



**HM Courts
& Tribunals
Service**

2654



**Residential
Property
TRIBUNAL SERVICE**

**LEASEHOLD VALUATION TRIBUNAL
FOR THE LONDON RENT ASSESSMENT PANEL**

In the matter of the

**Leasehold Reform Housing and Urban Development Act 1993, Section 50 and
Schedule 13**

and

In the matter of

2B Fortunegate Road, Harlesden, London NW10 9RB

Case Reference: LON/00AE/OLR/2013/0345

Applicant: Marie Teresa McClure

Respondents: James Joseph Kenna and Paul Michael Kenna

**Representations:
For the applicant:**

**Sayer Moore and Co, Solicitors
Mr Barrington C. Sworn FRICS- Valuer**

Date of vesting order: 13 January 2013

Date of transfer to LVT: 14 February 2013

Date of paper determination: 1 May 2013

**Leasehold Valuation Tribunal: Miss J. Dowell, Solicitor
Mr D. Jagger FRICS**

Date of decision: 10 May 2013

DECISION

- (1) The tribunal determines that the price payable for the lease extension is £9,331, together with £900 in respect of outstanding ground rent.

The application

1. This is an application under Section 50 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") by the long leaseholder of the first floor flat registered at HM Land Registry under title no. NGL 637354. The respondents are the registered freehold owners of the freehold land known as 2 Fortunegate Road, Harlesden, London NW10 registered under title no. MX411206. The official copies as at 22 November 2012 provided to us show the address of the registered proprietor as 2 Fortunegate Road, Harlesden, London NW10. The applicant has no other address for the freeholder. Proceedings were issued in the Willesden County Court Claim No. 2WI01936 on 3 December 2012, the valuation date.
2. By an order made on 20th February 2013 and dated 7 March 2013 Deputy District Judge Allen recorded that the court was satisfied that the applicant was a qualifying tenant and had a right under Chapter 2 of the Act to acquire a new lease and that the first and second defendants, the freeholders, could not be found. It was ordered that the matter be transferred to the leasehold valuation tribunal for a determination of the terms of the new lease and the premium.
3. We were provided with a bundle of documents which included the county court claim form and exhibits, the court orders and notices, the title documents and lease including draft proposed new lease, a statement by the applicant and valuation report of Mr Sworn and a schedule showing information in respect of outstanding payments due under the lease.

The lease

4. The lease is dated 22 September 1988 and made between James Joseph Kenna and Paul Michael Kenna (1) and Peter William Bradley and Sonia Elizabeth Bradley (2) for a term of 99 years from 25 March 1988 at a yearly ground rent of £150 for the first 33 years, £300 for the next 33 years and £600 for the last 33 years. The demised premises are described as a flat known as the first floor flat at 2B Fortunegate Road (including the roof) shown edged blue on the attached plan. There is also reference to "the other flat" which is the ground floor flat at 2A Fortunegate Road. We record here that there is some confusion about the spelling of Fortunegate Road but it is shown in the lease as Fortunegate Road (not Fortune Gate Road) and therefore we have used the spelling in the lease.
5. The lessee's covenants are contained in clause 5 of the lease and include an obligation to keep the interior and the exterior of the property in repair and in

valuation date of 3 December 2012 is 74.3 years and therefore the new term will be 164.3 years commencing 25 March 1988.

Valuation

11. The valuation date is 3 December 2012 being the issue date recorded on claim form under 2WIO1936.

Evidence

12. The evidence as to the price to be paid for the lease extension is contained in the report prepared by Mr Sworn and dated 16 April 2013. This report describes 2 Fortunegate Road as located at the south western end of Fortunegate Road close to the junction with Craven Park. Properties in the immediate vicinity mainly comprise similar two-storey terraced houses dating from about 1890 some of which have been converted into self-contained flats. 2 Fortunegate Road itself comprises of two-storey end-of-terrace house dating from about 1890 and constructed of nine inch solid brickwork under a pitched roof now having interlocking concrete tile covering. The valuer believes that the property was converted into self-contained flats at about the time the lease was granted in 1988. The building appeared to be in reasonable condition and internally the flat was reasonably presented and no serious defects were noted.
13. The flat is accessed from the common hallway at ground floor level to a small lobby and staircase rising to the first floor. Currently the accommodation has a front reception room with kitchen recess, a middle bedroom, a bathroom, a rear bedroom and a floor area of approximately 57 sq. metres. The plan attached to the lease shows the original layout of the accommodation with a front bedroom, middle living room, bathroom, rear kitchen with the floor area remaining unchanged.
14. Mr Sworn has adopted a valuation date of 30 November 2012 having been told that that was the date the application was made. However as the application was issued on 3 December 2012 this is the correct valuation date. It does not however make any difference to Mr Sworn's valuation.
15. Mr Sworn has adopted a capitalisation rate of 6.5% as the ground rent is escalating and he is of the opinion the lease should prove a reasonably attractive investment.
16. He has adopted a 5% deferment rate as he does not see any reason to depart from the decision in *Sportelli*.
17. With regard to relativity, he concludes that the appropriate relativity is 94% having considered various sources of data including six graphs, the RICS

report on leasehold reform relating to the graphs of relativity published in October 2009 and a number of settlements in which he has been involved.

18. Valuing the extended lease, Mr Sworn has noted that a predecessor in title has carried out works that have improved the value of the property. Schedule 13 Part 2 of the Act states that "the value of the interest should be assessed on the assumption that any increase in value of the flat which is attributable to an improvement carried out at his own expense by the tenant or any predecessor in title is to be disregarded". He has therefore valued the property as a one-bedroom flat in accordance with the design and layout as shown on the plan attached to the lease. At page 1 of section 4 of the bundle the applicant has provided a signed statement confirming that changes to the flat since she purchased it in 2000 have been cosmetic rather than structural and include the installation of a new bathroom suite and fitted kitchen and all the floors have been laid with pine floorboards with the exception of the hallway.
19. Mr Sworn refers to three comparables, 36 Bolton Road, London NW10 ground floor flat with rear garden, 84 Fortunegate Road, first floor flat and 72B Brownlow Road, a one-bedroom flat sold at an auction. Making the necessary adjustments he concludes the open market value of the property on a long lease is £203,000 at the valuation date. Mr Sworn's calculation of the premium is shown at Appendix 6 of his report and shows the premium payable as £9,811.40.

Findings

20. We have considered in detail Mr Sworn's report dated 16 April 2013 included in section 4 of the bundle.
21. We accept the capitalisation rate of 6.5% and agree with Mr Sworn's opinion that the property "should prove a reasonably attractive investment".
22. We accept the deferment rate of 5% as this is non controversial and is the rate to be taken from *Sportelli*.
23. In relation to relativity, we conclude that the correct relativity is 94.5%. The reason for this is that we do accept any reliance on the graphs of Austin Gray and Andrew Priddell as these relate to south coast properties rather than outer London. We also reject any reliance on the report of the John D. Wood Pure Tribunal Graph as this relates to prime central London. We have rejected Mr Sworn's settlement figures which relate to a property in Sunningdale and therefore not relevant for this property, a decision in 2008 which is too distant in time and a decision in March 2009 in SW10 which is a very different area from NW10. Settlement figures in any event are not reliable in that none of the circumstances of the settlement are known to us.

24. On the basis of the graphs which we do accept are relevant being Beckett and Kay, South East Leasehold and Nesbitt and Co, and the RICS Research Section 3 we conclude that the appropriate relativity is 94.5%.
25. With regard to the long lease value Mr Sworn is correct that this property should be valued as a one-bedroom flat in accordance with the plan attached to the 1988 lease. We are told that the area is 57 sq. metres. We have considered the comparables at 36 Bolton Road, 84 Fortunegate Road and 72B Brownlow Road. Mr Sworn's conclusion on long lease value was £203,000. We concluded that Mr Sworn has stood back and made a fair valuation and we agree with his figure of £203,000.
26. Our valuation is attached to this decision and the lease extension premium is calculated at £9,331.

Other sums or estimated sums due to the landlord from the tenant at the time of execution of the lease – section 51(5)(c) of the Act

27. The solicitors for the applicant prepared a schedule pursuant to direction 3(i) of the LVT directions dated 15 March 2013. This schedule informed us that the applicant completed her purchase of 2B Fortunegate Road on 11 February 2000, that no ground rent has been paid by the applicant or demanded from the applicant and that the payments which may be payable to the missing landlord are those set out in the lease of 2B Fortunegate Road namely:
 - (a) ground rent at £150 per annum limited to six years under the Limitation Act 1980 totalling £900;
 - (b) there are no service charges due to the missing landlord under the terms of the lease or otherwise;
 - (c) a notice of assignment and charge fee of £40 plus VAT each would have been payable by the applicant to the landlord after completion on 11 February 2000 if the landlord could have been traced and this should now not be payable.

Decision

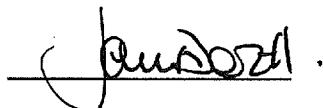
28. The applicant is liable for six years' ground rent taking into account the effect of the Limitation Act 1980 being a total of £900.
29. The lease does not provide for the payment of any service charges or insurance to the landlord.
30. Clause 5(e)(ii) of the lease provides for payment of a registration fee for each transfer and charge and therefore in principle a sum of £40 plus VAT is payable. However given the length of time that has elapsed since the lease was assigned to the applicant on 11 February 2000 i.e. over thirteen years we

consider this sum is not payable as the landlord could not be found when the lease was assigned and has not been traced since.

Summary

31. The premium payable for the lease extension is £9,331 (as shown in Appendix A) and the sum payable for outstanding ground rent is £900 making a total due of £10,231.

Chairman:



Jane Dowell

Date:

10 May 2013

2B Fortunegate Road London NW10 9RB

APPENDIX A

The Tribunal's Valuation

Assessment of Premium for New Lease

In accordance with Schedule 13, Leasehold Reform, Housing and Urban Development Act 1993

LON/00AE/OLR/2013/345

Components

Valuation date:	3 rd December 2012	
Yield for ground rent:	6.5%	
Deferment rate:	5%	
Long lease value	£203,000	
Freehold value	£205,000	
Existing leasehold value	£193,725	
Relativity	94.5 %	
Unexpired Term	74.313 years	
Ground rent currently receivable	£150	
Capitalised @ 6.5% for 8.313 years	6.270	£940
Rising to:	£300	
Capitalised @ 6.5% for 33 years	13.459	
Deferred 8.313 years @ 6.5%	0.592	£2,392
Rising to:	£600	
Capitalised @ 7% for 33 years	13.459	
Deferred 41.313 years @ 6.5%	0.0741	<u>£599</u>
		£3,931
Reversion to:	£205,000	
Deferred 74.313 years @5%	0.0266	£5,457
Less Freehold Reversion term + 90 year		<u>£68</u>
		£9,320
Marriage Value		
Extended leasehold interest	£203,000	
Plus Freehold Reversion	<u>£68</u>	
	£203,068	
Landlord's existing value	£9,320	
Existing leasehold value	£193,725	£203,045
	£23	
Freeholders share @ 50%		£11
LEASE EXTENSION PREMIUM		<u>£9,331</u>