



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

Case Reference : LON/00AY/OLR/2016/0862

Address : 46 Macaulay Court, Macaulay Road, SW4 0QU

Applicants : Alexander Goodwin & Juliette Goodwin

Representative : Mr M Martin BSc (Est Man) FRICS FNAEA

Respondents : Deritend Investments (Birkdale) Limited

Representative : Ms Tozer (Counsel) instructed by Wallace LLP solicitors

Type of Application : Grant of new lease (Section 48 Leasehold Reform, Housing and Urban Development Act 1993)

Tribunal Members : Mr M Martyński (Tribunal Judge)
Mr L Jarero BSc FRICS

Date and venue of Hearing : 5 October 2016
10 Alfred Place, London WC1E 7LR

Date of Decision : 17 October 2016

DECISION

Decision summary

1. The price to paid for the new lease is £67,767.00. The tribunal's valuation is attached.

Background

2. The subject flat ('the Flat') is a one bedroomed property (gross internal area approx. 535 sq.ft.) on the top floor of a 1930s purpose built block ('the Block'). The hot water is supplied by a communal boiler and the heating is provided by an electric system.
3. The intermediate leasehold interest in the Block is held by the First Respondent.
4. The Block is currently run by a Right to Manage Company.
5. The lease for the Flat is dated 1 June 1984 and is for a period of 99 years from 25 December 1981. The remaining term on the lease therefore at the valuation date was 65.19 years.
6. The Notice claiming the right to a new lease for the Flat is dated 15 October 2015 and offers a premium of £35,000. The Counter-Notice is dated 15 December 2015 and proposed a premium of £102,725.
7. The Flat was sold with the benefit of the Notice on 30 October 2015 at a price of £380,000.
8. Number 47 Macaulay Court (the flat next door to the Flat) was sold on a long lease on 22 August 2014 for £440,000.

The valuations

9. Valuation reports were produced for each party by; Mr M Martin BSc (Est Man) FRICS FNAEA for the Applicants and Mr R D Sharp FRICS for the Respondent. The valuers contended for a premiums of £53,000 and £77,672 respectively.

The issues

10. The issues between the parties at the outset of the hearing were:-
 - (a) Long lease value
 - (b) Existing lease value
 - (c) The rate for the capitalisation of the ground rent.

The valuation approaches

Applicant

11. When considering the long lease value of the Flat, Mr Martin, the Applicant's valuer, looked at five one-bedroomed comparable flats and four two-bedroomed flats (including 47 Macaulay Court). He adjusted the prices for time using the House Price Index for Lambeth flats and set out values for psf and psm for each of those flats.

12. Specifically in relation to indexing for time, Mr Martin was of the view that the rise in values in Macaulay Court is significantly less than the Lambeth index average for the period in question. Mr Martin reached this conclusion based on one flat in Macaulay Court, number 18, and the 'tired and shabby' condition of the Block. He stated that this flat sold for £509,000 in July 2014 and then for £535,000 in October 2015. The rise in price was significantly less than the Lambeth index. Based on this one property, Mr Martin considered the rise for period in Macaulay Court is 4.76% as opposed to an index of 11.15%.
13. Looking at the sale of 47 Macaulay Court, Mr Martin took into account, what he considered to be; a dated kitchen and a bathroom '*refitted with a result not to everyone's taste*' in number 46 compared with a '*contemporary*' kitchen and '*modern*' bathroom in number 47 and made a deduction of £10,000 for the effect of the kitchen and bathrooms in each property.
14. Mr Martin then takes the sale price of 47 Macaulay Court in August 2014 of £440,000 and applies his revised indexation for Macaulay Court to arrive at a rounded figure of £461,000. From this figure he deducts the £10,000 for the kitchen and bathroom differences to arrive at £451,000, giving a price of £789 psf.
15. Using a similar analysis of the other comparables and that of number 47 he arrives at an average of £832.11 psf which he uses to arrive at a value of the long lease at number 45 of £445,000.
16. Finally, Mr Martin adds 1% to the long lease value to arrive at a freehold value of £449,450 (rounded)
17. The existing lease value is based on the actual sale of the Flat at, or very near to, the valuation date, of £380,000. The Flat was sold with the benefit of the Claim Notice so Mr Martin then goes on to consider the appropriate discount for no Act rights. He settles on 5% having:-
 - (a) referred to the decision in *Nailrile*¹ in which 7.5% was approved as a no Act rights discount
 - (b) referred to various First-tier tribunal decisions settling on various amounts up to 10%
 - (c) regard to his view that mortgage lenders prefer long leases set against his view that buy-to-let and buy-to-support-children purchasers have capital to invest
 - (d) Clapham is a wealthy area and likely to continue to appeal

Thus Mr Martin arrives at an existing lease value of £360,000 (rounded).
18. The difference between the freehold value of £449,450 and the existing lease value of £360,000 gives Mr Martin a Relativity of 80.10%, a

¹ *Nailrile Limited v Earl Cadogan and another* and similar appeals [2009] 2 EGLR

figure well below some of the graphs of relativity commonly referred to but in line with the new Savilles 2016 graph.

19. As for the Capitalisation of the ground rent, he settles on 6.5% as he considers the rent to be low (at currently £150 p.a. rising to £300 in 30 years).

Respondent

20. Mr Sharp, the Respondent's valuer, when considering the long lease value also refers to the sale of 47 Macaulay Court. He relies on the Lambeth index to arrive at a time-adjusted figure of £488,400. He states that his experience points to the Lambeth index 'sometimes overstating values in this location'. He discounts the Savilles SW London flats index as in his opinion it is weighted towards Wimbledon, Richmond and Fulham and only a small part of Lambeth. He then goes on to consider his two comparable properties, 17 & 18 Orlando Road which are respectively, second and first floor one-bedroomed converted flats. In analysing the sale prices of those flats at £1070 psf and £975 psf respectively, he concludes that the Lambeth Index for the time period in question is reasonable.
21. Mr Sharp makes an upward adjustment of 0.5% to his time-adjusted figure to account for the fact that number 47 has a higher ground rent. This produces a figure of £490,842.
22. Mr Sharp considered that number 47, despite being larger than number 46, was affected by the eaves in the reception room and that number 46 was a better planned flat. He considers the value of number 46 was not far behind that of number 47 and he decides that the long lease value of number 46 is £481,500 (a rate of £900 psf).
23. Finally, Mr Sharp adds 1% to this to get to a freehold value of £486,315.
24. Moving on to the short lease value, Mr Sharp of course takes the actual sale of the Flat at £380,000. However his starting point for no-Act rights is 10%. He stated that he generally assessed the value of Act rights at this percentage. This takes his figure to £342,000. That figure gives rise to a Relativity of 70%. Mr Sharp's report then contains a discussion as to various graphs of Relativity. He settles upon the Beckett & Kay graph as being the most up to date which he says relates to mortgage dependent markets. This graph suggests a figure of 78%. Mr Sharp refers to a decision of the First-tier tribunal dating from 2012 and relating to a property close to the Flat. That tribunal, using market evidence, arrived at a Relativity figure of 73.1% for a lease with 65.25 years unexpired. He then takes an average of the 78%, 73.1% and 70% to arrive at 73.7% but then adds more weight to the 70% figure and averages that with 73.7% to arrive at 71.85%. Thus he arrives at a final figure for existing lease value of £349,417.

25. As to Capitalisation of the ground rent, Mr Sharp adopts a figure of 6%, that being, he says, the usual figure in the neighbourhood and given the absence of risk and low interest rates.

Inspection

26. We inspected the Block on 7 October 2016. As for the exterior of the Block, it was in good condition as it has recently undergone major work including works to the roof and pointing. As for the internal common parts, the Block is in need of redecoration and has suffered to some considerable extent from water damage from the roof. We were told that there are plans to carry out the internal common parts decoration.
27. We inspected the interior of the Flat. We noted the bathroom and kitchen. The kitchen was not dated and the bathroom was not fitted out in a particularly unusual style. Like the kitchen, we considered the bathroom to be of a reasonable modern standard.
28. We were not able to gain access to flat 47 in the Block.
29. We were met at and shown around the Block by a leaseholder and member of the management company. He told us that the Service Charge for the Block was approximately £3,000 with extra calls having been made on leaseholders for the recent external works and substantial further sums due to be demanded for internal decorations, lift repairs and boiler maintenance.
30. We went on to inspect the exteriors of 17 & 18 Orlando Road and 22 & 11 Lambourn Road. All of those addresses are Victorian house conversions.

Decision

Long lease value

31. We start by taking the sale price of 47 Macaulay Court in August 2014 of £440,000.
32. We note that both valuers considered that the Lambeth Index sometimes overstated price increases.
33. We reject Mr Martin's assessment of price increases because that assessment involved the consideration of just one flat in Macaulay Court.
34. We are not convinced by Mr Sharp's cross check against the Index by looking at just two other flats especially as those flats are in Victorian houses which are a very different type of building from the Block.
35. As to Mr Martin's opinion that the rates of price rise in Lambeth over the period in question would have been lower in Macaulay Court than is

suggested in the Lambeth Index, we consider that there may be something in this. Prior to the external works, and taking into account the poor condition of the internal common parts of the Block and taking into account the very large sums of money that have had to be spent and will have to be spent on bringing the Block up to a reasonable condition, the Block may well have presented a very poor prospect for a purchaser and flat values there may well have been below the average shown in the Lambeth Index. Putting this together with both valuers' concerns that the Lambeth Index may overstate price increases, we have settled on a figure of 8% for time adjustment from the sale of number 47 to the valuation date. This produces a figure of £475,200.

36. We do not consider that any deduction from this figure should be made in respect of the kitchen and bathroom in the Flat. The kitchen is modern. All we have seen of the kitchen in flat 47 is a small photograph. We are unable to conclude that the differences between the kitchens is such as to warrant any deduction. We did not see the bathroom in number 47. From our comments on the bathroom in the Flat made in connection with our inspection above, neither do we feel able to make any deduction in respect of the bathroom.
37. As to Mr Sharp's adjustment for the higher rent in flat 47, we do not consider that a higher ground rent (and the rent for flat 47 is not so high as would seriously worry a purchaser) plays any part in the market for flats. A purchaser is unlikely to learn of the amount of ground rent until after he or she has decided to purchase the flat for a given amount and has instructed conveyancers and, if necessary, obtained a mortgage. Learning of a 'highish' ground rent at that stage is unlikely to warrant any further negotiation as to the price of the lease. Whilst a higher ground rent may produce a theoretical price difference, we do not consider that it would produce a difference in the market.
38. As to the differences in the sizes of flat 47 and the flat, we have deducted £10,000, a figure near to the deduction made by Mr Sharp.
39. We settle on the figure of £465,200 for the long lease and add to that 1% for the freehold value taking that value to £469,852.

Short lease value

40. As to the short lease value, we have of course to start at the purchase price at the date of valuation of £380,000. We have settled upon the figure of 7.5% for Act rights. That figure of course sits mid way between Mr Sharp's 10% and Mr Martin's 5%. We note that in *Nailrile* such a figure was accepted. We note that the Act rights are significant but note that mortgages are available for lease terms in the region of 65 years and that the buy-to-let and parents buying for children market is significant.
41. The 7.5% deduction produces a figure of £351,500. That gives a Relativity of 73.23%

Capitalisation of the ground rent

42. We have capitalised the ground rent at 6.5% taking into account that it is relatively low and the current concern as to low interest rates.

Mark Martyński, Tribunal Judge
17 October 2016