

3040



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

Case reference : LON00BK/OLR/2015/0332

Property : First Floor Flat, 7 Pindock Mews,
Maida Vale, London W9 2PY

Applicants : Stephen John Tauroza (1)
Elizabeth Jacqueline Tauroza (2)

Representative : Chadwick Lawrence LLP

Respondent : Sonia Kamel

Representative : Not applicable (missing landlord)

Type of application : Correction certificate

Tribunal members : Ms N Hawkes
Mr W R Shaw FRICS

Venue : 10 Alfred Place, London WC1E 7LR

**Date of paper
determination** : 14.4.15

DECISION

As Chairman of the Tribunal, which decided the above-mentioned case, I hereby correct the errors and clarify the decision dated 14th April 2015 as follows:¹

The following paragraph will be substituted for Paragraph (1) of the Decision:

(1) The Tribunal determines that the price to be paid by the applicants for the new lease is £4,598.

A copy of the corrected decision is attached.

Name: Judge N Hawkes

Date: 23rd April 2015

¹ Regulation 50 The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.



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Property : **First Floor Flat, 7 Pindock Mews,
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Applicants : **Stephen John Tauroza (1)
Elizabeth Jacqueline Tauroza (2)**

Representative : **Chadwick Lawrence LLP**

Respondent : **Sonia Kamel**

Representative : **Not applicable (missing landlord)**

Type of application : **Application under sections 50 and
51 of the Leasehold Reform
Housing and Urban Development
Act 1993**

Tribunal members : **Ms N Hawkes
Mr W R Shaw FRICS**

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

**Date of paper
determination** : **14.4.15**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the price to be paid by the applicants for the new lease is £4,598.
- (2) The terms of the draft transfer are provided for in paragraph 10 below.

The Background

1. This is an application pursuant to a vesting order made by District Judge Parfitt sitting at the County Court at Central London under section 50 of the Leasehold Reform Housing and Urban Development Act 1993 (“the 1993 Act”).
2. On 20th August 2012, the applicants issued a Part 8 Claim for a vesting order pursuant to section 50(1) of the 1993 Act.
3. On 30th January 2015, District Judge Parfitt ordered that upon the Court being satisfied that the Defendant cannot be traced the Claimants be granted a 90 year extension to the remaining term of their 125 year lease dated 23 May 1990 between (1) Riverside International Limited and (2) Ultratown Investments Limited at a peppercorn rent pursuant to section 50(1) of the 1993 Act.
4. Further, the matter was referred to the First Tier Tribunal Property Chamber for a determination of the premium payable in respect of the lease extension.
5. In support of the application, the applicants initially sought to rely upon a valuation report dated 2nd March 2012. By letter dated 23rd March 2015, the Tribunal noted that this valuation report did not comply with direction 4 of the Tribunal’s directions of 11th February 2015 and directed the applicants to file a compliant expert report by 10th April 2015. The applicants now seek to rely upon the expert report of Mr G Loughran MRICS dated 2nd April 2015.
6. Section 51 of the 1993 Act provides:

(1) A vesting order under section 50(1) is an order providing for the surrender of the tenant's lease of his flat and for the granting to him of a new lease of it on such terms as may be determined by the appropriate tribunal to be appropriate with a view to the lease being granted to him in like manner (so far as the circumstances permit) as if he had, at the date of his application, given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat.

(3) Where any lease is to be granted to a tenant by virtue of a vesting order under section 50(1), then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a lease which—

(a) is in a form approved by the appropriate tribunal , and

(b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to section 56(1) and section 57 (as that section applies in accordance with subsections (7) and (8) below);

and that lease shall be effective to vest in the person to whom it is granted the property expressed to be demised by it, subject to and in accordance with the terms of the lease.

(4) In connection with the determination by the appropriate tribunal of any question as to the property to be demised by any such lease, or as to the rights with or subject to which it is to be demised, it shall be assumed (unless the contrary is shown) that the landlord has no interest in property other than the property to be demised and, for the purpose of excepting them from the lease, any minerals underlying that property.

(5) The appropriate sum to be paid into court in accordance with subsection (3) is the aggregate of—

(a) such amount as may be determined by the appropriate tribunal to be the premium which is payable under Schedule 13 in respect of the grant of the new lease;

(b) such other amount or amounts (if any) as may be determined by such a tribunal to be payable by virtue of that Schedule in connection with the grant of that lease; and

(c) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of that lease, due to the landlord from the tenant (whether due under or in respect of the tenant's lease of his flat or under or in respect of any agreement collateral thereto).

...

7. Schedule 13 to the 1993 Act makes provision for the determination of the premium to be paid by the tenant for the grant of a new lease.

The Determination

8. The Tribunal accepts the opinions expressed by Mr Loughran in his report save that:
 - (i) The Tribunal considers that greater weight should have been placed upon the attractive location of the property and upon the fact that the lease of the property includes the roof space. The Tribunal notes that the property is situated above an office suite but considers that this disadvantage does not outweigh these benefits. Taking all of these factors into account, the Tribunal determines that the appropriate price per square metre to adopt for the subject property is £10,500 with a consequent long lease valuation of £693,000 and a freehold valuation of £699,950.
 - (ii) The Tribunal determines that the unexpired lease term is 102.75 years and that the landlord's future interest is deferred for 192.75 years rather than for 227.52 years.
9. The adjusted calculation has resulted in premium of £4,598. A copy of the Tribunal's valuation is attached to this decision.
10. The Tribunal also approves the draft transfer which has been submitted by the applicants, subject to insertion of the premium together with a statement that the premium has been paid into court.
11. This matter should now be returned to the County Court sitting at Central London under Claim Number 2CLO1906 in order for the final procedures to take place.

Judge N Hawkes

14th April 2014

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Type of application : Application under sections 50 and
51 of the Leasehold Reform
Housing and Urban Development
Act 1993

Tribunal members : Ms N Hawkes
Mr W R Shaw FRICS

Venue : 10 Alfred Place, London WC1E 7LR

**Date of paper
determination** : 14.4.15

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the price to be paid by the applicants for the freehold interest is £4,598.
- (2) The terms of the draft transfer are provided for in paragraph 10 below.

The Background

1. This is an application pursuant to a vesting order made by District Judge Parfitt sitting at the County Court at Central London under section 50 of the Leasehold Reform Housing and Urban Development Act 1993 ("the 1993 Act").
2. On 20th August 2012, the applicants issued a Part 8 Claim for a vesting order pursuant to section 50(1) of the 1993 Act.
3. On 30th January 2015, District Judge Parfitt ordered that upon the Court being satisfied that the Defendant cannot be traced the Claimants be granted a 90 year extension to the remaining term of their 125 year lease dated 23 May 1990 between (1) Riverside International Limited and (2) Ultratown Investments Limited at a peppercorn rent pursuant to section 50(1) of the 1993 Act.
4. Further, the matter was referred to the First Tier Tribunal Property Chamber for a determination of the premium payable in respect of the lease extension.
5. In support of the application, the applicants initially sought to rely upon a valuation report dated 2nd March 2012. By letter dated 23rd March 2015, the Tribunal noted that this valuation report did not comply with direction 4 of the Tribunal's directions of 11th February 2015 and directed the applicants to file a compliant expert report by 10th April 2015. The applicants now seek to rely upon the expert report of Mr G Loughran MRICS dated 2nd April 2015.
6. Section 51 of the 1993 Act provides:

(1) A vesting order under section 50(1) is an order providing for the surrender of the tenant's lease of his flat and for the granting to him of a new lease of it on such terms as may be determined by the appropriate tribunal to be appropriate with a view to the lease being granted to him in like manner (so far as the circumstances permit) as if he had, at the date of his application, given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat.

(3) Where any lease is to be granted to a tenant by virtue of a vesting order under section 50(1), then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a lease which—

(a) is in a form approved by the appropriate tribunal, and

(b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to section 56(1) and section 57 (as that section applies in accordance with subsections (7) and (8) below);

and that lease shall be effective to vest in the person to whom it is granted the property expressed to be demised by it, subject to and in accordance with the terms of the lease.

(4) In connection with the determination by the appropriate tribunal of any question as to the property to be demised by any such lease, or as to the rights with or subject to which it is to be demised, it shall be assumed (unless the contrary is shown) that the landlord has no interest in property other than the property to be demised and, for the purpose of excepting them from the lease, any minerals underlying that property.

(5) The appropriate sum to be paid into court in accordance with subsection (3) is the aggregate of—

(a) such amount as may be determined by the appropriate tribunal to be the premium which is payable under Schedule 13 in respect of the grant of the new lease;

(b) such other amount or amounts (if any) as may be determined by such a tribunal to be payable by virtue of that Schedule in connection with the grant of that lease; and

(c) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of that lease, due to the landlord from the tenant (whether due under or in respect of the tenant's lease of his flat or under or in respect of any agreement collateral thereto).

...

7. Schedule 13 to the 1993 Act makes provision for the determination of the premium to be paid by the tenant for the grant of a new lease.

The Determination

8. The Tribunal accepts the opinions expressed by Mr Loughran in his report save that:

(i) The Tribunal considers that greater weight should have been placed upon the attractive location of the property and upon the fact that the lease of the property includes the roof space. The Tribunal notes that the property is situated above an office suite but considers that this disadvantage does not outweigh these benefits. Taking all of these factors into account, the Tribunal determines that the appropriate price per square metre to adopt for the subject property is £10,500 with a consequent long lease valuation of £693,000 and a freehold valuation of £699,950.

(ii) The Tribunal determines that the unexpired lease term is 102.75 years and that the landlord's future interest is deferred for 192.75 years rather than for 227.52 years.

9. The adjusted calculation has resulted in premium of £4,598. A copy of the Tribunal's valuation is attached to this decision.

10. The Tribunal also approves the draft transfer which has been submitted by the applicants, subject to insertion of the premium together with a statement that the premium has been paid into court.

11. This matter should now be returned to the County Court sitting at Central London under Claim Number 2CLO1906 in order for the final procedures to take place.

Judge N Hawkes

14th April 2014

Appendix 1

New Lease Claim

Present lease 125 yrs from 23 May 1990
Valuation Date 20/08/2012 102.75 yrs unexpired

Long lease value £693,000 Virtual freehold (+1%) £699,950

YP=7% PV = 5%

Diminution in value of Landlord's interest

Value before grant of new lease

Term

Rent £0 0

Reversion

Flat value 699,950

Deferred 102.75 yrs @ 5% 0.00665 4,655

LESS value after grant of new lease

Term

New Lease at a peppercorn rent 0

Reversion

Flat value 699,950

Deferred 192.75 yrs @ 5% 0.000082 -57

Diminution in value of Landlord's interest

4,598