

4194



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

**Case Reference** : **BG/LON/00AG/OLR/16/0011**

**Property** : **15 Jenner House, Hunter Street,  
London, WC1N 1BL**

**Applicant** : **David Dedman**

**Representative** : **Michael Dedman MA BSc  
(Hons)**

**Respondent** : **Deritend Investments (Birkdale) Ltd**

**Representative** : **Daniel Dovar (Counsel instructed by  
Wallace LLP)**

**Type of Application** : **s48 Leasehold Reform, Housing and  
Urban Development Act 1993**

**Tribunal Members** : **Judge S Shaw  
Mr D Jagger FRICS**

**Date and venue of  
Hearing** : **10<sup>th</sup> May 2016, London**

**Date of Decision** : **18<sup>th</sup> May 2016**

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**DECISION**

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1. This is an application by Mr D Dedman ('the Applicant') made pursuant to s48 of the Leasehold Reform Housing and Urban Development Act 1993 ('the Act'). The application is for a new lease pursuant to the Act in relation to the Property. The Respondent is Derident Investments (Birkedale) Ltd ("the Respondent") which is the head-landlord. The freehold is held by Calabar Properties limited which is an associated company of the Respondent.
2. The Applicant is represented by his son Mr M Dedman who is experienced with dealing with estate management and valuations of properties of this kind. He has a Master's Degree in Property Valuation and Law and a Bachelor's Degree in Civil Engineering. He told the Tribunal that in recent years much of his work was in relation to this type of work. The Respondent was represented by counsel, Mr Dovar, and Mr Sharp BCS FRICS, who is also experienced in valuations of this kind and who appears before the Tribunals on a regular basis. Mr Sharp has a Bachelor's Degree in Estate Management and is a chartered surveyor and has worked for a number of central London firms.
3. The parties have both prepared reports and have also agreed a joint statement of facts. That statement sets out the matters agreed, being: valuation date of 19<sup>th</sup> June 2015; term dated of 29<sup>th</sup> September 2077; unexpired term of 62.27 years; ground rent of £100 per annum rising to £150 per annum from 29<sup>th</sup> September 2044; capitalisation rate of 6%; deferment rate of 5%; this is a small flat with an internal area of 228 sq ft; and the adjustment to arrive a freehold value from long lease value is 1%. The Property is situated in a large block of 63 flats on the upper

ground floor. There are no relevant tenant improvements. The matters in dispute are: the value of the existing lease; the value of the extended lease; relativity and ultimately the premium to be paid.

### **Long Lease Value**

4. The Tribunal heard evidence on the value of the extended lease and although initially Mr Dedman had compiled a number of comparables from Russell Court he conceded that they were not helpful in this case as he had discovered (through Mr Sharp) that they had restrictions on sub-letting which, when applied to these flats, reduced their attraction for investment purposes and so had a deleterious impact on value. He was prepared to adopt and rely on Mr Sharp's comparables although he put different valuations on them.
  
5. The Tribunal focuses on the two main comparables that apply in this case in respect of the value of the long lease. They are 63 Jenner House and 171 Sinclair House. 63 Jenner House is the least valuable of the two in terms of comparison as the sale was four years ago. It sold in February 2012 for £270,000 which, adjusted to the valuation date, gives a value of £375,338. Mr Sharp makes a further reduction for size of 5% and also 5% because it has a better aspect. Mr Dedman says that 5% is too little a reduction for aspect and considers 10% is more accurate. In cross examination it was put to him that there was a neutralising effect in respect of aspect, because there would be additional noise from traffic, which was not present with the Property as it looked over a courtyard.

He said he would prefer a property with an outward aspect with better light. In addition he contended that no 63 was in better condition and therefore a further adjustment of 5% was needed to take that into account.

6. The view of the Tribunal is that it agrees with Mr Sharp's approach to the adjustments. Whilst number 63 has better light, it is to some extent diminished by its exposure to traffic noise. 5% is the appropriate deduction. So far as the condition is concerned, Mr Sharp said that at this end of the market, the entry level, buyers were more robust and the fact that a flat was in slightly better condition would not have any significant impact on value. To some extent the Tribunal agrees. One aspect the Tribunal did consider needed to be taken into account was the general layout of the properties. This was put to Mr Sharp who again said that at this level of the market it did not make any real difference on value. However, there are plans of the internal layout of each property and it is apparent that the layout of the Property is inferior to no 63. Number 63 has an open living area whereas the Property has a strange configuration with the living room cut off by the kitchen and with a shower room in one corner and a w.c. in the other. On a broad brush basis the Tribunal makes a further 2.5% deduction for this. That produces a value of £328,842.
7. The second comparable, 171 Sinclair House, once the index is applied is valued at £381,810. Mr Sharp has also adjusted 10% for area and allowed 2.5% for light. This property is on the third floor and is higher and has a better aspect. Mr Dedman considered a 5% deduction for

lighting and a further 5% because there is a garden, and the flat was in a better condition. His deduction for aspect is again neutralised by the fact that the flat is over a busy road. So far as the garden is concerned, again for the same reasons, the condition has little impact and the subject property does have a roof area and so is similar for valuation. Once again the layout does appear to the Tribunal to be material. It has a separate kitchen and combined w.c. A further 2.5% adjustment is therefore appropriate. Once those adjustments are applied the valuation is £324,538.

8. No reliance eventually placed on the Russell Court properties by Mr Dedman but as a matter of interest, if the average sale prices are adjusted for those flats, a value of around £323,750 is arrived at which would tend to suggest that the figures on the two more reliable comparables are not wildly out of kilter.
9. Taking the average of no 63 and no 171, the Tribunal arrives at a long leasehold value of £326, 690 and when 1% is applied, the freehold value is £329,957.

### **Short lease**

10. The Tribunal considered the best comparable was the sale of flat 26 Jenner House for £295,000 in July 2015, one month after the valuation date. In all the circumstances, the similarity to the subject flat and the fact that it was in the same block made this compelling transactional evidence. A slight adjustment is made for date by Mr Sharp and 1% for aspect and 10% to account for the fact that the Tribunal must consider

that the value is in a no Act world, the figure contended for by Mr Sharp is £261,090.

11. Mr Dedman said that 5% should be adjusted for aspect, as the Property looked onto the courtyard and at a wall which blocked the light. When this was put to Mr Sharp he pointed out a picture of no 26 which showed a sofa in front of the window and a half drawn blind. He said that whilst it does get more light, it is also overlooked by the neighbouring college and that is why the blind was half drawn. There is therefore a loss of privacy which the Property does not have. The Tribunal preferred the evidence of Mr Sharp and agreed a deduction of 1% was more accurate.
  
12. Both sides agreed that the best evidence of the existing lease value was no 26 and in some respects the Tribunal might need to look no further, especially in light of *Arrowdell* regarding transactional evidence. However, Mr Dedman said that this comparable was less valuable than graph evidence; although the Tribunal was not clear as to the basis upon which he made this claim. He took the Tribunal to the to the graph evidence and argued that the existing lease value of no 26 was out of sync with the graph evidence. The Tribunal did not take that view. Firstly, the Tribunal considered that the graphs were to be resorted to if there was no good transactional evidence; it is a second port of call. The Tribunal also took the view that Mr Dedman had been selective in his use of the graphs and had taken out the Becket & Kay graph as he considered it was in some way skewed in favour of landlords, although he offered no clear evidence of that contention. Whilst he had taken out that graph, there were other graphs which could have been taken out on the basis of

location. All the graphs could be criticised in one way or another and care had to be taken when excluding some and not others. The Tribunal comes to the conclusion that the short lease value is £290,100 less a discount for no Act rights.

13. There was a disagreement about the deduction for no Act rights. Mr Sharp contended for a 10% deduction based on: other Tribunal decisions; his experience of acting in the no Act world; a number of reasons, set out in his report, as to why the right to extend was of value and the manner in which the Act enabled that right to be exercised. The Tribunal considered all of those points to be a sensible explanation for his figure. Mr Dedman contended for 3%. Although he provided no clear rationale for that number. The Tribunal prefers Mr Sharp's evidence and 10% is the correct adjustment. That provides a value of the existing lease in the no Act world of £261,090.
14. Capitalisation and deferment rates have been agreed. With regards to relativity the Tribunal takes the view that if there is good transactional evidence that produces the existing and long lease values and look to graphs as a cross check to see if they are dramatically out of kilter. The values arrive at produce a relativity of 79.129%. Mr Sharp produced transactional evidence of two sales at Clare court, a development close to the Property. Those flats are bigger and more valuable but nearby. After applying appropriate adjustments those sales show a relativity of 82.18% and when a further deduction is made to reflect the no Act world, the relativity is 74%. This suggests that the relativity arrived at through the

long and existing lease values in this case of 79.129% is not wildly out of kilter with local transactional evidence.

**15. Conclusion**

The findings of the Tribunal in respect of the individual items in dispute, and the reasons for those findings are as set out above. An application of those findings adopting the statutory formula produces the result that the premium to be paid for the new lease in this case is £41,480, as set out in more detail in the valuation attached to this Decision.

Judge Shaw

18<sup>th</sup> May 2016



## **Appeals**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

# Flat 15 Jenner House, Hunter Street, WC1N 1BL

## APPENDIX A

### The Tribunal's Valuation

#### Assessment of premium for a new lease

In accordance with the Leasehold Reform, Housing and Urban  
Development Act 1993

LON/OOAG/OLR/2016/0011

#### Components

Valuation date:	19 <sup>th</sup> June 2015	
Deferment rate:	5%	
Capitalisation rate:	6%	
Freehold value:	£329,957	
Long lease value	£326,690	
Existing leasehold value	£261,090	
Relativity	79.129 %	
Unexpired Term	62.268 years	
Ground rent currently receivable	£100	
Capitalised @ 6.0% for 29.279 years	13.64	£1364
Rising to:	£150	
Capitalised @ 6.0% for 33 years	14.2302	
Deferred 29.279 years @ 6.0%	0.182	£388
Reversion to:	£329,957	
Deferred 62.268 years @ 5%	0.0479	<u>£15,805</u>
		<b>£17,557</b>

Less value of Freeholders proposed interest

Reversion to VP value:	£329,957	
Deferred @ 5% for 152.268 years	0.0006	<u>£198</u>
		<b>17,359</b>

#### Marriage Value

#### Value of Proposed Interests

Extended leasehold interest	£326,690	
Value of Freehold interest	<u>£198</u>	£326,888

### Value of Existing Interests

Landlord's existing value	£17,557	
Existing leasehold value	<u>£261,090</u>	<u>£278,647</u>
	£48,241	

Freeholders share @ 50% **£24,121**

**LEASE EXTENSION PREMIUM £41,480**