FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**IR/LON/00BH/OLR/2018/0145**
Property	:	**2A St George's Road, Leyton, London E10 5RH**
Applicant	:	**Balmick Seegolam**
Representative	:	**Thirsk Winton LLP** **Mr. Richard Murphy Dip Surv; MRICS**
Respondent	:	**Fatima Ahmed and Aisha Ahmed and Amina Mayet**
Representative	:	**TMW Solicitors** **Mr. David Nesbitt BA(Hons) MSc MRICS MFPWS**
Types of Application	:	**Lease extension**
Tribunal Members	:	**Judge Tagliavini** **Mr. K Ridgeway MRICS**
Date and venue of Hearing	:	**12 June 2018** **10 Alfred Place, London WC**
Date of Decision	:	**1 August 2018**

DECISION

© CROWN COPYRIGHT 2013

Decisions of the tribunal

(1) The tribunal determines the following:

(i) The capitalisation rate is 6%
(ii)The accommodation comprises a one-bedroom flat
(iii)The rate of relativity is 82.7%
(iv)The freehold vacant possession value is £328,572
(v)The premium payable is £37,863

The application

1. The Applicant seeks a determination pursuant to section 48(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act").

The background

2. The property which is the subject of this application is a first floor self-contained flat, converted from a 2-storey Victorian end of terraced house situate close to the busy road in the Leyton area of Waltham Forest and let on a lease dated 16 June 1977 for a term of 99 years from 1 January 1977.

3. By a Notice served pursuant to section 42 of the 1993 Act and dated 9 June 2017, the Applicants sought the grant of a new extended lease of the subject property at a premium payable of £19,000. The Respondent served a Counter Notice dated 7 August 2017, admitting the Applicants' right to acquire a new lease but counter proposed a premium payable of £80,000.

4. Neither party requested an inspection of the subject property and the tribunal did not consider that one was necessary, as a number of photographs of the relevant premises were provided, nor would it have been, proportionate to the issues in dispute.

The issues

5. At the start of the hearing, in a statement of agreed and disputed facts, the parties identified the relevant issues for determination by the tribunal as follows:

(i) The capitalisation rate?
(ii) The extent of the accommodation (subsequently agreed at 599 sq. ft.)
(iii) The rate of relativity?

(iv) The long leasehold (unimproved) interest?
(v) The premium payable?

6. The parties agreed a deferment rate of 5% and a long leasehold to share of freehold value at 1%. The valuation date was agreed as the 9 June 2017.

The Applicant's case

7. At the hearing, the Applicant relied upon the oral evidence of Mr. Murphy who spoke to his report dated 30 May 2018. Mr. Murphy told the tribunal that the subject property was in a poor state of repair with tenant's improvements consisting of UVPC double glazing. Mr. Murphy stated, that in his opinion the subject property comprises a one-bedroom flat, as the partition of one room thereby creating two bedrooms was an unapproved alteration. Further, the flat was in a tired and dated condition requiring refurbishment to bring it up to a modern standard.

8. Mr. Murphy told the tribunal that in his valuation he had regard to the case of *Nicolson v Goff* [2007] 1 EDLR 153 when considering the loss of ground rent. He had concluded that the rent of £45 fixed for 19.56 years, increasing to £60 thereafter for 20 years, and finally increasing to £75 for the last 19 years was unexceptional and unlikely to keep rate with inflation. Mr. Murphy therefore adopted a capitalisation rate of 7%.

9. In calculating the loss of reversion, incurred by the addition of 90 years to the lease, Mr Murphy relied on the primary evidence of comparable properties provided by three converted flats in the E10 area, at 11a St Georges Road, 2 Maud Road and 92A Dunedin Road. Mr. Murphy made a number of adjustments, using the House Price Index (HPI) for the kitchen, bathroom, general refurbishment and garden (where appropriate), and by making an adjustment for the share of freehold of 1%, thereby reaching an average price of £305,348 or £575 per sq. ft. Mr. Murphy also considered secondary evidence in the form of nearby ground floor flats at 9a Maud Road, 189 Dawlish Road, 71 Huxley Road and 17a Dunedin Road, again all in the E10 area, thereby finding an average price of £322,082 or £625 per sq. ft.. Mr. Murphy told the tribunal that as Leyton is not an area where flats are marketed on a per sq. ft. basis he had averaged the values and had reached a freehold vacant possession value of £328,572 and applying a 1% adjustment, had calculated an unimproved extended long lease value of £325,286. Applying the reversion calculated of £18,637, a loss of ground rent of £694, Mr. Murphy stated he calculated a loss of value to the landlord's interest of £19,331.

10. In a consideration of relativity for an unexpired term of 58.56 years Mr. Murphy adopted an average relativity by reference to 5 relevant graphs in the RICS Research Report of 84.61% from which, he extrapolated the

discount of 2.26% arriving at a relativity of 82.7%, thereby arriving at the landlord's share of marriage value of £17,246.

11. Mr. Murphy told the tribunal that he had adopted a capitalisation rate of 7% and adopting the above figures in his valuation reached a premium payable of £36,600.

The Respondent's case

12. The Respondent relied upon the oral evidence of Mr. Nesbit who spoke to his report dated June 2018. Mr Nesbit told the tribunal that there was no concrete evidence in respect of the configuration of the flat as one bed or two-bedroom property and therefore, the tribunal should accept it is a two bedroom flat as depicted in the photographs provided. Mr. Nesbitt relied upon a schedule of long leasehold transaction evidence of two-bedroom units, of a similar albeit smaller size to the subject property. He told the tribunal he had adjusted these transactions to reflect the effluxion of time between the valuation date and the completion date of the sales evidence, thereby giving a range of sales between £363,451 to £492,960, which provided an average figure of £420,170 with an adjusted price per sq. ft. of £720 giving a long leasehold value of £432,000.

13. In respect of relativity, Mr. Nesbitt's adopted starting point was to consider the relevant Act World evidence, specifically a development at Grosvenor Court E10, which he considered to be suitably proximate to the subject property. This development was said to provide a number of long lease and short leases sales within a relativity narrow time frame, making them good comparatives to the subject property. Mr. Nesbit stated that he considered the most relevant sale being that of Flat 17 Grosvenor Court at £338,000 which, he stated capitalises to a share of freehold value of £341,000. Applying the land registry index to the sale of Flats 7 and 10 Grosvenor Court and by utilising the Beckett and Kay Graph, these provided a relativity of 70.67%. Further, Mr. Nesbitt adopted a capitalisation rate of 6% and in his valuation calculated that the premium payable for a new lease is £74,533.

The tribunal's decision and reasons

14. The tribunal finds that the subject property comprises a one bedroom flat as described in the Mortgage Valuation Report dated 29 May 2007, as a first floor flat in a converted Victorian terrace property. The tribunal finds that the crude attempt to partition one room to create two bedrooms is an alteration unauthorised by the landlord. The tribunal also finds that the sales at Grosvenor Court, do not provide good comparable evidence, as the photographs provided to the tribunal showed a purpose-built block of flats on 4 floors with the interiors providing significantly lighter and more spacious accommodation than the subject property. Further, the tribunal considers that Grosvenor Court is located too far from the subject property and in a more upmarket area and the sales relied upon too far from the valuation date

to provide reliable comparable evidence. The tribunal found Mr. Murphy's reliance on the evidence of similar one-bedroom properties in the area to provide more useful evidence of sales and preferable to the Respondent's evidence.

15. The parties having agreed the subject property as comprising 599 sq. ft. found that a capitalisation rate of 6% as proposed by the Respondent was more appropriate than the 7% favoured by the Applicant.

16. In reaching its decision as to the long leasehold value, the tribunal preferred the evidence of Mr. Murphy as the prime evidence he relied upon was similar in size and character to the subject property, being first floor flats without gardens, in contrast to the Grosvenor Court property Mr. Nesbitt favoured. The tribunal accepts Mr. Murphy's evidence that the freehold vacant possession value of the subject property is £325,319 subject to a 1% adjustment providing a figure of £328,572 for the long leasehold value.

17. In determining the relativity, the tribunal again preferred the approach of Mr. Murphy to that of Mr. Nesbitt and his reliance upon the evidence of two-bedroom flats. Therefore, the tribunal finds that the rate of relativity is 82.7%.

18. In conclusion, the tribunal determines that the premium payable for the grant of a new lease is £37,863 as set out in the valuation attached at Appendix A.

Signed: Judge Tagliavini **Dated: 1 August 2018**

Appendix A

Valuation for lease extension - Flat 2a St Georges Road, Leyton, London, E30 5RH

Valuation Date				09/06/2017		
Lease Commencement				01/01/1977		
Lease Term				99.00	years	
Unexpired Term				58.56	years	
Value FH VP				£328,572		
					99% FH	
Long Lease Value				£325,286	VP	
Ground rent				£45.00	£60.00	£75.00
Term & reversion years				19.56	20.00	19.00
Capitalisation rate				6.00%		
Deferment rate				5.00%		
Compensation				£0		
Relativity				82.70%		

Diminution of Landlord's interest

Ground rent				£45		
YP	19.56	yrs @	6.00%	11.33496274		
					£510	
Rent Review 1				£60		
YP	20.00	yrs @	6.00%	11.46992122		
PV of £1	19.56	yrs @	6.00%	0.319902236		
					£220	
Rent Review2				£75		
YP	19.00	yrs @	6.00%	11.15811649		
PV of £1	39.56	yrs @	6.00%	0.099747029		
					£83	
Reversion to VP value				£328,572		
PV	58.56	yrs @	5.00%	0.05743209		
					£18,871	
L/lord's interest on reversion of new lease						
FH VP				£328,572		
PV	148.56	yrs @	5.00%	0.00071141		
					-£234	
						£19,217

Landlord's share of Marriage Value

Tenant's interest new long lease				£325,286	
L/lord's interest on reversion of new lease				£234	
				£325,520	
Less					
Val'n tenant's interest existing lease	Relativity	82.70%	£269,012		
Val'n l/lord's interest existing lease			£19,217		
				£288,229	
				£37,291	
Marriage Value at	50%				**£18,646**
Compensation					£0
PREMIUM					**£37,863**