbican Road, and garage ,Greenford UB6 6DH

Date of Referral: 24 October 2011

Date of Decision: 17 February 2012

The Tribunal: Mr John Hewitt Chairman

Mr W Richard Shaw FRICS

Decisions of the Tribunal

1. The decision of the Tribunal is that:
 - 1.1 The appropriate amount to be paid into court in accordance with section 51(3) of the Act is the sum of £18,490.00: and
 - 1.2 The form of the lease approved by the Tribunal pursuant to section 51(3)(a) will be settled by the Tribunal in accordance with the directions set out in paragraph 17 below.

Background

2. On 25 July 1986 Respondent was registered at the Land Registry as the proprietor of the freehold interest of land on the north-west side of Kings Avenue, Greenford under Title Number NGL69694, a development of some 46 flats and garages known as Barbican Road. The charges register records that 46 long leases have been granted out of the freehold, mostly for terms of 99 years but from a range of commencement dates.
3. On 7 September 2004 the Applicant was registered at the Land Registry as the proprietor of the lease of the ground floor flat known as 19 Barbican Road. The said lease is dated 4 August 1969 and was made between Coplan Developments Limited as landlord and Alan Vaughan and Susan Rosemary Asbury as tenant. The lease granted a term of 99 years from 24 June 1968.
4. On 5 September 2011 the Applicant made an application to Brentford County Court. The Applicant asserted that he was entitled to exercise the right to a new lease pursuant to section 42 of the Act, that the landlord was missing and he sought a vesting order pursuant to section 50(2) of the Act.
5. On 20 October 2011 District Judge Plaskow made an order that:
 - 5.1 there be a vesting order; and
 - 5.2 the determination of the premium and the other terms of the new lease to be granted be referred to the Leasehold Valuation Tribunal under paragraph 2 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002;
6. Upon the receipt of the application the Tribunal issued directions which are dated 13 December 2011.
7. Pursuant to such directions the Tribunal has been provided with a hearing file comprising relevant materials and a draft deed of variation contended for by the Applicant.

The Premium

8. Section 51(5) of the Act provides that the appropriate sum to be paid into court in accordance with subsection (3) is the aggregate of:
 - (a) such amount as may be determined by a leasehold valuation tribunal to be the premium which is payable under Schedule 13 in respect of the grant of the new lease;
 - (b) such other amount or amounts (if any) as may be determined by such a tribunal to be payable by virtue of that Schedule in connection with the grant of that lease; and
 - (c) any amounts or estimated amounts determined by such a tribunal at the time of execution of that lease, due to the landlord from the tenant

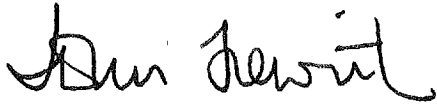
(whether due under or in respect of the tenant's lease of his flat or under or in respect of any agreement collateral thereto).

9. The Tribunal was provided with a valuation report prepared by Mr Barrington C Sworn FRICS which contains a statement of truth and a statement of compliance with professional obligations and requirements.
10. We were able to adopt a number of components of Mr Sworn's valuation, including his capitalisation rate at 8.00% and his relativity rate of 82.00 % which is supported by RICS guidance and a helpful collection of graphs and is within an acceptable range and within the expected parameters of a lease with about 56 years unexpired. We were not able to accept his deferment rate of 5.55% because he provided no evidence to support a departure from the rate of 5% and guidance given in *Sportelli*. We also preferred a 0.5% increase from long lease value to freehold value rather than 1.0% suggested by Mr Sworn.
11. We accept the valuation date is 5 September 2011.
12. The comparables relied upon by Mr Sworn were of some assistance to us.
13. We found that no other amounts or estimated amounts were to be payable. Whilst ground rent may not have been paid in recent years there was no evidence before us that it had been demanded in a compliant form and unless and until it is so demanded it is deemed not to be due and payable.
14. Accordingly we determine that the appropriate sum for the purposes of section 51(5) of the Act is £18,490.00 as shown in the attached valuation, marked Appendix 1.

The Terms of the New Lease

16. Contrary to the Directions the Applicant did not submit a draft new lease but instead submitted a draft deed of variation proposing that the existing lease be varied. This is not acceptable. The scheme of the Act is not to vary or extend existing leases but to grant new leases.
17. Accordingly the Applicant shall by **5pm Friday 2 March 2012** file with the Tribunal a draft of the new lease contended for. Such draft lease may incorporate the terms and conditions of the existing by reference to it. The draft must, however, be compliant with Land Registry requirements and it must state that it is a new lease granted pursuant to the provisions of the Act.

18. Upon receipt of a draft new lease in acceptable form the Tribunal will issue an addendum to this Decision approving the draft as drawn or as amended as the case may be.

A handwritten signature in black ink, appearing to read "John Hewitt". The signature is written in a cursive, flowing style.

John Hewitt
Chairman
17 February 2012

Appendix 1

New Lease Claim - 19 Barbican Road, Greenford UB6 9DH

Present Lease 99 years from 24 June 1968

Valuation date 5 September 2011 - 55.83 years unexpired

Long Lease value £151,375 Freehold value + 0.5% = £152,132
Existing lease value (Relativity 82% of F/H) = £124,748
YP = 8% PV = 5%

Diminution in value of Landlord's interest

Value before grant of new lease

Term

Rent	£20 p.a.		
YP 55.83 yrs @ 8%	12.32984	246.6	
		Say	247

Reversion

Flat value (F/H)	152,132		
Deferred 55.83 yrs @ 5%	0.065615	9,982	
			10,229.00

LESS value after grant of new lease

Term

New Lease at a peppercorn rent		0	
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Reversion

Flat value (F/H)	152,132		
Deferred 145.83 yrs @ 5%	0.000813	123.68	
		Say	-124

Diminution in value of Landlord's interest

10,105.00

Marriage Value

Aggregate of values of interests after grant of new lease

Landlord's interest	124		
Tenant's proposed interest	151,375		
			151,499.00

Less Aggregate of values prior to grant of new lease

Landlord's interest	9,982		
Tenant's interest	124,748		
		134,730	
		Marriage value	16,769

50% **8,385**

Premium **18,490**

