



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

Case reference : **LON/00BH/OCE/2021/0139**

Property : **101B St John's Road Walthamstow,
London E17 4JH**

Applicants : **Ms Stephanie Lawrence**

Representative : **Cavendish Legal Group**

Respondents : **George Anthony Austin
Sandra Maureen Austin**

Type of application : **Section 27 (1)-(5) of the Leasehold
Reform, Housing and Urban
Development Act 1993-Application
for Premium to be paid, missing
landlord**

Tribunal members : **Judge Daley
Mr K Ridgeway MRICS**

**Date of determination
and venue** : **1 November 2021 paper Remote.**

Date of decision :

DECISION

Description of hearing

This has been a remote video hearing on the papers which has been not objected to by the parties. The form of remote hearing was P:PAPERREMOTE, A face-to-face hearing was not held because no-one requested the same, and all issues could be determined on paper. The documents that the Tribunal were referred to are in a bundle of 235 pages.

Summary of the tribunal's decision

- (1) The appropriate premium payable to the freeholder for the collective enfranchisement is **£35,350**.

- (2) **The Tribunal confirms the form of the transfer document TRI for Title Number SY302250**

Background

1. This is an application made by the Applicant (nominee purchaser/qualifying tenant) on 4 August 2021, following an application to the county court for a vesting order in relation to the freehold interest in the premises known as 101B St Johns Road, Walthamstow, London E17 4JH.
2. The Applicant in her application to the county court, set out, and produced documentary evidence confirming that she was the qualifying tenant of the above premises, pursuant to a 99-year lease held by the claimant since 2015.
3. In their county court application the applicants stated that they were unable to make a claim in accordance with the Act. In her witness statement the Applicant confirmed that the landlords had been missing prior to her purchasing the property, and she detailed the steps that had been taken to ascertain her landlord's whereabouts. This led to the solicitors tracing the second respondent Mrs Austin. Mrs Austin confirmed that she was divorced from the first respondent, whom she believed to be living abroad. having lost contact with him. It is also believed that the first Respondent may have changed his name and may also be known as Professor Karl Crossman.
4. Mrs Austin confirmed through her solicitors Anthony King via an email dated 17 January 2019, that she was willing to grant an extension of the lease, subject to the agreement of the first respondent's trustee.
5. Notice of the claim was served pursuant to an order of District Judge Naidoo dated 2 February 2021 at the last known addresses for the Respondents. The matter was then listed for hearing firsts on 12 May 2021, and then on 8 July 2021. Neither respondent appeared or was otherwise represented.
6. On 8 July 2021, neither respondent appeared, District Judge Manners made an order that the claimant is entitled to acquire the premises on such terms as may be determined by the First-tier (Property Chamber)

as if the Applicant had, at the date of this claim given notice under section 452 of the 1993 Act to exercise the right to acquire a new lease. “ 3. The aforesaid vesting is subject to the Chief Land Registrar disapplying (or otherwise disregarding) the restriction of 7 May 1890 that is against the freehold of the house.”

7. On 4.08.2021, the Applicant applied to the tribunal for a determination of the premium and terms of acquisition. Directions were given and the matter was set down for a paper determination.
8. The Applicants’ provided the Tribunal with a bundle of documents, and a valuation from Mr Tim J Henson BSc, MRICS, RICS Surveyor comprising 16 pages, dated 24 September 2021.

The issues

9. The following matters were uncontentious :
 - (a) The subject property is situated in a residential road off Forest Road (A503) approximately 0.7 miles from Wood Street overground station. St John’s Road is located near the shopping facilities of Walthamstow and the underground station (approximately 1 mile away. It is also subject to controlled parking with residents parking permits.
 - (b) The premises is a 1 bedroomed flat, on the first floor in a converted terraced building, with one other flat on the ground floor.
 - (c) The Flat entrance is on the ground floor comprises an entrance hall, private entrance and stairs to a landing, reception room with bay, double bedroom, bathroom/WC and a kitchen with a GIA of approximately 54.36 square metres (585.14 ft).
 - (d) The valuation date: 27 September 2019
 - (e) Details of the tenants’ leasehold interests:
 - (i) The property is held under a lease dated 7 October 1986, for a term of 99 years. The unexpired lease is 65.26 years. The ground rent is £50.00 pa.
 - (ii) Condition of the property- The property is in good condition with a replacement of the bathroom, kitchen and the installation of central heating since the lease was granted.

The Determination

10. The Paper Determination of this matter took place on 1 November 2021.
11. None of the parties asked the tribunal to inspect the property and the Tribunal did not consider it necessary to carry out a physical inspection to make its determination.
12. The Applicants relied upon the expert report produced by Mr Tim J Henson .
13. Mr Henson considered the market conditions at the valuation dated as set out in the Uk Residential Marketing Survey for September 2019. The market was described as broadly flat, with near term sales standing at -9%, with a predicted three month decline of -16%.
14. Mr Henson had considered 4 comparable flats 3 ground floor, and 1 first floor, 2-bedroom flat, with sale dated of 31.1.2019 to 12.09.2019 9.07.2019. The sales prices ranged for £270,000 to £342,000
15. Although the flats were of a similar age and style and in the same or on an adjoining road. The ground floor comparables, had their own gardens. Only one flat, 3A Victoria Road, was a one-bedroom, flat selling on 9.07.2019 at £270,000.
16. Mr Henson described flat 4 of his comparables 26 Victoria Road which was a two-bedroom flat with sole use of the garden and 89 years unexpired lease term, as an “outlier” as although it was in very good condition, it was smaller than the subject flat at 48.9m².
17. In paragraph 4.3.4 Mr Henson stated that his was of the opinion that the range of value is £5,250m² - £5.750m² which equates to a value of £285,390- £312,570. He stated that having done a “sense check” allowing for the size of the flat he would value it at £300,000.
18. In paragraph 4.1.1 of his report he set out the difficulties that he had of obtaining direct comparables of short and long lease sales. He had therefore adopted a relativity by reference to Zucconi and taken an average of the Gerald Eve and Savills Enfranchiseable Graph of 80.04% +79.95%= 79.995 say 80%.
19. Mr Henson adopted a deferment rate of 5% following the decision in *Sportelli* and a capitalisation rate of 7%.
20. In his calculations he adopted a 1% uplift for the difference between the long leasehold value and the freehold value of the premises. In his

calculations the freeholder's interest was £13,255 and the leaseholder's interest in the un-extended lease £242,400. The marriage value was calculated at £44,500, with the freeholder's share being £22,250. Mr Henson had rounded the premium down to £35,500 for the lease extension.

The tribunal's determination

- The Tribunal determines that the appropriate premium payable to the freeholder for the lease extension is **£35,350.00**

Reasons for the tribunal's determination

21. The Tribunal in reaching its decision accepted Mr Henson's evidence as set out in his report. The Tribunal considered the valuation for the flat. It accepted the calculations provided by Mr Henson, and adopted a capitalisation rate of 7%, and a deferment rate of 5%. The Tribunal also adopted a relativity of 80%.
22. The value of the reversion was considered by the Tribunal, although the Tribunal used the same deferment rate as Mr Jones, it arrived at a figure for the valuation of £303,000. The Tribunal adopted the capitalisation rate of 7% of the ground rent at 65.26 giving a figure of £706.00. The value of the landlord's interest after the lease extension is £155.00. The Tribunal adopted the Deferment rate of 5% at 65,26 to producing a vacant possession value of £12,550.00.
23. The Tribunal has adopted Mr Henson's valuation and has determined that the existing lease value is £255,655, producing a marriage value of £44,500. The Respondent's share of the marriage value is £22,250. Producing a premium of £35,350.00

The premium

- The tribunal determines the appropriate premium to be **£35,350**
- **The Tribunal's calculations are provided in the annexe.**

Name: Judge Daley

Date:

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Valuation for lease extension

101b St Johns Road, London, E17 4JH

<u>Valuation Date</u>	<u>27/09/2019</u>			
<u>Lease Commencement</u>	<u>01/01/1986</u>			
<u>Lease Term</u>	<u>99.00</u>	<u>years</u>	<u>Expiry</u>	<u>31/12/2084</u>
<u>Unexpired Term</u>	<u>65.26</u>	<u>years</u>		
<u>Long Lease value</u>	<u>£300,000</u>			
<u>Freehold VP value</u>	<u>£303,000</u>	<u>+1% long lease value</u>		
	<u>Term 1</u>	<u>Term 2</u>	<u>Term 3</u>	
<u>Ground rent</u>	<u>£50.00</u>	<u>£0.00</u>	<u>£0.00</u>	
<u>Reversion years</u>	<u>65.26</u>	<u>0.00</u>	<u>0.00</u>	
<u>Capitalisation rate</u>	<u>7%</u>			
<u>Deferment rate</u>	<u>5%</u>			
<u>Compensation</u>	<u>£0.00</u>			
<u>Relativity</u>	<u>80.00%</u>			

Diminution of Landlord's interest

<u>Ground rent</u>				<u>£50</u>	
<u>YP</u>	<u>65.26</u>	<u>yrs @</u>	<u>7.00%</u>	<u>14.11300463</u>	
					<u>£706</u>
<u>Rent Review 1</u>				<u>£0</u>	
<u>YP</u>	<u>0.00</u>	<u>yrs @</u>	<u>7.00%</u>	<u>0</u>	
<u>PV of £1</u>	<u>65.26</u>	<u>yrs @</u>	<u>7.00%</u>	<u>0.012089676</u>	
					<u>£0</u>
<u>Rent Review2</u>				<u>£0</u>	
<u>YP</u>	<u>0.00</u>	<u>yrs @</u>	<u>7.00%</u>	<u>0</u>	
<u>PV of £1</u>	<u>65.26</u>	<u>yrs @</u>	<u>7.00%</u>	<u>0.012089676</u>	
					<u>£0</u>
<u>Reversion to VP value</u>				<u>£303,000</u>	
<u>PV</u>	<u>65.26</u>	<u>yrs @</u>	<u>5.00%</u>	<u>0.04141773</u>	
					<u>£12,550</u>
					<u>£13,255</u>
<u>Value existing freehold</u>					
<u>L/lor's interest on reversion of new lease</u>					
<u>FH VP</u>				<u>£303,000</u>	
<u>PV</u>	<u>155.26</u>	<u>yrs @</u>	<u>5.00%</u>	<u>0.00051304</u>	
					<u>-£155</u>
					<u>£13,100</u>

Landlord's share of Marriage Value

<u>Val. Tenant's interest</u> <u>new long lease</u>			<u>£300,000</u>	
<u>Val. l/lord's interest</u> <u>after reversion of new</u> <u>lease</u>			<u>£155</u>	
			<u>£300,155</u>	
		<u>Less</u>		
<u>Val. tenant's interest</u> <u>existing lease</u>	<u>Relativity</u>	<u>80.00%</u>	<u>£242,400</u>	
<u>Val. l/lord's interest</u> <u>existing lease</u>			<u>£13,255</u>	
			<u>£255,655</u>	
			<u>£44,500</u>	
<u>Marriage Value at</u> <u>Compensation</u>	<u>50%</u>			<u>£22,250</u>
				<u>£0</u>
<u>PREMIUM</u>				<u>£35,350</u>