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

**Case Reference** : **LON/00BB/OLR/2013/1523**

**Property** : **46 Credon Road, London E13 9BJ**

**Applicant** : **Dennis Kiely**

**Representative** : **Norman H Barnett & Co., Solicitors**

**Respondent** : **John Joseph Young  
Ms Rose Young**

**Representative** : **Not applicable**

**Type of Application** : **Missing Landlord – Leasehold  
Reform, Housing and Urban  
Development Act 1993**

**Tribunal Members** : **Judge F Dickie  
Mr P Tobin, FRICS, MCI Arb**

**Date of Decision** : **30 January 2014**

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**DECISION**

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**Decision of the tribunal**

- (1) The tribunal determines the premium to be paid for the extended lease is £7225.00, in accordance with the valuation at Appendix 1 and rounded up.
- (2) The tribunal determines the terms of the new lease as set out in the draft Deed of Surrender and re-Grant attached at Appendix 2, other than that paragraph LR6 shall provide that the extended term is 90 years from the expiry date of the previous lease (not 99 years as specified in the draft), and paragraph LR7 shall reflect the premium determined by the tribunal.

- (3) The appropriate sum under section 51(5) includes £75 in respect of unpaid ground rent.

### **The application**

1. The Applicant wishes to extend his lease under the provisions of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act").
2. The Applicant is the tenant of the subject premises as successor in title under a lease dated 3 October 1984 for a term of 99 year from 28 June 1984. There are no intermediate leases. A notice of claim under the Act could not be served on the missing landlord. No ground rent has been sought from the Applicant since purchasing the lease almost three years ago. On 27 June 2013 the Applicant made a claim to the County Court for a vesting order pursuant to section 50 of the Act.
3. On 11 September 2013 Deputy District Judge Price sitting at the Bow County Court made a vesting order that the Claimant will surrender his lease and be granted a new lease of the Premises on such terms as may be determined by [the First Tier Tribunal (Property Chamber)]. The claim was transferred to the tribunal for determination of the terms of the new lease and the appropriate sum.
4. Pursuant to the matter now transferred to the tribunal, the Applicant has obtained an expert valuation report on the subject premises.

### **The Valuation**

5. The valuation report was prepared by Christopher Baker, BSc. (Hons) Dip Est. Man, owner of McDowalls Surveyors Ltd. and is dated 16 December 2013, having been prepared after an inspection on 1 November 2013. A lease plan, location plan and external photographs of the subject premises have been produced to the tribunal, which did not consider an inspection was necessary. The valuation date is 27 June 2013, the date of the County Court claim, but Mr Baker has incorrectly used 20 September 2013 as the valuation date, being the date on which the court order was drawn. The correct unexpired term is therefore 70 years.
6. According to the valuation report the subject premises are within a typical 1900s mid terrace house of traditional construction that has been converted into two flats, and comprise a one bedroom flat on the ground floor benefitting from sole use of front and rear gardens. The total floor area is given as 50 sq. m. The ground rent is fixed at £25 per annum throughout the term and Mr Baker raised no issues of concern regarding the lease terms.

## **Long Lease Value**

7. Mr Baker considered and produced evidence of the following comparable sales in reaching his opinion as to value:

(i) *84 Haldane Road, East Ham*

Sold 7 June 2013 subject to an 81 year term at £140,000 (with the benefit of a s.42 notice), with garage and garden, 1 bedroom ground floor flat in need of modernisation but with double glazing and gas central heating. Following purchase the lease extension was completed for an agreed premium of £6,000.

(ii) *First Floor Flat, 160 Harold Road, Upton Park*

1 bedroom first floor flat within terrace house conversion of 2 flats, sold on 9 July 2013 refurbished and on 99 year lease and rising ground rent for £142,500.

(iii) *45a Wakefield Street, East Ham*

1 bedroom first floor flat in terraced house conversion, contracts exchanged for completion 11 January 2013 for £141,500 with new lease and rising ground rent.

8. These comparable sales are all close to the subject premises and of similar type, and based on them Mr Baker's opinion as to the value of a long lease of the subject premises is £140,000 before a deduction for tenant's improvements. He discounts £10,000 for these for UPVC double glazing, gas central heating and a small rear extension all having been paid for by the tenant.

9. Mr Baker's approach to valuation appears reasonable and supported by sufficient justification, and the tribunal accepts his evidence which is based on his local experience and expert knowledge.

## **Relativity**

10. To reach the existing lease value, Mr Baker has taken a figure for relativity as an average of five relevant graphs from the RICS 2009 published guidance on relativity – and the tribunal is content to adopt that approach. Mr Baker has in fact used the figures for 70 year unexpired terms from these five graphs in calculating the average relativity on which he bases his opinion. Therefore, there is no need to adjust his valuation for the correct unexpired term. The tribunal therefore adopts Mr Baker's figure for relativity of 92.5%.

### **Capitalisation and Deferment**

11. The tribunal agrees with Mr Baker's view of 7% as the appropriate rate of capitalisation for this class of property, and concurs with him that there is no need in the present case to depart from the 5% Sportelli deferment rate.

### **Conclusion**

12. Accordingly, the tribunal determines the premium according to his attached valuation in section 7 of his report, a copy of which is attached to this decision, rounded up to £7225.00.
13. The draft lease terms accompanying the application are approved, subject to the amendment set out in the summary at the head of this decision.
14. By virtue of section 51(5)(c) the appropriate amount includes any unpaid ground rent, which the tribunal estimates at £75 in the present case.

**Name:** F Dickie

**Date:** 30 January 2014

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Appendix 1

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7:00

VALUATION

In accordance with the above I have arrived at the following valuation.

Improved Value	£130,000	Current Value	£120,250
Relativity Rate	92.5%	Lease	99 years from 28th June 1984
Term Remaining	69.77 years		
Total Ground Rent:	£25 p.a. fixed throughout the term		
Capitalisation Rate	7%	Deferment Rate	5%

Capitalisation of Ground Rent

Ground Rent	£25 per annum
YP 69.77 years @ 7%	$14.1584 \times$
	£353.96

Valuation of Reversionary Interest

	£130,000
PV £1 for 69.77 years at 5%	$0.0332 \times$
	£4320.82

Freeholders Current Interest is £4674.78

Calculation of Marriage Value

Long Lease Value	£130,000
Less	
Short lease value	£120,250
Freeholders Current Value	£4674.78
Gives	£5075.22
Freeholders share at 50%	£2537.61

**Premium Payable**                    **£7212.39**

I hereby ask the Tribunal to adopt a value of £7212.39 for the statutory lease extension premium at these premises.

DATED

2013

(1) JOHN JOSEPH YOUNG (2) ROSE YOUNG

And

(2) MR DENNIS KIELY

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**ORIGINAL DEED OF SURRENDER AND RE-GRANT**

**Relating to**

**46 Credon Road, Plaistow, London E13 9BJ**

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Ref:

<p><b>LR1. Date of Lease</b></p>	
<p><b>LR2 Title Number (s)</b></p>	<p><b>LR2.1 Landlord's title number (s)</b></p> <p><b>LR2.2 Other title numbers</b></p> <p>EGL146580</p>
<p><b>LR2. Parties to this lease</b>  <i>Give, full names, addresses and company's registered number, if any, of each of the parties. For Scottish companies use a SC prefix and for limited liability partnerships use an LL prefix. For Overseas companies use an OC prefix. For Foreign companies give territory in which incorporated.</i></p>	<p><b>Landlord</b></p> <p>Mr John Joseph Young and Mrs Rose Young</p> <p><b>Tenant</b></p> <p>Mr Dennis Kiely  46 Credon Road, Plaistown, London E13 9BJ</p> <p><b>Other parties</b></p> <p>None.</p>
<p><b>LR4. Property</b></p> <p><i>Insert a full description of the land being leased or refer to the clause, schedule or paragraph of a schedule in this lease in which the land being leased is more fully described.</i></p> <p><i>Where there is a letting of a part of a registered title, a plan must be attached to this lease and any floor levels must be specified.</i></p>	<p><b>In the case of conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail.</b></p> <p>Ground Floor Flat 46 Credon Road, Plaistow, London E13 9BJ, as is more particularly described in the Lease dated 28 June 1984 and made between Mr John Joseph Young and Mrs Rose Young and Ms Rosina Maria Ledgway (" the previous Lease").</p>

<p><b>LR5. Prescribed statements etc.</b></p> <p><i>If this lease includes a statement falling within LR5.1, insert under that sub – clause the relevant statement or refer to the clause, schedule or paragraph of a schedule in this lease which contains the statement.</i></p> <p><i>In LR5.2, omit or delete those Acts which do not apply to this lease.</i></p>	<p><b>LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity) or 196 (lease under the Leasehold Reform Housing and urban Development Act 1993) of the Land Registration Rules 2003.</b></p> <p>This Lease is granted under Section 56 of the Leasehold Reform Housing and Urban Development Act 1993.</p> <p><b>LR5.2 This lease is made under, or by reference to, provision of:</b></p> <p>Leasehold Reform, Housing and Urban Development Act 1993.</p>
<p><b>LR6. Term for which the Property is leased</b></p> <p><i>Include only the appropriate statement (duly completed) from the three options.</i></p> <p><i>Note: the information you provide, or refer to here, will be used as part of the particulars to identify the lease under rule 6 of the Land Registration Rules 2003</i></p>	<p>99 years from (“The Term”).</p>
<p><b>LR7. Premium</b></p> <p><i>Specify the total premium, inclusive of VAT where payable.</i></p>	<p>£7,212.39</p>
<p><b>LR8. Prohibitions or restrictions on disposing of this lease</b></p> <p><i>Include whichever of the two statements is appropriate.</i></p> <p><i>Do not set out here the wording of the provision.</i></p>	<p>None</p>
<p><b>LR9. Rights of acquisitions etc.</b></p> <p><i>Insert the relevant provisions in the sub – clauses or</i></p>	<p><b>LR9.1 Tenant’s contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire</b></p>



<p><i>refer to the clause, schedule or paragraph of a schedule in this lease which contains the provisions.</i></p>	<p><b>an interest in other land.</b></p> <p>None.</p> <p><b>LR9.2 Tenant's covenant to (or offer to) surrender this lease.</b></p> <p>None.</p> <p><b>LR9.3 Landlord's contractual rights to acquire this lease</b></p> <p>None.</p>
<p><b>LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property</b></p> <p><i>Insert the relevant provisions or refer to the clause, schedule or paragraph of a schedule in this lease which contains the provisions.</i></p>	<p>None.</p>
<p><b>LR11. Easements</b></p> <p><i>Refer here only to the clause, schedule or paragraph of a schedule in this lease which sets out the easements.</i></p>	<p><b>LR11.1 Easements granted by this lease for the benefit of the property</b></p> <p>The Second Schedule to the previous lease</p> <p><b>LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other Property.</b></p> <p>The Second Schedule to the previous lease</p>
<p><b>LR12. Estate rentcharge burdening the Property</b></p> <p><i>Refer here only to the clause, schedule or paragraph of a schedule in this lease which sets out rentcharge.</i></p>	<p>Clause 1 (a)</p>
<p><b>LR13. Application for standard form of restriction</b></p>	<p>None.</p>

<p><i>Set out the full text of the standard form of restriction and the title against which it is to be entered. If you wish to apply for more than one standard form of restriction use this clause to apply for each of them, tell us who is applying against which title and set out the full text of the restriction you are applying for.</i></p> <p><i>Standard forms of restriction are set out in Schedule 4 to the Land Registration Rules 2003.</i></p>	
<p><b>LR14. Declaration of Trust where there is more than one person comprising the Tenant</b></p> <p><i>If the Tenant is one person omit or delete all the alternative statements.</i></p> <p><i>If the Tenant is more than one person, complete this clause by omitting or deleting all inapplicable alternative statements.</i></p>	None

covenants provisos and stipulations had been herein repeated in full with such modifications as appear herein and those which are necessary

To make them applicable to demise as if the names of the parties hereto had been respectively substituted for those of the Landlord and Tenant in the Previous Lease.

### **3. SUB – TENANTS**

No long lease within the meaning of Section 7 of the Act created immediately or derivatively by way of sub-demise under this lease shall confer on the sub-tenant as against the Landlord a right under Chapter II Part 1 of the Act to acquire a new lease.

### **4. REDEVELOPMENT**

#### **4.1. The Landlord may:**

4.1.1 At any time during the period of the last 12 months of the term granted by the Previous Lease; and

4.1.2. At any time during the period of the last 5 years of the Term granted by this lease.

Apply to the Court under Section 61 of the Act for an Order for possession of the Property on the grounds that for the purpose of redevelopment it intends to demolish or reconstruct or carry out substantial works of construction on the whole or a substantial part of the building, and that it could not reasonably do so without obtaining possession of the Property and the provisions to that section and of Schedule 14 of the Act shall apply accordingly.

4.2 In the event of this lease being determined as above compensation shall be paid by the Landlord to the Tenant on the determination pursuant to Section 61 of the Act.

### **5. THIRD PARTY**

It is not intended that any term of this lease shall be enforceable by any third party under Section 1 of the Contracts (Right of Third Parties) Act 1999.

**IN WITNESS** of this Deed has been executed by the parties hereto the day and year first before written

EXECUTED as a Deed by )

the landlord )

In the presence of : )