



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

**Case reference** : **AB/LON/00AJ/0LR/2019/0461**

**Property** : **83b Ealing Park Gardens, Ealing,  
London W5 4ET**

**Applicants** : **Mr David John Gibbons**

**Representative** : **Anthony Holden Croft and Co  
(Solicitors)**

**Respondent** : **Mr John Kelly**

**Representative** : **Not applicable (missing landlord)**

**Type of application** : **Application under Sections 50 and  
51 of the Leasehold Reform  
Housing and Urban Development  
Act 1993**

**Tribunal members** : **Ian B Holdsworth FRICS MCI Arb**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of paper  
determination** : **12 June 2019**

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**DECISION**

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## **Decisions of the Tribunal**

- (1) The Tribunal determines that the price to be paid by the applicant for the lease extension is **£35,100**.
- (2) The terms of the draft lease are provided for in paragraph 12 below.

## **The Background**

1. This is an application under Section 50 of the Leasehold Reform Housing and Urban Development Act 1993 (“the 1993 Act”) pursuant to an order issued at the County Court at Brentford on 12 March 2019.
2. Section 50 of the 1993 Act concerns claims for lease extension where the relevant landlord cannot be found. It enables the court to make a vesting order in respect of any interests of the landlord which are liable to acquisition.
3. Under Section 51 of the Act, the role of the Tribunal is to determine the appropriate sum to be paid into Court in respect of the landlord’s interests and also to approve the form and terms of the proposed new lease.
4. The applicant in this matter is Mr John David Gibbon. He is the qualifying tenant of the first floor maisonette flat, namely Flat b 89 Ealing Park Gardens, Ealing, London W5 4ET (“the Property”). The respondent freehold owner is a Mr John Kelly.
5. On 26 April 2018 the applicant issued a Part 8 Claim at the County Court at Brentford for a vesting order under Section 50(1) of the 1993 Act seeking to extend the lease under the terms of the Act. The applicant has been unable to ascertain the whereabouts of the respondent and was therefore unable to serve a notice on him pursuant to Section 13 of the 1993 Act.
6. The applicant has provided the Tribunal with a valuation report prepared by Mr Richard D Stacey BA (Hons), PGDip Surv, MRICS dated 4 June 2019.
7. Mr Stacey is of the view that the premium to be paid for the leasehold extension is £24,523.
8. No sales transaction evidence is provided in the submitted valuation report for current lease value to support the opinion of Mr Stacey of the premium payable. The Tribunal has relied upon their knowledge and experience of the property market in the Ealing area in making this

determination. They have also had regard for recent and relevant Upper Tribunal decisions.

### **The Determination**

9. The Tribunal accepts the opinions expressed by Mr Stacey in his valuation report dated 4 June 2019 save that:
- (i) No market evidence on current lease value is submitted in this case. The Expert relies upon data from a review of the RICS Research Report dated October 2009 on relativity. The reliability of the RICS relativity graphs is criticised in the decision *Sloane Stanley v Mundy* {2016} UKUT 0233 (LC) and in *Mr Nick Mallory and others v Orchidbase Limited* {2016} UKUT 468.
  - (ii) The Expert includes in his submission reference to a number of First-tier Tribunal decisions to support his reliance upon the RICS relativity graphs. This Tribunal is not content to rely solely upon these First-tier Tribunal determinations and places greater weight on the guidance given by the Upper Tribunal on relativity. The authorities given most weight in this decision are:
    - *Sinclair Gardens Investments (Kensington Ltd)* [2017] UKUT 494 (LC), is a decision involving George Court, Chelmsford. The UT assessed a relativity of just under 82% for an unexpired term of 66.8 years. The Upper Tribunal relied upon the Savills 2016 graph as the source of this relativity; and
    - *Judith Reiss v Ironhawk Ltd* [2018] UKUT 311 (LC), a decision involving 76 Hampden Lane London N17 (Tottenham). The UT assessed a relativity rate of 86.9% for an unexpired term of 75.23 years. They concluded that there was no reliable local evidence, and again chose to rely on the 2015 Savills' enfranchiseable graph.
  - (iii) In determining relativity, the Tribunal must focus on the state of the market in Ealing at the valuation date. In the absence of any evidence of local transactions, we must consider what relativity graph was used by the local market at the time or which

graph best reflects the operation of that local market.

- (iv) In our experience as an expert Tribunal, the local market in Ealing is different from Prime Central London. This reflects a range of factors. The market is less well informed. There is a greater demand for shorter leases.
  - (v) It is also our opinion the market reflects recent Tribunal guidance on the calculation of lease extension premiums.
  - (vi) We therefore take an average of the relativities for an unexpired term of 66.67 years from the GE 2016 and Savills 2016 graphs. This produces a figure of 82.6% as our starting point but adds 2% to reflect the local market conditions in Ealing.
  - (vii) The relativity adopted by the Tribunal is 84.6% for the current lease at the property.
10. The adjusted calculation has resulted in premium of £35,100. A copy of the Tribunal's valuation is attached to this decision.
  11. Accordingly, the Tribunal determines that the premium to be paid in respect of the leasehold extension of Flat b 89 Ealing Park Gardens, Ealing, London W5 4ET is £35,100.
  12. The Tribunal also approves the draft proposed lease included in the bundle at (7), pages 58-66 which has been submitted by the applicant, subject to the inclusion at paragraph LR7 **Premium** and section 5 that the consideration (the premium of £35,100) has been paid into court.
  13. This matter should now be returned to the County Court sitting at Brentford under Claim Number EOOOBF 633 in order for the final procedures to take place.

Valuer Chairman Ian B Holdsworth FRICS MCI Arb

12 June 2019

<b>Property: 83b Ealing Park Gardens Ealing London W5 4ET</b>			
Reference: AB/LON/00BAJ/OLR/2019/0461			
<b>Lease and Valuation Data</b>			
Lease Term:		25/12/1985	
Lease Expiry date:		24/12/2084	
Unexpired term as at valuation date:	66.66	years	
Date of Valuation		26/04/2018	
Rent receivable by landlord:			
1-33 years	£	100	
34-66 years	£	200	
67-99 years	£	400	
<b>Values</b>			
Extended lease value on statutory terms	£	360,000	
Notional Freehold	£	363,636	
LHVP with current term unexpired	£	307,636	Relativity 84.60%
Capitalisation rate (%)	6.00		
Deferment rate (%)	5.00		
<b>Value of Freeholders present interest</b>			
<b>Terms 1-3</b>			
Current term value		£	3,601
Reversion			
Freehold in vacant possession	£	363,636	
Deferred @ 66.66 years @ 5%		0.03868	£ 14,067
Current value of the freeholders interest			£ 17,668
Less			
Freehold value after leasehold extension	£	363,636	
PV of £1 in 156.66 years at 5%		0.00048	£ 174
Freeholders interest value			£ 17,493
<b>Marriage value</b>			
Value of flat with long lease on statutory terms	£	360,000	
Landlords proposed interest	£	174	£ 360,174
Less			
Value of Leaseholders existing interest	£	307,636	
Value of Freeholders current interest	£	17,668	£ 325,304
Marriage value	<b>Total</b>		£ 34,870
Division of Marriage Value equally between			
Freeholder			£ 17,435
Leaseholder			£ 17,435
<b>Price payable to Freeholder</b>			
Value of freeholders current interest			£ 17,668
Plus share of marriage value			£ 17,435
	<b>Total</b>		£ 35,103