



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

**Case Reference** : **CAM/26UG/OLR/2021/0162**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **116A Lower Luton Road**

**Applicants** : **Hector Luis Cabrera Poch and Maria  
Marcela Baudo**

**Respondent** : **Southern Land Securities**

**Type of Application** : **Determination of premium and terms  
for new lease.**

**Tribunal Members** : **Judge Shepherd  
Regional Surveyor Mary Hardman FRICS**

**Date of Determination** : **24<sup>th</sup> May 2022**

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**Determination**

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1. This is an application for determination of the premium or other terms of acquisition remaining in dispute made pursuant to section 48 (1) of the Leasehold Reform Housing and Urban Development Act 1993 ("The Act"). The application is made with reference to premises at 116 a Lower Luton Rd,

Harpenden AL5 5AN (“The premises”). The applicant is Hector Louise Cabrera Poch and Maria Marcela Budo ( “the tenants”) The respondent is Southern Land Securities Limited (“the landlord”) . At issue is the validity of a s.42 notice.

2. On 19 May 2021 the tenants served notice of claim to exercise the right pursuant to section 42 of the Act. Paragraph 10 of that notice was left blank by the tenants. The landlord says that this renders the notice invalid. The tenants say the notice is valid. They rely on schedule 12, paragraph 9 of the Act which states that the tenants notice is not invalidated by any inaccuracy in the particulars. But without prejudice to this proposition they served another notice dated 20th of August 2021 which has a date inserted at paragraph 10. Both parties agree that this notice is valid.
  
3. In the landlord’s counter notice to the second notice the tenants’ proposed premium of £4000 is rejected and the premium required is £17777.20. The reason for the marked difference in premium is the inclusion of marriage value in the calculation because the unexpired term by the date of the second notice was less than 80 years. If the original notice was valid the unexpired term of the lease was still in excess of 80 years and there would be no marriage value. Accordingly, the Tribunal’s decision about the validity of the original notice is significant in terms of premium at least. The parties are at one in relation to the premium for the lease extension triggered by the second notice-£17,777.20
  
4. The Tribunal asked for written submissions in relation to the validity of the first notice. The landlord maintained that the original notice was invalid because under section 42 (3) of the Act the tenants’ notice must contain the date by which the landlord must give their counter notice which must be at least two months from the date of the tenants’ notice. As indicated above paragraph 10 of the original notice was left blank. The landlord however accepts the validity of the second notice and aver that the valuation date should be 20 August 2021.

5. For their part the tenants maintained their position that the original notice was valid. They relied on several authorities to support their proposition that the lack of a specific date does not invalidate the notice.

### **Validity of the original notice**

6. The notice served by the tenants on 19th of May 2021 was invalid because paragraph 10 of the notice, the date of any counter notice, was a mandatory requirement under the Act. It is clear that the notice of claim shall not be invalidated by any *inaccuracy* in any of the particulars required by section 42 (3): schedule 12 paragraph 9 (1) of the Act. In the present case there was however a complete failure to provide one of the required particulars rather than an inaccuracy. The authors of Hague on Leasehold Enfranchisement seventh edition at paragraph 30-10 support the proposition that an omission of a required particular is probably sufficient to invalidate a notice. The date of the counter notice was a required particular under section 42(3) and it was simply not included. In these circumstances the Tribunal must find that the notice was invalid.
7. The parties agree the consequence of this finding, namely that the second notice is valid and that the cost of the premium is £17777.20. The Tribunal has no basis to challenge this valuation. Accordingly this is the premium payable.

**Judge Shepherd**

**24<sup>th</sup> May 2022**

## **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 to 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 (ie 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.