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**PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **VG/LON/00BK/OLR/2016/1233**

Property : **45 Grove Hall Court, Hall Road,
London NW8 9NY**

Applicant : **Nabil Samar Helou**

Representative : **Mr. Andrew M Lester MRICS**

Respondent : **Brickfield Properties Limited**

Representative : **Ms Nicola Muir Counsel instructed
by Wallace LLP**

Type of Application : **Lease extension**

Tribunal Members : **Judge LM Tagliavini
Mr. Richard Shaw FRICS**

Date and venue of PTR : **10 Alfred Place, London WC1E 7LR
6 December 2016**

Date of Decision
**Date of Permission to
Appeal and Amended
Decision &** : **17 January 2017
16 March 2017**

Permission to Appeal and Amended DECISION

DECISION OF THE TRIBUNAL

- A. The tribunal has considered the Respondent's request dated 14 February 2017 for correction and a rehearing of the decision dated 17 January 2017, and determines that:
- (a) The tribunal corrects and review its decision pursuant to rule 50 and rule 51 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013; and
 - (b) Permission to appeal is refused
- B. In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.

REASON FOR THE DECISION

- C. The tribunal has considered all of the grounds raised in the Application for Permission to Appeal and has corrected and reviewed its decision. The decision is reissued as an *Amended* Decision and replaces the original Decision dated 17 January 2017.

NB: Corrections pursuant to rule 50 are struck through in red and corrected by the words in red and underlined in red. Parts of the decision, which have been reviewed or re-made pursuant to rule 51 are in black and underlined in black.

AMENDED DECISION

- 1. The tribunal determines that the sum of £158,233 is payable by the Applicant leaseholder to the Respondent landlord in respect of the premium payable for a statutory lease extension of the subject property known as 45 Grove Hall Court.**

The application

2. The Applicant seeks a determination pursuant to s.48 of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”). By a notice dated 23 November 2015 the Applicant proposed a premium of £92,750. By a counter-notice dated 29 January 2016 the Respondent proposed a premium of £180,000. The parties have agreed the terms of the new lease but not the premium payable.

The background

3. The property, which is the subject of this application, is a two bedroom self-contained flat on the sixth floor of a nine-storey purpose built block of flats forming part of an estate made up of three blocks. A number of internal alterations have been carried out, which include the moving of the kitchen, replacement of the kitchen with a bedroom and ensuite bathroom and the removal of a wall to create a large reception room. The subject property is held on a lease dated 24 October 1986 for a term of 99 years from 24 June 1977 at a ground rent of £250 per annum rising to £500 per annum from 24 June 2043.
4. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

The issues

5. At the start of the hearing the parties identified the relevant issues for determination as follows:
 - (i) The capitalisation rate.
 - (ii) The freehold vacant possession (FHVP).
 - (iii) The current lease value.
 - (iv) The premium to be paid for a statutory lease extension.
 - (v) The value and extent of improvements that fall to be disregarded in the statutory valuation.

The Applicants case

6. Mr. Lester acted in the capacity as both representative and expert valuer for the Applicant at the hearing of this application. In his evidence to the tribunal, Mr. Lester relied upon his report dated 28 November 2016.

7. Mr. Lester stated that he used the comparison method of valuation and adjusted for time by reference to the Land Registry index for City of Westminster flats and maisonettes for short-term price movement. Mr. Lester considered the sales of two comparable properties at the same blocks within six to eight months of the relevant date of 27 November 2015 and three earlier sales in 2014. He utilised the Gerald Eve graph to produce an average relativity of ~~73.88%~~ 78.19%. Mr. Lester stated he applied a deferment rate of 5% relying on *Sportelli* and a ~~6%~~ 6.5% capitalisation rate as interest rates continue at very low levels and the risk of non-payment is very low in this well-managed block and having agreed such a percentage in another similar application. Mr. Lester produced a revised valuation figure of £150,450 as the premium payable for the statutory lease extension.

The Respondent's case

8. The Respondent relied upon the oral expert evidence of Mr. R M Sharp BSc FRICS who referred to his valuation report dated 28 November 2016 (revised 5 December 2016) and provided a revised valuation figure of £188,891 for the premium. In his evidence Mr. Sharp agreed the extent of the alterations and the term of the unexpired lease at 60.57 years, the valuation date, the ground rents payable, the percentage ratio between the extended lease value (ELV) and the freehold vacant possession value (FHVP) and the deferment rate of 5%. The parties subsequently agreed the area of the subject property at 1,000 sq. ft. Mr. Sharp also stated that in his opinion, the effect of the works of agreed alterations was not "great" as the kitchen size was reduced, the ensuite facility is internal and the new hall is dark.
9. Mr. Sharp for the Respondent relied upon the comparable properties located at Nos.186, 102 and 170 Grove Hall Court. He also relied upon the previous tribunal decision at 22 Hall Grove Hall Court *LPTS Ref: VG/LON/ooBK/OLR/2016/1233* where it he had agreed that a capitalisation rate of 6.5% was appropriate.
10. Having heard evidence and submissions from the parties, including the oral and written submissions made by Ms Muir of counsel for the respondent, and considered all of the documents provided in the parties' hearing bundles and the skeleton argument of Ms Muir, the tribunal has made determinations on the various issues as follows.

The tribunal's decision and reasons

11. The tribunal finds that a capitalisation rate of 6.5% is appropriate as the ground rent of £250 rising to £500 per annum is low and easily collectible. The tribunal does not take into account the decision of a previous tribunal in respect of No. 22 Grove Hall Court, as Mr Sharp

has had to reduce his calculation by including Flat 22, which the tribunal finds is not appropriate sales evidence. The tribunal finds that Mr. Sharp has not made sufficient adjustments for condition, which accounts for the real difference arising between the parties valuation. In considering the freehold vacant possession value the tribunal includes the 2014 sales although finds that these make little difference to the outcome. The tribunal does however exclude the (first) sale of No 170 Grove Hall Court as there is insufficient detail provided about the nature of that sale.

12. Both valuers agreed the fact that unauthorised alterations had taken place. Mr Lester made no special regard to them but argued that the flat is required to be valued in its unimproved condition. He discounted his comparables to unimproved condition. Mr Sharp noted that the layout had altered again from that shown in the 1993 layout plan and that the principal benefit of these alterations was the creation of an additional bathing facility. He went on to say that the effect on value was not great but did not elaborate. At paragraph 5.7 of his submission, Mr Sharp referred to these alterations and said that he considered only a minor adjustment should be made; he consequently reduced his extended lease valuation by some £9,200.

Although Mr Sharp may be correct to adjust his valuation the tribunal heard no argument, or cross-examination, on the quantum of any reduction that may be appropriate. It is acknowledged that no increase in value may be attributed to unauthorised alterations. The tribunal found Mr. Lester's approach to the valuation convoluted and lacking in robustness and the approach taken by Mr. Sharpe of limited assistance. In the circumstances the tribunal considers that its extended lease valuation requires no further adjustment

~~12~~13. Therefore the tribunal finds the following:

Flat 45 Grove Hall Court. Valuation date 27 November 2015. 1,000 sq. ft. Lease 60.57 years unexpired.

Long Lease Sales: As adjusted by Mr Lester (including the 2nd sale of flat 170).

Flat (Floor)	Sale Date	Area sq. ft.	Price £	Adj to Val date	Adj to unimproved	Adj to FHVP (+1%)	£ per sq ft.
112 (6)	31/01/14	678	630,000	746,443	709,121 (-5%)	716,283	1,056
40 (7)	14/03/14	982	1,175,000	1,356,534	1,220,880 (-10%)	1,233,213	1,256
9 (5)	17/03/14	1004	1,025,000	1,183,359	1,153,775 (-2.5%)	1,165,430	1,161
186 (1)	17/06/15	913	1,000,00	1,090,75	1,090,756	1,107,367	1,213

			0	6	(0)		
102 (7)	19/01/16	877	1,175,000	1,161,119	1,045,007 (-10%)	1,055,562	1,204
170 (2)	23/06/16	836	1,080,000	1,060,572	954,515 (-10%)	964,156	1,153

Flat (Floor)	£ per sq. ft.	Floor level	Aspect	Roof terrace	Total adjust	Adj £ psf	
112 (6)	1,056				0	1,056	
40 (7)	1,256				0	1,256	
9 (5)	1,161				0	1,161	
186 (1)	1,213	+ 30	- 30	- 61	- 61	1,152	}
102 (7)	1,204		-32		- 32	1,172	} AV
170 (2)	1,153	+29			+ 29	1,182	}
						Av	
						1,163	

Mr Lester adopted £1,143 psf to calculate FHVP value. The above average is higher with Flat 170 (second) sale added.

Long Lease Sales: As adjusted by Mr Sharp

Flat (Floor)	Area Sq. ft.	Adj to Val date	Ground rent provision	Shower room adjustment	Roof terrace	Floor	Smaller size	Condition	Adjusted £ psf
186 (1)	913	1,090,755	+ 0.5%		- £10,000	+1%		+ 0.5%	1,208
102 (7)	878	1,161,120		- 0.3%		- 0.75%			1,273
170 (2)	835	1,080,000*				+ 2%	- 1%	- 4.5%	1,247
									AV
									1,243
22**	965	1,064,250							1,188
									AV
									1,229

*No adjustment made to valuation date. However, the indices provided in the evidence contained in Mr. Lester's report show a change. The tribunal is satisfied that Mr Lester has calculated it correctly.

**FTT decision

Mr Sharp long lease value = 1,229 X 1,000 sq. ft. = £1,229,000.

Mr Sharp then made a notional reduction (-£9000) for improvements at the subject property and adopted £1,220,000.

FHVP @ +1% = 1,232,323 (= 1,232 psf).

Mr Lester's table of adjustments with the tribunal's minor amendments

Flat (Floor)	Sale Date	Sq. ft.	Price £	Adj to Val date	Adj to un-improved	Adj to FHVP (+1%)	£ per sq. ft.
112 (6)	31/01/14	678	630,000	746,443	709,121 (-5%)	716,283	1,056
40 (7)	14/03/14	982	1,175,000	1,356,534	1,220,880 (-10%)	1,233,213	1,256
9 (5)	17/03/14	1004	1,025,000	1,183,359	1,153,775 (-2.5%)	1,165,430	1,161
186 (1)	17/06/15	913	1,000,000	1,090,756	1,090,756 (0)	1,107,367	1,213
102 (7)	19/01/16	877	1,175,000	1,161,119	1,045,007 (-10%)	1,055,562	1,204
170 (2)	23/06/16	836	1,080,000	1,060,572	954,515 (-10%)	964,156	1,153

Flat (Floor)	£ per sq. ft.	Floor level	Aspect	Roof terrace	Total adjust	Adj £ psf	
112 (6)	1,056				0	1,056	
40 (7)	1,256				0	1,256	
9 (5)	1,161				0	1,161	
186 (1)	1,213	+ 30	- 30	- 12	-12	1,201	} AV 1,186
102 (7)	1,204		-30		- 30	1,174	
170 (2)	1,153	+29			+ 29	1,182	} AV
						Av 1,172	

~~12~~14. The tribunal generally accepts Mr Lester's argument on adjustment to unimproved status of the comparable flats. However, the adjustment for the aspect difference on Flat 102 ~~this~~ is amended to 2.5% and the adjustment for the first floor balcony at Flat 186 are reduced, as it is not considered so attractive. Further, the tribunal finds that including 2014 sales or not, makes little difference to the figures. Therefore, the tribunal finds that £1,180 per sq. ft. properly represents the FHVP value. At the now agreed area of 1,000 sq. this equals £1,180,000 as opposed to the value calculated by Mr Lester of £1,142,530 and Mr Sharp at £1,232,323. The tribunal therefore, calculates the Long Lease Value at 99% = £1,168,200.

Short lease value

~~13~~15. In considering the current (short) lease value the tribunal prefers the method taken by Mr. Sharp, while that of Mr. Lester's in its reliance on graphs and MyLeasehold calculations, lacks robustness. Therefore, adopting Mr Sharp's calculations and relying on the tribunal's own expertise, the tribunal allows 7.5% for no Act rights rather than the 10% relied upon by Mr. Sharp.

Flat	Sale price	Adjust value	- 7.5% No Act rights	Relativity against FHVP £1,180,000
22	915,000 (7/15)	1,036,308	958,585	81.2%
128	785,000 (3/16)	991,692	917,315	77.7%
100	790,000 (12/15)	946,062	875,107	74.2%
				Av 77.7%

~~14~~16. The tribunal adopts a relativity of 77.7% in comparison to Mr Sharp at 73.88% and Mr Lester at 78.19. The tribunal therefore determines the premium payable of £158,233 is in accordance with the valuation attached.

Signed: Judge LM Tagliavini

Dated: 17 January 2017
Amended: 16/03/2017