

DECISION

Introduction

- 1 By an application dated 3rd July 2012 the Applicant Tamara Catherine Harvey applied to the Tribunal for a determination of the premium payable for the extension of the lease of the property known as 42 Knollys House Tavistock Place London WC1 9SA ("the flat ") pursuant to Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 ("The Act").
- 2 An initial notice under section 42 of the Act was given on 21st September 2011 proposing a premium of £30,175 but apparently not served until 10th November 2011 and this has been agreed between the valuers as the valuation date. The landlord's counter notice was served on 12th January 2012 and proposed a premium of £136,577
- 3 Directions were given in August 2012 and the matter came before the Tribunal for hearing on 6th and 7th November 2012. The Applicant was represented by Mr D Cooper MRICS and the respondent by Mr R Sharp FRICS both valuers. Evidence for each of the parties was given by the valuers and a final submission made by both valuers.

Inspection

- 4 The subject property is a fourth floor flat located in a red brick Edwardian mansion block of seven storeys including basement and comprising 41 flats. The building is situated in Tavistock Street a mixed residential area between Russell Square and Kings Cross near the junction with Judd Street with a variety of commercial properties and very close to London University and in an area popular with students. The block backs on to a property called "The Generator " which is a student hostel.
- 5 There was an entry phone system leading to a central hallway with stairs and a lift access up to 5th floor level all of which were utilitarian in character but clean and reasonably well maintained. The subject property

is the largest property in the block comprising Flats 41 and 42 which have been combined

- 6 The open walkway areas faced north whilst the balconies faced south. . In principle these were on balance an advantage providing light and air and with the inner walkway to the subject flat being partly enclosed with a double glazed window and railings
- 7 On the south facing there is a WC which is in working order and houses a wall mounted gas fired boiler. This room was in use at the time of inspection . In the view of the tribunal the external WC and the balcony and walkway clearly added value to the flat.
- 8 The flat itself consisted of a hallway, three double bedrooms, living room and dining room which led to the adequately fitted kitchen and balcony.. the flat had gas fired central heating throughout and its condition may best be described as “typical student accommodation” as seen

The Hearing

- 9 The Tribunal was not assisted by the fact that at the outset of the hearing very little had been agreed between the valuers . Some agreement was reached during the course of the hearing on capitalisation rate and on the gross internal area of the flat As a result when it came to the final valuations each of the valuers had to make considerable adjustments to their original valuations

The Lease

- 10 The Applicant holds a lease of 99 years from 5th March 1979 at a ground rent of £100 per annum up to March 2012 ,£200 per annum up to march 2045 and thereafter at £400 per annum for the remainder of the term The lessee contributes 3.57% of the costs of the building by way of service charge. . Other lease terms are also agreed.

Agreed Items

- 11 The valuers were able to agree on the following items :-
 - (1) The valuation date November 10th 2011
 - (2) The unexpired term 66.37years

- (3) The deferment rate 5 %
 - (4) The differential between the extended lease and the freehold value 1%
 - (5) There are no tenant's improvements to take into account.
- 12 The gross internal area of the flat was originally not agreed between the valuers but in the course of the hearing at the request of the tribunals the gross internal area was agreed at 1030.5 sq feet excluding balconies and walkways which amounted to 74 sq feet Mr Cooper had originally contended for 990 square feet excluding areas of the walkway, balcony and toilet which he considered of no value. Mr Sharp had measured the area at 1060 sq feet. The additional areas over which the valuers failed to agree amounted to just over 74 sq feet to which Mr Sharp ascribed a value of £15,000
- 13 Likewise the capitalisation rate was not agreed. Mr Cooper contended for 7% and Mr Sharp for 6%. Since the impact on the premium was minimal the Tribunal prevailed upon the valuers to agree the capitalisation rate at 6.5%

Items in dispute

- 14 The virtual freehold which Mr Cooper valued at £660,000 based on 990 sq feet at £665 per sq ft.. Mr Sharp valued the extended lease at £700 per square foot and arrived at a figure of £750,000 in his report.
- 15 The existing lease values Mr Cooper originally contended for a sum of £655,000 based on £663 per square foot . Mr Sharp in his report contended that he existing lease value was £550,000
- 16 The valuers therefore disagreed widely on the premium to be paid. . Mr Cooper in his report sought to argue that he could justify a lower premium than that contained in the section 42 notice but would be content to accept that figure. . Mr Sharp in his report contended for a premium of £116,513. All of these figures were adjusted several times in the course of the hearing which caused a certain amount of confusion. . the Tribunal decided therefore to determine the matters of principle and then carry out its own valuation independently to arrive at the premium to be paid

The Evidence .

Freehold /Extended Lease Values

17 Mr Cooper relied upon the following comparables to support his valuations on the freehold value and made adjustments for time and size of flats.

6 Grafton Mansions Dukes Road WC1
35 Jessel House Judd St., London WC1
105 Bedford court mansions Bedford Ave., London WC 1
20 Bristol House Southampton Row London WC 1
47 Jessel House Judd St., London WC 1
4 Thackery House Brand St., London WC 1
9F Peabody buildings Herbrand St., London WC 1
11 A. Peabody Buildings Herbrand St., London WC 1
73 Jessel Houses Judd St., London W fromC1

18 The valuers agreed that a smaller flat would have a greater value per square foot than a larger flat Mr Cooper did not make adjustments for the absence of a lift until the third floor whereas Mr Sharp considered the absence of a lift relevant for all upper floors.

19 Mr Cooper adjusted for time based on HM Land Registry Prices Index for the London Borough of Camden to reflect the adjustments for time and has adopted the period from January 2011 to September 2012

20 He said that the average price per sq foot based on his comparables was £665 but if the figure was restricted to the most relevant comparables it would amount to £631 per sq foot

21 He considers that Jessel House Grafton Mansions , Peabody and Thackery were good comparables. He did not consider Jenner House for which he did not have any particulars although Mr Sharp said that he had drawn this property to his attention which appeared to be disputed. He deducted £75 per sq foot in relation to Peabody and arrived at £635 per sq ft and said that if Bristol and Bedford were excluded as they were larger and further away this would produce an average of about £672 per sq foot. In his report he contended for a figure of £665 per sq ft.

22 He therefore in his original report valued the extended lease at £660,000 but in the light of the agreement concerning the area of the flat he revised this figure to £690,270.

23 Mr Sharp relied mainly upon the following comparables and also made adjustments for time and size

9 F Peabody Buildings

11A Peabody Buildings

50 Jenner House Hunter Street which he considered particularly appropriate as unlike some of the other comparables it had a lift like the subject property

.He considered Grafton Way was a walk up property and some distance away . The Peabody Properties were social housing blocks and he considered Jessel House much smaller and closer to Euston Road and therefore not such a good comparable.

24 His time adjustments were based on the Savills Index for Prime Central London properties which he considered to be the most reliable guide for movement of the market in Central London

25 For the Peabody properties after adjustment he arrived at figures of £760 and £835 per sq ft and for Bristol a figure of £769 per sq ft.. His figure for Jenner House was £758 but this flat and the two Peabody Flats were smaller flats. Standing back he decided that a n appropriate figure per sq ft would be £700 per square foot which would result in a figure of £739,190 including the sum of £15,000 for the walkways, balconies and toilet

Existing Lease Values

26 Mr Cooper relied upon 4 transactions within Knolly's House itself three of which predated the valuation date and one was subsequent to the valuation date. . They were

(a) 18 Knolly's House 3rd October 2010 at £365,000

(b) 18 Knolly's House 28th September 2012 £550,000 at £1038 per sq ft which was out of line with other prices

(c) 33 Knolly's House 15th April 2011 £370,000

(d) 31 Knolly's House 12th April 2012 £365,000

- 27 He took an average of the process for these properties and arrived at a figure of £663 per sq ft . He allowed an adjustment of 5% for the no Act world
- 28 Mr Cooper argued that there was no automatic right for a landlord to obtain marriage value if it did not exist and maintained that in the present case the existing lease showed a value of 99% and that therefore there was no marriage value and the landlord should receive nothing.
- 29 In the alternative he argued that the tribunal should adopt a figure of 88.5% and based this on two decisions of the tribunal in **39 and 47 Wimbledon Close The Downs London SW20** and **60 Taymount Grange Taymount Rise SE23** .
- 30 He finally arrived at a valuation for the existing lease of £660,00 which according to him was only minimally less than the extended lease value to which he ascribed the sum of £670,000
- 31 Mr Sharp based his argument on relativity on 33 Knolly's House and considered that the second transaction on 18 Knolly's House should be disregarded . Mr Sharp refers in his report to the Lease Graph as being the most representative although he refers to it with some reluctance as he considers that in a weak market the graphs are less reliable than market evidence and the decision of the Upper tribunal in Coolrace although relying upon the Lease Graph indicated that it was not to be used as a precedent for such
- 32 In his analysis of 33 Knolly's House he concludes that the sale price represents a figure of £612.50 per square foot based on a time adjustment for the Savill's Index . He there fore takes the value of the existing lease at 33 as £611,000 and makes an adjustment of 10% for no Act rights and arrives at a figure of £550 000 in his report but that figure was reduced by virtue of the reduced area of the flat as agreed .

33 As the subject flat is larger than 33 he considers that an adjustment of 7-8% per sq ft is appropriate and that he considered that the final value for the existing lease would be £534,000 which would produce a relativity of about 72.33%

34 Mr Sharp's final figure for the premium was therefore £114,242

The Tribunal's Decision

Freehold /Extended Lease Values

35 In relation to the freehold values the Tribunal preferred the comparables produced by Mr Sharp and considered that his valuation of £700 per square foot was closer to the correct figure. In particular the tribunal considered that Jenner House was a relevant comparable and was much closer to the subject property than some of those relied upon by Mr Cooper

36 The Tribunal also considered that it was appropriate to make adjustments as Mr Sharp had where the building did not contain a lift where the property was on any of the upper floors.

37 The Tribunal did not accept that the walkways balcony and toilets were of no value and accepted the value ascribed to them by Mr Sharp in the sum of £15,000.

38 In the event the Tribunal arrived at a value for the extended lease of £739,190 which if adjusted by 1% would result in a freehold value of £746,582

Existing Lease Values

39 The Tribunal rejected the contention of Mr Cooper that there was no marriage value for a lease with an unexpired term of 66.37 years and that the existing lease value was roughly equivalent to the extended lease value. His conclusions were based on subjective adjustments and his view on the value of an existing lease being equivalent to an extended lease flies in the face of general knowledge and experience.

- 40 The Tribunal accepted that the comparables in Knolly's House were good evidence but considered that the latest sale of 18 Knolly's House should be excluded because the amount per sq ft was out of line with the other comparables in the block and applied after it had been refurbished and sold in September 2012
- 41 The Tribunal considered that the later sale of 18 Knolly's House distorted the average and decided to exclude it from consideration. The adjusted figures for the other three transactions were £566 for 33, £,630 for the first sale of 18, and £646 for 31 according to Mr Cooper who had adopted a figure of only 5% for the no Act world deduction. This produced an average of £614 per sq ft
- 42 The Tribunal considered that the figure adopted by Mr Cooper was too high because he should have made a slightly higher adjustment for condition and allowed 10% for the no Act world deduction. Mr Sharp's figure of £534,000 was in the view of the tribunal too low. Accordingly the Tribunal adopted a figure of £585 per sq ft which produced a figure of £608,000 which after adding the walkways balcony and toilet would result in a figure of £622,197. This produced a relativity of approximately 83.34% which in the view of the Tribunal is reasonable and broadly in line with the graphs

Conclusion

- 43 The Tribunal therefore valued the subject property at a premium of £74,791 and rounded the figure to £74,800. A copy of the valuation is appended hereto.

Chairman Peter Leighton
Date 16th January 2013

PROPERTY:

Flat 42 Knollys House

VALUATION DATE:

10 November 2011

Agreed floor areas and 6.5% yield on ground rent

Existing lease Value	£622,197
Extended lease Value	£739,190
Freehold/very long leasehold	£746,582
Unexpired term	66.37 yrs

Diminution in value of Competent landlord's interest

Loss of rental income	£100		
YP 0.3669 6.5%	0.351393		
			£35.14
Loss of reviewed income	£200		
YP 33 yrs def 0.3669	13.15168		
			£2,630.34
Loss of income	£400		
YP 33 yrs def 33.3669	1.646054		
			£658.42
Reversion	£746,582		
PV £1 in 66.37 years @ 5%	0.0392		
			£29,266.01
Less value of landlords' proposed interest			
	£746,582		
PV £1 156.47 years 5%	0.0004		
			£298.63
			£32,291.27

Marriage Value

Tenants Proposed Interest	739,190		
Landlords Proposed Interest	298		739,488
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Landlords Interest	32,291		
Tenants Present Interest	622,197		<u>654,488</u>
Marriage Value		85,000	
50% of Marriage Value			<u>42,500</u>
			<u>74,791</u>

but say ~~£74,800~~ 74,800