



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

Case Reference : LON/00AY/OLR/2013/1442

Property : 39 Cameford Court, SW2 4LH

Applicant : Caroline Suzanne Tyler

Representative : Howell Jones (Solicitors)
Mr S Gallagher (Counsel)

Respondent : Brickfield Properties Limited

Representative : Wallace LLP (Solicitors)
Mr C Heather (Counsel)

Type of Application : Grant of new lease (Section 48
Leasehold Reform, Housing and
Urban Development Act 1993)

Tribunal Members : Mr M Martynski (Tribunal Judge)
Mr L Jarero BSc FRICS

**Date and venue of
Hearing** : 19 March 2014
10 Alfred Place, London WC1E 7LR

Date of Decision : 9 April 2014

DECISION

Background

1. The Applicant seeks a new lease of 39 Cameford Court, ('the Flat'). The essential background facts are as follows.

| | |
|------------------------------|--|
| Applicant's lease: | 9 November 1984 from 24 December 1974 for 99 years |
| Applicant's claim notice: | 16 April 2013 |
| Respondent's counter-notice: | 2 July 2013 |
| Valuation date: | 7 May 2013 |
| Term remaining on lease: | 60.63 years |

2. The Flat consists of a top (3rd) floor two-bedroomed accommodation (approximately 510 sq.ft) in a large purpose-built block containing approximately 80 flats. To the front of the block is a large communal grassed area. A small roadway goes round each side and to the rear of the block where there are some parking spaces and some garages.

The parties' respective positions

3. At the outset of the hearing before the Tribunal, the parties' respective positions were as follows:-

| | |
|-----------------------|---|
| Capitalisation rate: | 6.00% (Agreed) |
| Deferment rate: | 5% (Agreed) |
| Relativity: | 84% (Applicant), 58.48% (Respondent) |
| Value of long lease: | £173,208 (Applicant), £199,920 (Respondent) |
| Value of short lease: | £146,965 (Applicant), £118,078 (Respondent) |
| Price for new lease: | £18,900 (Applicant), £47,420 (Respondent) |

The Applicant's valuation - David Goldstone (Valuer) BSc. MRICS

Long and Short Lease Values

4. Mr Goldstone relied on two comparables in the same block to obtain his capital values as follows:-
5. Flat 18: Sold (assumed exchanged contracts) at the same time as the valuation date for the Flat on a lease with approximately 150 years remaining at a price of £182,000. Adjusting for size gives a value of £176,645. (Completion took place in September 2013).
6. In his oral evidence to the Tribunal Mr Goldstone corrected the sale price for flat 18 to £180,000.
7. Mr Goldstone's adjustment for size for flat 18 in his report assumed that the flat had a gross internal area (gia) of 530 sq ft. In cross-examination he conceded that the correct gia for flat 18 was probably as per the estate agent's details in Mr Sharp's (valuation expert for the Respondent) report, that is 431 sq ft. These adjustments would produce a revised psf value of approximately £418 (as opposed to £343 in Mr Goldstone's written report). This revised psf value then

applied to the Flat's gia would produce a long lease value of a little over £213,000.

8. Mr Goldstone provided the Tribunal with a revised valuation after the hearing. That valuation contained a long lease value of £173,208 based on the single comparable of flat 18. In preparing this revised valuation, Mr Goldstone had adjusted the sale price of flat 18 to £180,000 but had made no adjustment for the correct gia.
9. Flat 71: (Similar size to the Flat) Sold in February 2014 (contracts exchanged) on a lease with approximately 59 years remaining at a price of £170,000. Mr Goldstone considered that this flat would have sold for around £150,000 at the valuation date in this case (May 2013).
10. In respect of flat 71 there was a dispute as to whether contracts had indeed exchanged. Mr Goldstone said that he had spoken to the agent two weeks prior to the hearing. His handwritten note of the matter was not clear. The relevant parts of the note read; '*sold quickly*' and '*Due to exchange this week – March 2014*'. Mr Sharp stated that he had spoken to the agent on 17 March 2014 and had been told that the flat had not exchanged.

The effect of the 1993 Act

11. Mr Goldstone stated that in his experience 99% of purchasers had no idea of their rights to extend a lease. They accordingly made no adjustment at all in their decisions about purchasing according to lease length. Estate agents tended not to give any details of the length of the lease on their particulars. He therefore did not make any deduction for rights under the Leasehold Reform, Housing and Urban Development Act 1993 ('the Act').

Relativity

12. Mr Goldstone relied upon the John D Wood Relativity Graph as it is made up of over 601 Tribunal decision across the London Region. He took the relevant point in the graph and then added to that an additional 1% to account for the majority of the decisions in the graph being for Prime Central London properties and rounded up to arrive at his 84%.

The Respondent's valuation - Mr R Sharp (Valuer) BSc FRICS

Long and Short Lease values

13. Mr Sharp referred to four comparables for the long lease value and a further five for the short lease value. All the comparables were in the subject block.
14. For the long lease value Mr Sharp adjusted his four sales for time using the Lambeth Land Registry Index and he produced a psf value for each flat. He then took an average of the psf values and arrived at a figure of £392 psf and applied this to the Flat and arrived at a figure of £199,920.

15. For the short lease value Mr Sharp relied in particular on his comparables at flats 57 & 38. He adjusted for time and 'lease degrade' and then made a further 10% downward adjustment for Act rights. Using the same psf methodology he produced a figure of £232 psf to arrive at a value of £118,320.
16. In respect of Flat 57 it was put to Mr Sharp that £20,000 was paid for a lease extension in or about 2010. Mr Sharp thought the premium was slightly higher and explained that this was a voluntary arrangement, the 125 year lease was granted with modern (i.e. much higher) ground rents.

Relativity

17. Mr Sharp did not rely on any graph data because, he said, there was sufficient and compelling market evidence in the form of numerous other lease sales in the subject block.

Effect of the Act

18. Mr Sharp was of the view that the local area was a mortgage dependent area and that mortgage lenders would not look at the subject block on leases of less than 70 years. The purchasers of the short leases were astute buyers who were fully aware of enfranchisement rights. He considered that the required adjustment therefore for Act rights was 10%.

Tribunal's decisions

General

19. We are mindful that whilst both experts have considerable experience of the local area, Mr Sharp has particular and long-standing experience of the block in question.

Long and Short Lease Values

20. It seems to us that on the figures that Mr Goldstone accepted during the hearing, his long lease value must be in the region of £213,000 which is above Mr Sharp's value of £199,920.
21. We have preferred Mr Sharp's value because it is based on his greater experience of the block and his greater use of comparables. Whilst Mr Goldstone preferred to rely on just one comparable (based on it being close in time to the valuation date), Mr Sharp's method of adjustment for time using a locally based index relating to flats produced acceptably accurate figures. There was in any event some doubt as to exactly when contracts were exchanged for Mr Goldstone's comparable.
22. As to short lease values, we feel driven to accept, in the main, Mr Sharp's figures. We say this for the following reasons;
 - (a) we were left with some doubt as to whether or not Mr Goldstone's comparable of flat 71 had in fact sold. Mr Goldstone's handwritten note was equivocal, his oral evidence on the matter was at odds with Mr Sharp's.

- (b) Mr Sharp provided a better basket of comparables and as stated above, we considered that his method of indexing for time was sound.
23. However, we do not accept Mr Sharp's view that there should be a further 10% deduction from his short lease values to account for the effect of the Act. We say this for the following reasons;
- (a) In giving his oral evidence Mr Sharp agreed that his 10% figure was not absolute and that it may be lower.
 - (b) We accept Mr Goldstone's evidence, to an extent, that a surprisingly large number of purchasers are not aware of the issue of short leases and their rights under the Act and that this is the case even after they have had the benefit of professional advice such as a report on title from a conveyancer/solicitor.
 - (c) Mr Sharp's view that the purchasers of short leases are not (seemingly) mortgage dependent and so can be assumed to be astute investors with knowledge of Act rights, is however simply an assumption as to knowledge and behaviour.
24. Our conclusion on the evidence is that there is a deduction to be made to account for the effect of the Act but that deduction is limited. We have settled upon a figure of 2% to reflect the limited effect of the Act on price.
25. The effect of taking 2% and applying it to Mr Sharp's figures (placing reliance as he does on flats 57 & 38) is as follows:-

Flat 57 value after adjusting for time and lease degrade is £142,630; less 2% =
£139,777 / 521 sq ft = £268 psf
Flat 38 value after adjusting for time and lease degrade is £128,196; less 2% =
£125,632 / 530 sq ft = £237 psf
Average psf value = £252

Subject Flat short lease value:- 510 sq ft x £252 = £128,520

Relativity

26. The Tribunal agrees with Mr Sharp that if there is good market evidence, such evidence should be given greater weight than the various graphs regularly relied upon by valuers and tribunals.
27. We do consider, for the reasons set out above, that in this case there is good reliable market evidence on short and long lease values from which can be derived a guide to the premium to be paid.
28. In taking the market evidence, we arrive at a relativity figure of approximately 64%. This is of course substantially lower than the relativity figure shown on various standard graphs. We considered making a further adjustment to the relativity figure to take account of this disparity. We decided against this for the reason that, as pointed out by Mr Gallagher for the Applicant, relativity is simply a function of the relationship between short lease value and long lease value. If we are satisfied (as we are) that we have reliable market evidence for

the short lease and long lease values, it would make no sense to adjust those figures to suit another relativity value.

Mark Martynski, Tribunal Judge

First Tier Tribunal Chamber (Residential Property)

Appendix A

Ref: LON/ooAY/OLR/2013/1442

Valuation of upper maisonette 39 Camford Court London SW12 4LR

Valuation Date 07 May 2013

Lease granted for 99 years from 24 December 1974

| | |
|-------------------------|-------------|
| Ground rent | |
| Up to 24 December 2007 | £75 |
| Following 33 years | £150 |
| Residue of the term | £225 |
| Unexpired term | 60.63 years |
| Capitalisation rate | 6.0% |
| Deferment rate | 5.0% |
| Value of existing lease | £128,520 |
| Extended lease value | £199,920 |
| Notional freehold value | £201,940 |

Valuation of Freeholder's current interest

| | | |
|--------------------------------------|----------|----------------|
| Ground rent from 24 December 2007 | £150 | |
| YP 27.63 years @ 6 % | 13.3351 | £2,000 |
| Revised ground rent | £225 | |
| YP 33 years @ 6 % | 14.2302 | |
| Deferred 27.63 years @ 6% | 0.1999 | £640 |
| Reversion to notional freehold value | £201,940 | |
| Deferred 60.63 yrs @ 5% | 0.0519 | £10,481 |
| | | <u>£13,121</u> |

Value after grant of extended lease

| | | |
|------------------------------|----------|------|
| Ground rent for 150.63 years | £0 | |
| Reversion to market value | £201,940 | |
| Deferred 150.63 yrs @ 5% | 0.000643 | £130 |

Diminution in freeholder's interest £12,991

Marriage Value

| | | | |
|---------------------------------|----------|----------|----------------|
| Value after enfranchisement | | | |
| Freeholders interest | £130 | | |
| Tenant's interest | £199,920 | £200,050 | |
| Value before enfranchisement | | | |
| Freeholders interest from above | £13,121 | | |
| Tenant's interest | £128,520 | £141,641 | |
| Marriage value | | £58,409 | |
| Divide equally between parties | | | <u>£28,204</u> |

Premium payable to freeholder £42,195