

4469



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

Case Reference : LON/00BG/OLR/2016/1912

Address : Flat 11 Towerside, 150 Wapping
High Street, E1W 3PH

Applicant : Santhan Perampalam

Representative : Mr M Burton FRICS

Respondent : Danesdale Land Limited

Representative : Mr K McKeown MRICS

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 R Shaw FRICS

**Date and venue of
Hearing** : 11 April 2017
10 Alfred Place, London WC1E 7LR

Date of Decision : 12 April 2017

DECISION

Decision summary

1. The premium to be paid for the new lease is £9,855.
2. The valuation is attached.

Background

3. The subject flat is a studio flat situated on the third floor of a large purpose-built block.
4. The freehold interest in the Block is held by the Respondent. There is an intermediate landlord (not a party to these proceedings). The intermediate lease has no reversionary value having a term of just 6 days beyond the end date of the Applicant's lease. The intermediate landlord collects the ground rent and pays this to the freeholder less 2%.
5. The Applicant's lease is for a term of 125 years from 25 March 1986. The unexpired term is 94.98 years. The ground rent is currently £248 per annum and adjusts every 25 years to the greater of the rent payable in the previous period or 1/1000th of the capital value of the property.
6. The Claim Notice is dated 30 March 2016 and the Counter-Notice is dated 8 June 2016.
7. The flat was sold with the benefit of the Claim Notice for £355,000.

Agreed issues

8. The issues agreed were as follows:-

| | |
|----------------------------|----------|
| Value of long lease | £355,000 |
| Deferment Rate – Reversion | 5% |

The issues

8. Two main issues were put before the tribunal as follows:-
 - a. Whether there should be a 1% addition to the long leasehold value to arrive at a freehold value
 - b. How the ground rent should be capitalised.

The valuation - Applicant

9. Mr Burton for the Applicant produced a valuation of £8,480.

Freehold value

10. Mr Burton argued that there should be no addition to arrive at a freehold value. His experience was that there was a 50/50 split between valuers as to whether such an addition should be applied. He stated in

Decision

Addition for freehold value

18. We consider (as we pointed out to the parties in the hearing) that it is standard valuation practice to add 1% to the long lease value to arrive at a figure for the freehold.
19. We were not convinced by Mr Burton's argument that there was no value in the freehold. It is generally accepted amongst experts that there is value. In the absence of any other detailed argument on the point, we accept, what is, the balance of expert opinion on the matter.
20. We should point out that Mr McKeown's figure for the freehold value of £358,950 is incorrect, the figure should be £358,550.

Ground rents

21. We consider (again, as we pointed out to the parties in the hearing) that it is standard valuation practice to capitalise the existing rent and the rent at the next review based on values at the valuation date, in a case where there is an uncertain increasing rent.
22. Indeed, Mr McKeown told us that he formerly adopted this method of valuation. He changed his view as a result of a decision in this tribunal in the case of *16 Sopwith Avenue* [LON/00AX/OLR/2016/0697]. Mr McKeown relied on that case as support for his method of valuation of the ground rents. That, we believe, is a misunderstanding of *Sopwith Avenue*. What happened in that case was that the valuers had, prior to the hearing agreed on a method of valuing the ground rents (as per Mr McKeown's method). At the hearing, one of the valuers sought to resile from that agreement. The tribunal refused to allow the valuer to change his position. The decision was based on the grounds of case management. The decision did not endorse the method of valuation, it only prevented the valuers from re-opening the issue of valuation of ground rents which had previously been agreed between them.
23. We did not hear any other argument to dissuade us from adopting a standard approach to the capitalisation of the ground rents as argued for by Mr Burton.
24. As to the YP rate to be applied, we have settled on a figure of 4.5% to reflect the fact that the rents may well increase over time to an attractive figure over and above what may be achieved by a fixed increase balanced against the risks and costs of that mechanism of arriving at future ground rents. We also recognise that high figures are being paid for ground rents on well maintained blocks.
25. As to whether the tenant should pay in respect of all the ground rent or just the freeholder's 98%, we consider that the right approach is as

follows; the tenant is liable to pay to the landlord and intermediate landlord compensation in respect of their loss of rent over time. There is no doubt that the intermediate landlord will lose the rent income. Whether or not that income is of great use to the intermediate landlord is a matter of speculation.

26. Further, we consider that the Leasehold Reform, Housing and Urban Development Act 1993, Schedule 13, paragraph 3.(4) allows assumptions to be made where necessary and appropriate for determining the value of a landlord's interest. That allows us to assume that the intermediate landlord in this case would never, realistically, sell its interest in just this one flat, it would sell its entire interest. Therefore the ground rents over the block as a whole, although small, do have a value over and above the administrative cost of collecting the rents. Therefore there is a value to the rent on the subject flat and it follows that the tenant is liable to pay the intermediate landlord in respect of that value.

Mark Martyński, Tribunal Judge
12 April 2017

Appendix 1

New lease valuation 11 Towerside, 150 Wapping High Street E1W 3PH

| | | | |
|----------------------------------|-------------------------|-------|-------|
| Lease 125 yrs from 25 March 1986 | 94.98 yrs unexpired | | |
| Existing lease value £355,000 | Freehold (+1%) £358,550 | | |
| Capitalisation rate (YP) = 4.5% | PV = 5% | | |
| Diminution in value | | | |
| Present rent | 248 | | |
| YP 19.98 yrs @4.5% | 12.9998 | 3,224 | |
| Review rent | 355 | | |
| YP 75 yrs @ 4.5% | 21.4036 | | |
| PV Deferred 19.98 yrs @ 4.5% | 0.415 | 3,153 | |
| Reversion FHVP | 358,550 | | |
| PV Deferred 94.98yrs @ 5% | 0.0097 | 3,478 | |
| | Premium | £ | 9,855 |