



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

**Case Reference** : LON/00AW/OLR/2014/0244

**Property** : Flat 2, 21-22 Stanhope Gardens, London  
SW7 5RQ

**Applicants** : Mrs Roberta Calluccio and  
Mr Jonathan Owen

**Representative** : Jacobsen & Co

**Respondent** : Syed Mohammed Yezdan Manzoor

**Representative** : Nelsons, Solicitors

**Type of Application** : Enfranchisement

**Tribunal Members** : Robert Latham  
Neil Martindale FRICS

**Date and venue of  
Hearing** : 24 June 2014  
10 Alfred Place, London WC1E 7LR

**Appearance for  
Applicant** : In Person

**Appearance for  
Respondent** : In Person

**Date of Decision** : 3 July 2014

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**DECISION**

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The Tribunal determines that the virtual freehold value of the subject property is £328,250 and that that the premium payable by the Applicants in respect of the extension of their lease at Flat 2, 21-22 Stanhope Gardens is £31,400. Our working calculation is attached as an Appendix.

## **Introduction**

1. This is an application made pursuant to Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993, as amended (“the Act”) for a determination of the premium to be paid and the terms for a new lease. The issue that we are required to determine is the virtual freehold value of the subject flat.

## **Background**

2. The background facts are as follows:
  - (i) The flat: Flat 2, 21-22 Stanhope Gardens, London SW7 5RQ.
  - (ii) Date of Tenant’s Notice: 21 June 2013.
  - (iii) Valuation Date: 21 June 2013.
  - (iv) Date of Application to the Tribunal: 17 February 2014.
  - (v) Tenant’s leasehold interest:
    - Date of Lease: 30 May 2002.
    - Term of Lease: 100 years from 25 December 1981.
    - Ground Rent: £500 for the first 18.51 years rising to £1,250 for the remaining 50 years of the lease.
    - Unexpired Term at Valuation Date: 68.51 years.
  - (vi) Landlord: Syed Mohammed Yezdan Manzoor.
  - (vii) Tenants: Mrs Roberta Calluccio and Mr Jonathan Owen.
  - (viii) Capitalisation Rate: 6%
  - (viii) Tenants’ Proposed Premium: £23,999 (initially £19,481).
  - (viii) Landlord’s Proposed Premium: £48,800.

## **The Hearing and Inspection**

3. Both parties appeared in person. The Applicants produced a Bundle of Documents, reference to which will be prefixed by “p. \_\_\_”. The

Respondent produced a Bundle of Additional Documents, reference to which will be prefixed by "R.Tab.\_.\_". Neither party adduced any oral evidence from an expert.

4. The Respondent complains of the Applicants failure to cooperate with his expert, Mr Chris Avery of Avery Associates. At some stage, the Applicants did instruct Mr Davidson. However, they did not rely on any report from him, rather relying on the valuation of JSRE Partners which had informed the valuation figure which had been specified in the Notice of Claim which had been submitted by their predecessor-in-title. It was open to the Respondent to call Mr Avery at the hearing to give evidence. He took an informed decision not to do so.
5. The following matters were agreed (see p.97):
  - (i) Capitalisation Rate: 6%;
  - (ii) Deferment Rate: 5%;
  - (iii) Uplift for freehold: 1%;
  - (iv) Relativity: 88%.
6. The issues which we are asked to determine is the vacant possession value of the freehold interest and the resultant enfranchisement price that is payable.
7. The Applicants rely upon a Schedule at (p.94) which computes a premium of £23,999, premised upon a virtual freehold value of the property of £338,000. The Applicants' predecessor-in-title had obtained a computation from JSRE Partners, dated 14 June 2013 (at p.92) which computed a premium of £19,461, premised upon a virtual freehold value of the property of £250,000. This valuation had informed the Notice of Claim submitted by Mr Utton (at p.41). The Applicants recognised this figure needed to be reviewed in the light of the landlord's estimate of the premium. They therefore prepared a revised schedule.
8. The Applicants ask the Tribunal to consider seven comparables which have been supplied to them by John D Wood: (i) Flat 1, 7 Rosary Gardens; (ii) Flat 22 Osten Mews; (iii) Flat 10, 46 Ennismore Gardens; (iv) Flat 19, 27 Courtfield Road, (v) Flat A, 61 Courtfield Gardens; (vi) Flat A, 53 Stanhope Gardens; and (vii) Flat 1, 94 Queensgate. These are at p.122 of the Bundle. No particulars have been provided of these sales. It is not known whether any of the flats have access to a garden. The Applicants have not made any adjustment for time or amenity. The Applicants suggest a price per square metre ("psm") of £10,861 which is an average of their six comparables.

9. On the Applicant's contention that the size of the flat is 33.2 sq.m., this gives a long leasehold value of the subject property of £360,591. They reduce this by £28,000 to reflect the condition of the flat to give a figure of £332,591 for the long lease value of the subject property.
10. The Respondent relies upon a Schedule, dated 12 March 2014, at (R.Tab.B.2-3) prepared by Mr Avery. This computes a premium of £48,800, premised upon a virtual freehold value of the property of £555,500. It was not clear how Mr Avery had computed the virtual freehold value to be £555,500. It is to be noted that the premium is somewhat higher than the figure of £47,000 specified in the Landlord's Counter-notice, dated 23 August 2013 (p.50)
11. The Respondent relies on six comparables: (i) Flat 1, 7 Rosary Gardens; (ii) Flat 6, 12 Rosary Gardens; (iii) Flat 4, 4 Onslow Gardens, (iv) Flat 3, 119-121 Gloucester Road, (v) Flat 5, 12 Thurlow Place; and (vi) Flat 19 Courtfield Road. These are at R.Tab.B.3. The parties had only two comparables in common, namely Flat 1, 7 Rosary Gardens and Flat 19, 27 Courtfield Road. No particulars have been provided of these sales. It is not known if any of these properties have a garden. The Respondent has not made any adjustment for time or amenity. The Respondent suggests an average price psm of £13,706, giving a long leasehold value of the subject property at £466,000, on the basis of an assessed size of 34 m.sq..
12. The Respondent has also included an agreed settlement in respect of Flat 6, 21-22 Stanhope Gardens (at R.Tab.B.5). The valuation date was 3 March 2011. The lease was 15 years shorter. The flat is considerably larger. The Tribunal does not find this settlement to be helpful.
13. After the hearing, we inspected the subject property, both externally and internally. We also inspected the nine comparables. Both parties agreed that the flat at 7 Rosary Gardens was the most helpful comparable.

### **The Subject Property**

14. The lease plan of the subject property is at p.40. It is a bedsit. It is very much lower ground floor. The flat is dark. There is only a bay window at the front. This looks out onto a separate flat which has been constructed under the pavement and is some two metres away. Since the valuation date, the flat has been provided with a new bathroom and kitchen. There is a new wooden floor. It has been rehabilitated to make the flat highly lettable.
15. The flat is situated on a very busy road. There is an attractive garden on the opposite side of the road. Access to the flat is via the ground floor entrance door. There is both a lift and a staircase down to the flat.

16. One issue was the size of the flat. On 11 July 2013, Mr Avery, for the Respondent, measured the gross internal area (GIA) as 36 m.sq. (see R.Tab.B.2/1). Mr Avery offered to jointly measure the flat with the Applicants' expert. Unfortunately, this did not occur.
17. The Applicants arranged for Maxine Jordan to measure the GIA using an AutoCad software package and confirmed the area to be 33 m.sq. (see p.159). We consider the lease plan to be the best guide to the size of the flat. Mr Jordan's measurement is consistent with our rough calculation of the size of the flat from using the measurements on the lease plan. We therefore determine the size of the flat to be 33 sq.m..
18. A further issue is whether the Tribunal should make any reduction for disrepair at the subject flat on the valuation date, namely 21 June 2013. The Applicants purchased the subject property for £247,548 on 28 June 2013 (see p.73). They stated that it was virtually uninhabitable. There was a leak from the flat upstairs and the subject flat had never dried out properly. There was mould on the stud wall between the bathroom and the main room. The windows were painted shut. There was no central heating. Part of the ceiling was in disrepair. We were referred to the photographs at p.100-107 which showed the state of the flat after it had been stropped back by the builder. Mr Owen described how he had paid a builder "Jimmy" £28,100 to rehabilitate the flat (see p.99). A DPC was installed together with under floor central heating. Mr Owen was not able to produce any schedule of the works which had been executed. It is apparent that his relationship with the builder had been very casual.
19. Mr Mansoor did not accept that the flat had been in a state of substantial disrepair. He accepted that it was not in "excellent condition". He saw no dampness. The kitchen was basic with a fridge and a cooker. He described how the tenant, Mr Utton, had wanted a quick sale. He had been in arrears with his service charges. Any works executed outside the area of the flat which was demised to the lessee would have been the lessor's repairing obligation.
20. We have not heard any evidence of the condition of the other comparables. We suspect that the purchaser would have wanted to install a new kitchen and bathroom in any event to improve the letting value. We accept that it is appropriate to make a modest reduction for the condition of the subject property and make a deduction of £7,500.

### **The Comparables**

21. The Applicants tended to rely on comparables which were on the lower ground floor, albeit that some of these had 2 or 3 bedrooms. The Respondent, on the other hand, relied on bedsits or one bedroom flats, albeit that some of these were on the second or third floors.

22. The Tribunal have decided to follow the approach adopted by the Upper Tribunal in *Earl Cadogan v Betul Erkmán* [2011] UKUT 90 (LC) (per HHJ Huskinson at [87]) and *Earl Cadogan (and other) v Cadogan Square Ltd* [2011] UKUT 154 (LC) (per HHJ Reid QC at [159]). We have identified the comparables which we find to be of greatest assistance. We have then adjusted them to reflect:
- (i) Matters of amenity and location. All the properties were more attractive than the subject flat. We indicate the factors which we have found to be relevant.
- (ii) The changes in the market between the valuation date 21 June 2013 and the date of sale of the comparable properties. There was a date a significant movement in the property market in early 2013, prices increasing by some 1.5% per month.
23. We then weight them, giving the greater weighting to the comparables which have the least differences in material characteristics and which seem the most relevant. Both parties agreed that Flat 1, 7 Rosary Gardens was the most relevant comparable. We have decided to give this property a weighting of 30%. There are four other four other comparables which we found to be helpful. The four remaining comparables were less helpful and we have not taken them into account.
24. Table 1 sets out the relevant particulars relating to the five comparables which we found to be helpful.

<b>Table 1 – Analysis of Comparables</b>						
<b>Address</b>	<b>Bedroom</b>	<b>Floor</b>	<b>GIA sq m</b>	<b>Date of Sale</b>	<b>Price</b>	<b>Price psm</b>
<b>Flat 1, 7 Rosary Gardens</b>	0	LGF	33	5.2.13	£367,500	£11,136
<b>Flat 6, 12 Rosary Gardens</b>	1	LGF	38	18.2.13	395,000	10,395
<b>Flat 19, 27 Courtfield Rd</b>	1	GF	35	1.2.13	525,000	15,000
<b>Flat 3, 119-121 Gloucester Rd</b>	1	2 <sup>nd</sup>	32	15.3.13	£425,000	£12,617
<b>4 Onslow Gardens</b>	0	GF	38	22.10.13	499,950	13,157

25. Table 2 sets out the adjustments which we have made to these comparable. We then go on summarise our assessment of the comparables.

<b>Table 2 – Adjustments to Comparables</b>					
<b>Address</b>	<b>Adjustment For Time</b>	<b>Adjustment for amenity</b>	<b>Adjusted price psm</b>	<b>Weighting</b>	
<b>Flat 1, 7 Rosary Gardens</b>	6%	-20%	£9,577	30%	£2,873
<b>Flat 6, 12 Rosary Gardens</b>	6%	-25%	8,420	25%	2,105
<b>Flat 19, 27 Courtfield Rd</b>	6%	-22.5%	12,525	20%	2,505
<b>Flat 3, 119-121 Gloucester Rd</b>	5%	-12.5%	11,670	15%	1,751
<b>4 Onslow Gardens</b>	-6%	-30%	8,420	10%	842
<b>Weighted Price per square metre:</b>					<b>£10,076</b>

### **Flat 1, 7 Rosary Gardens**

26. Both parties agreed that this is the most relevant comparable. However, it is in a much better location. It is a quieter street. The flat looks over a garden area. The entrance to the flat is at the front. The flat will be much lighter. Hence we make a -20% adjustment to reflect this. The sale was four months before the valuation date, for which we make a +10% adjustment.

### **Flat 6, 12 Rosary Gardens**

27. This flat is on the opposite side of this quiet road. It is of a different character with an arch under the path to the ground floor entrance door. This flat has its own entrance. It seems to be somewhat higher and this will make it lighter. We make a greater adjustment of -25% to reflect this. This is a one bedroom flat, as opposed to a bedsit and is slightly larger. The sale was again four months before the valuation date, for which we make a +6% adjustment. We give a 25% weighting to this comparable.

### **Flat 19, 27 Courtfield Road**

28. This is the second comparable upon which both parties relied. This is also a lower ground floor flat. The entrance is at the front of the flat. The flat has good lighting. It looks out onto a small garden. We assess the greater amenity value as being somewhere between the two flats in Rosary Gardens and make an adjustment of -22.5%. The sale was again four months before the valuation date, for which we make a +6% adjustment. We give a 20% weighting to this comparable.

### **Flat 3, 119-121 Gloucester Road**

29. This flat is closest to the subject property. It is on the second floor above a shop. The road is relatively busy. We therefore make a smaller

adjustment of -12.5% for amenity. The sale was three months before the valuation date, for which we make a +4.5% adjustment. We give a 15% weighting to this comparable. Being on the second floor, it is less relevant than the other comparables.

#### **Fla4, 4 Onslow Gardens**

30. This ground floor flat is in an excellent location, the best of all the comparables. It is a quiet street looking out onto a garden. The flat, being on the ground floor, will be much lighter. It is let on a short lease, expiring in 2048. Albeit a bedsit, it will be at the upper end of the market. We therefore make a -30% adjustment for amenity. The sale was four months after the valuation date, for which we make a -6% adjustment. We give a 10% weighting to this comparable.

#### **Flat 5, 12 Thurlow Place**

31. We do not find this comparable to be helpful. It is on the fourth floor. It is in a quite different location looking out onto the Victoria and Albert Museum. It is off the Cromwell Road which is very busy. We have no information as to the length of the lease.

#### **Flat 22, Osten Mews**

32. We do not find this comparable to be helpful. It is much larger than the subject property (57 sq.m.). It is very spacious. It is situated in a very attractive and quiet mews. It is very light. It was apparent that major rehabilitation works are in hand.

#### **Flat 10, 46 Ennismore Gardens**

33. We do not find this comparable to be helpful. This is furthest from the subject property. It is close to the Albert Hall. It is an entirely different location. Again, it is substantially larger (57 sq.m.).

#### **Flat A, 61 Courtfield Gardens**

34. We do not find this comparable to be helpful. This is a three bedroom flat. It looks onto a garden.

#### **Flat A, 53 Stanhope Gardens**

35. We do not find this comparable to be helpful. It is a two bedroom flat. Although in Stanhope Gardens, its location is much quieter. It looks out onto the garden. To the side of this building, there is a very attractive garden area.



### **Flat 1, 94 Queens Gate**

36. We do not find this comparable to be helpful. This is a three bedroom flat. It is on a quieter road.

### **Our Determination**

37. On the basis of our assessment of the comparables, the adjustments and weightings that we have applied, we determine a price per square metre of £10,076 (see Table 2). This values the subject property at £332,500 on the basis of its size of 33 sq.m. (see [17] above). We accept that on the valuation date, 21 June 2013, the subject property was probably in a worse condition than the comparables, and we make a reduction of £7,500 in respect of this (see [20] above). We therefore compute a long leasehold value of the subject property of £325,000. We increase this by the agreed figure of 1% to arrive at a virtual freehold value of £328,250.
38. Our calculation of the premium is set out in the Appendix. We compute the premium payable in respect of the extension of the lease to be £31,400.

Robert Latham

Tribunal Judge

Date: 3 July 2014

## Appendix

### Flat 2 21-22 Stanhope Gardens Chelsea SW7 5RQ

#### FLAT - Lease Extension

Virtual Freehold value (unimproved)	£328,250
Long Leasehold value (improved)	£332,500
Long Leasehold value (less reduction for condition)	£325,000
Valuation Date	21-Jun-13
Expiry of existing lease	24-Dec-81
Existing Term unexpired	68.51
Capitalisation rate	6.00%
Deferment rate	5.00%
Relativity	88.00%
Short Leasehold value (unimproved) before extension	£286,000

#### Diminution of Landlords Interest

##### Landlords Present Interest

###### Term

Fixed Present GR		£500	
YP for 18.51 years @ 6%	10.999		£5,499

###### Term

Fixed Present GR		£1,250	
YP for 50 years @ 6%	15.762		£6,701
PV £1 in 18.51 years @ 6%	0.3401		

##### Reversion

Virtual Freehold		£328,250	
PV £1 in 68.51 years @ 5%	0.0353		£11,600

##### Landlords present interest

**£23,800**

##### Landlords Proposed Interest

Virtual Freehold		£328,250	
PV£1 in 158.51 years @ 5%	0.0004		£144.43

##### Diminution

**£23,656**

##### Marriage Value

##### Tenants Proposed Interest

Less Tenants Present Interest	£286,000	£325,000	
Less Landlords Present Interest	£23,800		
Total			£309,800

##### Marriage Value

**£15,200**

50% share of marriage value

**£7,600**

#### Lease Extension Premium

**£31,400**