



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

Case Reference : **LON/00AP/OLR/2018/0656**

Property : **First & Second Floor Flat, 41,
Argyle Road, London, N17 0BE**

Applicant : **Mr Awlad Hussain**

Representative :

Respondents : **Miss Angela Milwood &
Miss Maureen May Milwood**

Representative : **Missing Landlord**

Type of Application : **S42 Leasehold Reform, Housing
and Urban Development Act 1993
(the Act) – Missing Landlord**

Tribunal Member : **Mrs H C Bowers – Valuer Chair**

**Date and venue of
Determination** : **25 July 2018 at 10, Alfred Place,
London, WC1E 7LR**

Date of Reasons : **25 July 2018**

AMENDED DECISION

- **The Tribunal determines that the price payable for the lease extension of First & Second Floor Flat, 41, Argyle Road, London, N17 0BE shall be £24,915.00.**
 - **No sums are payable under section 51(5)(c) of the Leasehold Reform, Housing and Urban Development Act 1993.**
 - **The terms of the draft Deed of Surrender and Re-Grant are accepted subject to the comments made in paragraph 16 of these reasons.**
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I exercise my powers under Rule 50 to correct the clerical mistake, accidental slip or omission at paragraph 2 of the Decision dated 25 July 2018. The amendments have been underlined. I have corrected the original Decision because of a typographical error.

Signed: Helen Bowers

Dated 3 August 2018

REASONS

BACKGROUND

1. By an order made by District Judge Lightman dated 29 March 2018 in the County Court at Central London in claim number D03CL020 (“the Order”) between the parties named on the front page of this decision, the matter was remitted to this Tribunal. The original claim was issued on 31 October 2017. The Tribunal is required to determine the premium to be paid for the lease extension and the terms of the surrender and re-grant pursuant to sections 51(5) of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) in respect of the First and Second Floor Flat, 41, Argyle Road, London, N17 0BE (the subject property).
2. The Tribunal had before it a bundle prepared by the Applicant. The original application included the Claim Form with a Statement from Awlad Hussain and supporting documentation; the Court Order of 29 March 2018 and the lease of the subject flat. The lease is dated 23 August 1985 and is for a term of 99 years from 1 December 1984. The ground rent reserved is £50 for the term.
3. Additionally, the Tribunal was provided with a copy of a valuation report with appendices. This expert report was from Mr Colin M Ward FRICS that was dated 12 July 2018. The Tribunal was also provided with a copy of the proposed Deed of Surrender and Re-Grant.

4. The report describes the subject flat as a first and second floor flat conversion in a terrace house dating from the 1890's. The flat has two bedrooms, a reception, separate kitchen bathroom and separate WC and has a GIA of 760 sq ft. There is no external space included in the demise. The flat has the benefit of central heating and double-glazed windows. There are photographs of the property, a floor plan showing the layout and plans showing the location of the property and the comparables.

5. At the valuation date of 1 November 2017 there is an unexpired term of approximately 66.08 years. Mr Ward has valued the ground rent with a capitalisation rate of 6%, based on his experience of rates used for low, fixed ground rents. He also adopts a deferment rate of 5% following the decision in Sportelli.

6. As an introduction to the comparables, Mr Ward noted that the subject flat sold in 2007 with a term of 76.47 years unexpired, for £148,000. Details of several comparable properties within a short distance of the subject property were provided and these were adjusted to reflect the difference in dates by using the Land Registry House Price Index for maisonettes and flats in the London Borough of Haringey. The comparables are:
 - 58 Argyle Road - sold in October 2017 for £530,000 and adjusted for time to £518,000. This is a two-storey, freehold house with three bedrooms and a garden and is described in good condition.
 - 30 Argyle Road - sold in March 2017 for £380,000 and adjusted for time to £368,000. This is a two-storey, freehold house with two bedrooms and a garden.
 - 57B Baronet Road - sold in December 2017 for £330,000 and adjusted for time to £327,000. This is a converted two-bedroom first floor flat with no garden.
 - 73A Steele Road - sold in June 2017 for £332,500 and adjusted for time to £320,750. This is a converted two-bedroom first floor flat with a small garden.
 - 36, Parkview Road – sold October 2017 for £326,500 adjusted for time to £319,000. This is a converted two-bedroom ground floor flat.
 - 89 Brantwood Road - sold in May 2017 for £325,000 and adjusted for time to £320,750. This is a converted two-bedroom flat.
 - 5 Briaris Close- sold in October 2017 for £334,400 and adjusted for time to £326,500. Purpose-built two-bedroom flat with garden.
 - 3 Cromberdale Court - sold in May 2017 for £330,000 and adjusted for time to £325,500. Purpose-built two-bedroom first and second floor maisonette.

7. From averaging the sales of the six flats (£323,250), Mr Ward concluded that the value of the subject flat in an unimproved condition would be £325,000. He made a 1% differential between the long lease value and the freehold value of the flat, to arrive at a freehold, vacant possession value of £328,283.
8. Mr Ward makes no reference to any sales of flats subject to short leases. He adopts a relativity of 88% based upon negotiated settlements and his analysis of the Greater London and England graphs from the 2009 RICS Report on Relativities. He says that the average of the graphs produces a relativity of 90.02% but he considers that the Nesbit graph is the most realistic and from that figures of 88.65%, but adopts 88%. This gives an existing lease value of £288,889.
9. By inputting these variables into a recognised valuation formula, Mr Ward calculated the premium to be £24,915.00.
10. The Tribunal comments on these submissions in the findings section below.

FINDINGS.

11. In essence the Tribunal is happy to adopt the capitalisation rate proposed by Mr Ward as the ground rent is modest and fixed sum. The adoption of 5% as a deferment rate is standard and in line with relevant case law and is accepted by the Tribunal.
12. In respect of the long lease values for the subject flat, Mr Ward has provided evidence of sales that would support his long lease value of £325,000.00. The Tribunal therefore adopts that figure.
13. As to the issue of relativity, it is accepted that due to the lack of any short lease evidence the use of the relativity graphs would be appropriate in this case. Mr Ward has gone lower than the figures produced by the average of the graphs and as such has not adopted an unrealistically high percentage. Therefore, the Tribunal accepts the relativity of 88% as adopted by Mr Ward.
14. The Tribunal has checked all these variables and the valuation and confirms a premium of £24,915.00.
15. The Tribunal has also considered whether any sums are payable under section 51(5)(c) of the Act. It would appear that no ground rents have been demanded and there are no details as to whether any service charges have been demanded. However, if the Respondent landlord has not served any rent or service charge demands in the statutory form no arrears of service charges are payable and therefore no sum is therefore payable into court under section 51(5)(c) of the Act.
16. In respect of the draft Deed of Surrender and Re-grant under paragraph 1 the word 'full title guarantee' should be replaced with

'limited title guarantee'. Arrangements should be made for the relevant sums to be paid into court in accordance with the Civil Procedure Rules, otherwise the draft Deed of Surrender and Re-Grant is agreed.

Chair: Helen Bowers

Date: 25 July 2018

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office, which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking