



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

Case Reference : LON/00BK/OLR/2014/0601

Property : Upper Maisonette, 12 Needham Road London W11 2RP

Applicant : Ms Candida Stobbs

Representative : Mr S Armstrong of Counsel instructed by Wilkin Chapman LLP

Respondent : Mr Rebecca Denholm

Representative : Mr E Peters of Counsel instructed by Forsters LLP

Type of Application : For the determination of the premium payable for the grant of a new lease.

Tribunal Members : Ms. N. Hawkes
Ms. A. Hamilton-Farey LLB, FRICS, FCI Arb

Date and venue of Hearing : 30.9.14 10 Alfred Place, London WC1E 7LR and inspection on 17.10.14

Date of Decision : 26.11.14

DECISION

Decisions of the Tribunal

The Tribunal determines that the total premium payable by the applicant for the grant of a new lease is £288,000.

Background

1. This is an application under section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act") for the determination of the premium payable for the grant of a new lease.
2. By a notice dated 31st October 2013 pursuant to section 42 of the 1993 Act, the applicant claims to exercise the right to acquire a new lease of the property. The landlord has served a counter notice under section 45 of the 1993 Act dated 24th October 2013.
3. The only matters remaining in dispute are:
 - a. the value of the respondent's freehold (and, accordingly, the value of the extended lease); and
 - b. relativity.

The hearing

4. The applicant was represented by Mr Armstrong of Counsel and the respondent was represented by Mr Peters of Counsel at the hearing.
5. The Tribunal was provided with a copy of a report dated 25th September 2014 prepared by Mr W. T. S. Lee FRICS, instructed by the applicant, and with a copy of a report dated 23rd September 2014 prepared by Mr J. W. Hamand MRICS, instructed by the respondent. The Tribunal heard oral evidence from both Mr Lee and Mr Hammand.
6. The Tribunal carried out an inspection of the property on 17th October 2014 with the applicant in attendance. The parties submitted written submissions to the Tribunal between the date of the hearing and the date of the inspection.

The law

7. Schedule 13 to the 1993 Act provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable to the landlord.
8. The diminution in value of the landlord's interest is the difference between (a) the value of the landlord's interest in the tenant's flat prior

to the grant of the new lease and (b) the value of his interest in the flat once the new lease is granted. The value of the landlord's interest is the amount which at the relevant date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) applying the assumptions and requirements set out in clause 3 of Schedule 13 to the 1993 Act.

9. Paragraph 4 of Schedule 13 to the 1993 Act provides that the landlord's share of the marriage value is to be 50%, but that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.

The inspection

10. The subject property comprises a two storey maisonette over ground and basement floor shop premises in Needham Road, London W11. The road itself at the time of inspection was quiet, with little through traffic or noise. The Tribunal noted the public house diagonally opposite the property that had been referred to during the hearing and in submissions.
11. In addition to the internal inspection of the subject property, the Tribunal undertook an external inspection of the comparables in Needham Road, Westbourne Grove, Artesian Road, as well as Talbot Road, Colville Terrace and Lancaster Road. We noted the varied style and size of the comparables so far as could be ascertained from an external inspection. We did however look through the letterbox of No. 14 Needham Road, which is adjacent to the subject.
12. The property itself comprises two floors reached directly from the street into a small hallway and staircase. On one half-landing, in a small rear back addition, we noted the very small kitchen, and on the second floor, the small bathroom. Although the kitchen had a range of cupboards these were limited and the space itself was very cramped and not to modern requirements. Similarly, the bathroom was small and basic with an old three piece white suite. We also noted that the glazing to the kitchen and bathroom was old Crittall-type, metal framed, single glazed casements and also old-fashioned louvred ventilation. In evidence, the Tribunal had been advised that these two half-landing areas could possibly be converted into a nursery or study, but it was difficult to see how this could be achieved in such small areas.
13. The accommodation comprised, on the first floor, a living room with an open dining area. We noted that there was a small balcony area to the front, facing Needham Road, but this was inaccessible from the flat itself, without a small ladder or steps. The rooms retained some of their original features, but we noted that the lighting did not appear to be of a modern standard and, by the presence of trailing power cables,

we could see that there were insufficient socket outlets for what would be considered usual appliances.

14. On the second floor were two bedrooms each of an adequate size, but again without a sufficient number of electrical sockets for modern equipment. To the hallway on the second floor was an airing cupboard with a water tank, immersion heater and some storage.
15. Generally the property was in a good decorative order, but it would benefit from updating.
16. Again, in evidence, we were informed that the kitchen could be moved into the dining room and a bathroom could be installed on the second floor. We accept that this would be possible, but it would mean a loss of floor space to the accommodation, which was not in our opinion spacious. It was obvious to the Tribunal following the inspection that, if the property were to come to the market for sale, significant improvements would have to be undertaken to achieve a full market price.

The expert evidence

Mr. Lee

Valuation

17. The Tribunal was presented with several comparable properties by Mr. Lee. These were in schedule form with 'pre' and 'post' claim evidence of sales, which he had then discounted for differences in amenity and condition with the subject property and also for age since the sale price had been achieved. He considered that the most appropriate comparable was 14 Needham Road which had been sold in September 2006 at a price of £720,000.
18. Mr. Lee adjusted the comparables by reference to the Savills Price Index which, he said, increased the value to £1,208,000 and represented £1,210psf. Although he considered that 14 Needham Road had more usable space in the form of a larger hall, he did not make any deductions from those figures to reflect the subject property.
19. His other comparables at 4 Needham Road and 35 Artesian Road were not, he said, strictly comparable as these other flats provided better accommodation being both larger and with either gardens/balconies or both.
20. He also provided his valuations of the various properties relied on by Mr. Hamand but considered these not to be comparable, being either too far away or being in better condition/having better amenities etc. He made various deductions and additions for special characteristics in order to bring the comparables more in line with the subject property.

21. His valuations record that he considered the short lease value to be £765,859 and long lease value to be £1,098,106, these values reflecting the unusual repairing covenants of this lease.

Relativity

22. Mr. Lee's opinion was based on the Gerald Eve graphs produced for prime central London. He stated that in his view this was not prime central London and that he has traditionally deducted 1% from the graph figures to reflect that fact. He informed us that he had done so even when instructed by Landlords.

Mr. Hamand

Valuation

23. Mr. Hammand disagreed with Mr. Lee's figures and produced his own schedule of comparables and valuations. He did not provide copies of the deductions and additions that he had applied to the comparables, although he said that he had them.
24. In his view, the most suitable comparable property was the upper maisonette at 4 Needham Road that had been sold in December 2011 for £1,590,000. He was on the opinion that, whilst 14 Needham was very similar, the time of sale was too far removed from the valuation date for this comparable to be of any assistance. In his view, so many deductions and additions were being made from the sale prices of the comparables, that they were eventually rendered unusable.
25. In his opinion, the short lease value was £1,015,043 and the extended lease value was £1,485,000. He relied on the comparables in Westbourne Grove and Artesian Road to support his opinion. The latter value was subsequently revised following the hearing when further information regarding the property had been obtained. The revised value in Mr. Hammand's view was £1,500,000.

Relativity

26. Mr Hammand was of the view that relativity has nothing to do with location and so the Gerald Eve graph should be applied without any adjustment.

The Tribunal's determination

Valuation

27. Having carefully considered the information provided to us by the parties, we are satisfied that the most comparable property, in terms of layout, size and amenity is 14 Needham Road, but the sale price in 2006 requires so much alteration that we do not consider the value to be easily comparable.
28. Although of a different type and style of property we prefer the evidence relating to the upper maisonette in 4 Needham Road, which Mr. Lee has valued at £1,772,700 at the valuation date, representing a long leasehold value of £1,969,670.
29. We have adjusted those figures to take account of the fact that the property is over three floors and is larger, without the small half-landing kitchen and bathroom. In our view, the deduction to be applied to the long lease value should be approximately 25%, leaving a residual long lease value of £1,330,000. We attribute 97.5% relativity to this figure to reflect the more onerous maintenance obligations under the lease, leaving a long lease value of the subject property at £1,296,750.

Relativity

30. With regard to relativity, on balance we prefer the evidence of Mr. Lee in this respect, and applying the Gerald Eve graph, adjusted for the unusual repairing covenant in the lease and for the fact that the property is situated outside Prime Central London, we determine that the relativity of the short to long lease would be 68%, giving a short lease value of £881,790.
31. On the basis of these figures we calculate the premium payable at £288,000. A copy of the Tribunal's valuation is attached to this decision.

Judge N Hawkes

26th November 2014

