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

Case reference : **LON/00AM/OLR/2015/0055**

Property : **135 Haberdasher Street, Islington,
London, N1 6EH**

Applicant : **Mr Samuel George Abbott Blom-
Cooper**

Respondent : **Mr Philip Feldman**

Intermediate landlord : **None**

Type of application : **Determination of the premium /
terms of acquisition (lease
extension / enfranchisement)**

Tribunal members : **Judge I Mohabir
Mr N Martindale FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **13 May 2015**

DECISION

Introduction

1. This is an application made by the Applicant under section 48(1) of the Leasehold Reform, Housing and Urban Development Act 1993 (as amended) (“the Act”) for a determination of the premium payable for the grant of a new lease by the Respondent.
2. The Applicant is the leaseholder of the subject property pursuant to a lease dated 1 March 1988 granted by The Master and Four Wardens of the Fraternity of the Art or Mystery of Haberdashers in the City of London to (1) Simon Thomas McCarthy and (2) 57/157 Haberdasher Street Residents’ Association Ltd for a term of 100 years from 24 June 1986 (“the lease”).
3. By a claim notice dated 7 May 2014 and served pursuant to section 42 of the Act, the Applicant exercised his entitlement to claim a new lease. The notice proposed a premium of £13,484 for a new term of 90 years at a peppercorn ground rent.
4. By a counter-notice dated 3 July 2014, the Respondent admitted the Applicant’s right to acquire a new lease on the proposed terms save for the premium. The Respondent counter proposed a premium of £29,500.
5. It seems the parties were unable to agree the premium to be paid and on 2 January 2015 the Applicant applied to the Tribunal for this determination to be made.
6. The valuation evidence relied on by the Applicant and Respondent are set out in the reports prepared by Mr Dunsin FRICS dated 6 May 2015 and Mr Jackman MRICS dated 7 May 2015 respectively.

The Issue

7. The respective valuers had helpfully prepared a statement of agreed facts and disputed issues dated 18 March 2015 annexed hereto. As will be noted, the only issue to be determined by the Tribunal was the unimproved freehold vacant possession value.

The Law

8. Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") provides that the price to be paid by the nominee purchaser for the freehold interest shall be the aggregate of the value of the freeholder's interest, the freeholder's share of the marriage value, and compensation for any other loss.
9. The value of the freehold interest is the amount which at the valuation date that interest might be expected to realise if sold in the open market subject to the tenancy by a willing seller (with the nominee purchaser, or a tenant of premises within the specified premises or an owner of an interest in the premises, not buying or seeking to buy) on the assumption that the tenant has no rights under the Act either to acquire the freehold interest or to acquire a new lease.
10. Paragraph 4 of the Schedule, as amended, provides that the freeholder's share of the marriage value is to be 50%, and that any marriage value is to be ignored where the unexpired term of the lease exceeds eighty years at the valuation date.
11. Paragraph 5 of the Schedule provides for the payment of compensation for other loss resulting from the enfranchisement.
12. Schedule 6 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Decision

13. The hearing in this matter took place on 12 May 2015. The Applicant was represented by Mr Dunsin FRICS and the Respondent was represented by Mr Jackman MRICS.
14. Both valuers told the Tribunal that the draft lease terms had been agreed, a copy of which appears at pages 50-56 of the hearing bundle.

Unimproved freehold vacant possession value

15. Mr Dunsin used a freehold vacant possession value of £505,000 as his starting position. He had arrived at this figure by averaging the sale prices for the recent sales of identical flats at 92 and 69 Haberdasher Street and adjusted this to the valuation date using the (agreed) Land Registry House Price Index for Hackney. In respect of the latter property, Mr Dunsin applied an uplift of 1% to freehold value. The other property was sold with a share of the freehold. Mr Dunsin disregarded the sale relating to 107 Haberdasher Street on the basis that it is a ground floor flat whereas the subject property is located on the first floor of the building.
16. From this figure Mr Dunsin made a deduction of £25,000 to reflect the fact that the comparable properties have direct access to the garden whereas the subject property is on the first floor.
17. Mr Dunsin then made a further deduction of £25,000 to reflect the disadvantage of the property being on the first floor and without the benefit of a lift.
18. Mr Dunsin then went on to make a total deduction of £55,000 for the estimate cost of the (agreed) improvements carried out by a previous leaseholder. These were the installation of a bathroom suite, a fully fitted kitchen and a modern gas central heating system. The electrical installation, gas supply, plumbing and drainage system had been upgraded as part of the refurbishment works. The walls have also been

tiled and replastered as part of those works. Mr Dunsin's said his figure of £55,000 was based on the BCIS Housing Repair Cost Guide. Mr Dunsin submitted that the cost of the improvements was directly related to the increased value of the flat. In support of this submission, he relied on an earlier Tribunal decisions regarding Flats 137 and 139 in the same building (LON/00AM/OLR/2013/0968) and 56 Queenstown Road (LON/00BJ/OCE/2012/0118) where similar improvements were valued at £56,000 and £55,000 respectively.

19. From his improved freehold value of £505,000, Mr Dunsin, therefore, made a total deduction of £105,000 to reach an unimproved freehold vacant possession value of £400,000. Based on the agreed valuation assumptions, this provided a premium figure of £20,166.
20. Mr Jackman arrived at an improved freehold of £500,000 by adopting the same comparable properties used by Mr Dunsin, but he also included 107 Haberdasher Street as he did not consider its location on the ground floor made it an irrelevant comparable.
21. Mr Jackman then calculated the psf value of each property based on the sale price, which he then averaged and adjusted for time to the valuation date using the Land Registry House Price Index for Hackney to arrive at an improved freehold value of £500,000.
22. From this value, Mr Jackman made a deduction of £25,000 including VAT for the cost of the improvements to the flat. This was based on an estimate provided by Mr Dervis Adalier, a builder on the approved list of contractors of the Respondent who is very familiar with the estate and the general standard of the properties on the estate.
23. Mr Jackman made no further deductions and concluded that the unimproved freehold vacant possession value was £475,000. He argued that the scope of the deductions made by Mr Dunsin for the improvements was excessive and the associated work relating to the

improvements fell within his estimate. He also argued that the additional deductions made by Mr Dunsin for the lack of direct access to the garden and the lack of lift access to the subject property were irrelevant and had no effect on value. Based on the agreed valuation assumptions, this provided a premium figure of £23,527.

24. As to the improved freehold vacant possession value, the Tribunal considered the comparable sales of flats 92 and 69 Haberdasher Street to be the most relevant properties because flat 107 was sold with a short lease. The Tribunal, therefore, agreed with the reasoning adopted by Mr Dunsin and concluded that his value of the improved freehold vacant possession value of the subject property was £505,000.
25. As to the unimproved freehold vacant possession value, the Tribunal agreed with Mr Jackman's submission that the scope of, therefore, the cost of the improvements valued by Mr Dunsin was excessive. The Tribunal's view was that, for example, items such as electrical upgrading, water replumbing, drains connection and planning considerations were a matter of some speculation as to whether they fell within the ambit of the original works and would normally fall with the work ordinarily associated and part of the substantive improvements. Indeed, Mr Dunsin said that he was not aware of when the improvements were carried out and what additional works had been done. For these reasons, he had made the assumptions he did about the scope of the works.
26. In contrast, the Tribunal considered the estimate of the cost of the improvements provided by Mr Adalier to be more reliable because he is a builder who appears to be familiar with the standard of the flats on the estate generally.
27. The, Tribunal, therefore, accepted Mr Jackman's evidence that the cost of the improvements was to be £25,000.

28. As to the effect of the improvements on the overall value of the subject property, the Tribunal did not accept the assumption made by both valuers that the cost of the improvements had a direct relationship to the value of the property. Using its own expert knowledge and experience, the Tribunal concluded that the value of the improvements was £35,000 and this was the figure to be discounted from the improved freehold vacant possession value of £505,000. Therefore, the Tribunal found that the unimproved freehold vacant possession value of the subject property was £470,000.
29. The Tribunal also accepted Mr Jackman's submission that the lack of direct access to the rear garden and the absence of a lift in the building had a material effect on the value of the property for the following reasons. The rear garden is communal and not demised to any particular flat. From the photographic evidence provided, the garden did not appear to be particularly attractive or well kept. In addition, as the subject property is located on the first floor, the absence of a lift would not prove to be particularly inconvenient. The position might have been different if the property was located on a higher floor in a substantially larger block of flats. Furthermore, in the Tribunal's experience, in the absence of direct comparable evidence to the contrary there are as many potential purchasers in the market for ground as for first floor flats, the choice depending largely on the individual's circumstances and personal preferences.
30. Accordingly, the Tribunal concluded that the premium to be paid by the Applicant for a new lease is **£23,228**. The Tribunal's valuation is annexed to this decision.

Name: Judge I Mohabir

Date: 13 May 2015

135 Haberdasher Street N1 6EH

FLAT - Lease Extension

Freehold - improved	£505,000
Freehold - unimproved	£470,000
Long LH - unimproved 161.11 yrs (FH -1%)	£465,300
Valuation Date	07-May-14
Expiry of existing lease	16-Jun-85
Existing Term unexpired	71.11 years
Capitalisation rate	6.50%
Deferment rate	5.00%
Relativity	93.11%
Short Leasehold value (unimproved) before extension	£437,617

Diminution of Landlords Interest

Landlords Present Interest

Term

Agreed at £4,472

Reversion

Freehold unimproved £465,300
PV £1 in 71.11 years @ 5% 0.03113 £14,485

Total

£18,957

Landlords Proposed Interest

Reversion

Freehold £470,000
PV £1 in 161.11 years @ 5% 0.00039 **£183**

Landlords Present less the Proposed

£18,773

Marriage Value

Tenants Proposed Interest

Add Landlords Proposed Interest £465,300

Less Landlords Present Interest £183

Less Tenants Present Interest £437,617

Less Landlords Present Interest £18,957

Total £456,574

Marriage Value £8,910

50% share of marriage value **£4,455**

Lease Extension Premium

Landlords Present - Proposed + Marriage share

£23,228

STATEMENTS OF AGREED FACTS AND DISPUTED ISSUES

For: The First-tier Tribunal (Property Chamber)
Ref: LON/00AM/OLR/2015/0055

From: Wilson Dunsin, FRICS of Dunsin Surveyors (On behalf of the Applicant – Leaseholder);
and
Trevor Jackman, MRICS of Stock Page Stock (On behalf of the Respondent - Freeholder)

Re: Flat 135 Haberdasher Street, London, N1 6EH (“the Property”)

The following matters have been agreed and are not in dispute:

- The property is a purpose built flat on the first floor of a three storey terraced building. It was constructed around 1900. It is of traditional construction with solid brick walls under flat roofs. The windows are of timber construction and fitted with single glazed units. Mains gas, electricity, water and drainage services are available. Space heating and hot water are provided by a full gas central heating system.
- The accommodation comprises:
Ground Floor: Communal entrance hall.
First Floor: Hall, Lounge, Kitchen, Two Bedrooms, Bathroom with WC.
Gross Internal Floor Area: 590 sq ft.
- The property has use of the ground floor communal garden to the rear. The communal garden is accessed via the fire escape. The property does not have a garage, car parking space, or outbuilding.
- There is no lift, concierge or porter service in the building.
- Date of valuation: 7th May 2014.
- Lease date: 1st March 1988
- Lease Term: 99 years (less seven days) from 24th June 1986 to 16th June 2085.
- There is no intermediate Leaseholder.
- Unexpired term of lease: 71.11 years.
- Deferment Rate: 5%.

- Ground Rent: £100 per annum for the first 10 years, rising to £130 per annum for the next 10 years, rising to £169 per annum for the next 10 years, rising to £220 per annum for the next 10 years, rising to £286 per annum for the next 10 years, rising to £372 per annum for the next 10 years, rising to £484 per annum for the next 10 years, rising to £630 per annum for the next 10 years, rising to £819 per annum for the next 10 years, rising to £1,065 per annum for the final 8.98 years.
- Capitalisation Rate: 6.5%.
- Marriage Value: 50%.
- Relativity: 93.11%.
- When the lease was originally granted in 1988, the property comprised of just three rooms, a kitchen with a butler sink and a separate WC. The property did not have a bathroom.
- The flat has been improved and modernised by the installation of a modern fully fitted kitchen, a modern complete bathroom suite, and a modern full gas central heating system with a combination boiler. Associated plastering, decorations, tiling, plumbing and wiring works were also undertaken as part of the complete modernisation of the property.
- The Land Registry House Price Index for the London Borough of Hackney is to be used for the time adjustments for the comparables.

The following matters are in dispute and need to be determined by the Tribunal:

Matters in dispute	Leaseholder	Freeholder
Unimproved Freehold Vacant Possession Value:	£400,000	£475,000
Premium payable:	£20,166	£23,527

Signed:

Dated: ... 18th March 2015
Wilson Dunsin, FRICS



... 18th March 2015
Trevor Jackman, MRICS