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LONDON RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
LEASEHOLD REFORM HOUSING AND URBAN DEVELOPMENT ACT 1993**

Case Reference: LON/00AJ/OLR/2012/1465

Premises: 99 Connell Crescent, London W5 3BJ

Applicant: Sarah Morris

Represented by: Ringley Legal

Respondent: Daejan Properties Limited

Represented by: Wallace LLP

Appearance for Applicant: Mr David Field, FRICS, Ringleys Chartered Surveyors

Appearance for Respondent: Mr Myron Green, MRICS, MGC Chartered Surveyors

Leasehold Valuation Tribunal: Ms F Dickie, Chairman
Mrs S Redmond, MRICS, BSc (Econ)

Date of Determination 2 May 2013

Summary of Decision

1. The Tribunal determines relativity at 58%, and an uplift to freehold value of 0.5%, and accordingly that the premium for the extended lease at £72,566 in accordance with the valuation attached.

Preliminary

2. Application has been made under s.48(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for a determination of the premium to be paid for an extended lease of the subject premises ("the premises"). Those premises are the property known as 99 Connell Crescent, London W5 3BJ, being a self contained flat at first floor level in a block of four, having its own side access and a garden to the rear.
3. The Respondent granted a lease of the property for a term of 90 years (less three days) commencing on 22 September 1950, with a ground rent of fourteen guineas (£14.70), the Applicant being the current leaseholder.
4. A Notice of Claim under section 42 of the Act was served by the Applicant on the Respondent on 18 April 2012 (the valuation date), proposing a premium of £54,997. A counter notice was served by the Respondent on 18 June 2012 admitting the tenant's right to acquire a new lease of the premises. There was no agreement as to the premium payable, the Respondent proposing a premium of £95,896. The unexpired term of the lease on the valuation date was 28.42 years.
5. By an application to the Leasehold Valuation Tribunal received on 14 December 2012 the Applicant sought a determination under s.48 of the Act. The tribunal issued directions on 9 January 2013. By the date of the hearing the lease terms had been agreed, and for the purposes of valuing the premium a capitalisation rate of 7% and deferment rate of 5% had been agreed also. The parties' expert valuer representatives took time before the start of the hearing to negotiate the long lease value, which was then agreed at £215,000. The tribunal did not therefore need to inspect the subject premises. The only issues therefore for the determination of the tribunal was the appropriate rate of relativity and what, if any, uplift to freehold value was appropriate.

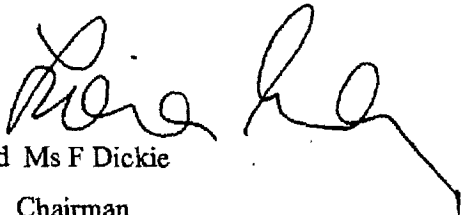
The Evidence and the Tribunal's Determination

6. Mr Field for the Applicant had regard to the RICS Research Paper "Leasehold Reform: Graphs of Relativity", but considered that the Beckett & Kay graph figure at 28 years (43.48%) was out of line and excluded it. He relied on the figures on the graphs at 28 years for Nesbitt (56.4%), Andrew Pridell Associates (62.15%) and Lease, England & Wales (61.4%) as well as the later John D Wood "Pure Tribunal Graph" at 59.6% to produce an average of 59.88%. Mr Field did not rely on the Austin Gray graph because it covered Brighton and the South East and believed it was based on a small data sample.
7. By reference to his calculations of average price per square foot for sales of long lease flats at £392 psf and of short lease flats at £250 psf Mr Field assessed an average relativity of 63.7%. Mr Field had not adjusted his short lease sales to allow for the No Act World.
8. He also relied on the sale at auction of 126 Connell Crescent in July 2011 for £175,000 with an extended lease, comparing it to the sale of 81 Connell Crescent by auction in December 2011 for £125,000. Both properties were one bedroom flats (which Mr Field said typically were of about 500 square feet in this development). The auction particulars gave no details of condition other than describing number 81 Connell Crescent as "the subject of a recent refurbishment programme".
9. Mr Field derived a relativity of 71.4% from these sales, but Mr Green considered that this approach was wrong as there had been no adjustment for condition (the amount of such an adjustment being difficult to reliably determine on the very limited evidence) and no adjustment to reflect the hypothetical purchase of the short lease in a No Act World. The tribunal notes purely for the purposes of illustration that an adjustment for condition of, say, 10% and for the No Act World of 7.5% would result in a relativity of 59%. Whilst Mr Field did not in any event rely on the figure of 71.4% for relativity, the tribunal agrees with Mr Green that it is difficult to draw any assistance from these sales for the reasons he put forward.

10. Mr Green began with an average of all Greater London graphs (Beckett & Kay, Nesbitt, Austen Gray and Andrew Pridell) of 52.78%, but considered the Nesbitt & Co. graph to have the most weight at 56.74% as it was a local firm with data most relevant to this location, covering "Predominantly Greater London and the outer suburbs". This, he concluded, was the appropriate relativity figure.
11. Mr Green also relied on an actual transaction, in his case the sale of 104 Connell Crescent (a two bedroom flat) for £135,000 in June 2011, which he adjusted by 7.5% for the No Act World and to £127,000 for time (according to the Nationwide and Lloyds indices). He used a freehold value of £217,500 (his figure prior to settlement on the day of the hearing) to arrive at a relativity of 58.4%. His 7.5% adjustment for the No Act World was on the basis of his professional judgment and negotiation experience at that figure, and his knowledge that a higher figure of 10% was sometimes relied on by experts.
12. Mr Field had no knowledge of the sale of 104 Connell Crescent when he produced his report, but acknowledged that it would have brought down slightly his figure for relativity. He thought Mr Green's adjustment of 7.5% was arbitrary and too high, that it was extremely difficult to adjust to reflect the No Act World, and so had not done so. The tribunal considers such an adjustment necessary, however, under the statutory valuation hypothesis and in the absence of competing expert evidence as to an appropriate figure it accepts Mr Green's figure of 7.5%.
13. Mr Green unaware of the sale of number 36 Connell Crescent. Expert reports had been exchanged too late to allow sufficient time for each expert to seek relevant evidence on condition to arrive at an informed opinion of the effect of the other sale on their respective figures for relativity.
14. In the view of the tribunal it is reasonable to exclude Austen Gray from consideration since the notes to the graph suggest it is not reliable for lease lengths under 50 years,

but not the Beckett & Kay graph simply because the percentage appeared to Mr Field to be too low. Variances are taken into account in reaching a mean. The tribunal has therefore considered an average of Beckett & Kay, Nesbitt and Andrew Pridell figures at 28 years (those at 28.4 years were not provided) of 54.01%. However, the Nesbitt and Andrew Pridell graphs appear to have data that is more relevant, and their average is 59.28% at 28 years. Given the decision of the Upper Tribunal in *Arrowdell Ltd. v Coniston Court (North) Hove Ltd.* 2006, LRA/72/2005, the tribunal has not drawn significant assistance from the graphs derived solely from LVT decisions.

15. Mr Green preferred his figure derived from the graphs to transactional evidence, but notwithstanding the need for subjective adjustments the tribunal considers that it should have regard to the adjusted sales evidence of numbers 104 and 36, though its value is limited given the circumstances.
16. Taking a stand back view of all of the evidence, and attaching such weight as appropriate, the tribunal considers that the correct figure for relativity is 58%.
17. Mr Green adjusted the long leasehold value by 1% to arrive at a freehold value, since he considered it would be a more attractive purchase. Mr Field said there was no uniform practice of making such an adjustment, and he had not done so. The tribunal prefers Mr Green's argument that some market value should be attached to the purchase of a freehold as opposed to a long lease, and in this case determines 0.5% to be appropriate.



Signed Ms F Dickie

Chairman

2 May 2013

VALUATION FOR PREMIUM FOR A NEW LEASE
Leasehold Reform & Urban Development Act 1993
99 Connell Crescent, LONDON W5 3BJ

Facts

Lease 90 years from 22nd September 1950
 Ground rent £14.70 per annum
 Valuation date 18th April 2012
 Unexpired term 28.42 years

Matters agreed

Capitalisation rate 7%
 Deferment rate 5%
 Value of flat unimproved with extended lease £215,000
 Other compensation Nil

Determined by tribunal

Virtual freehold value £216,000 (0.5% uplift)
 Existing lease (unimproved) £124,700 (58% relativity)

| Diminution in Value of Freeholder's interest | £ | £ | £ |
|---|----------------|----------------|-----------------------|
| Present value of Freeholder's interest | | | |
| Ground rent | | 14.70 | |
| YP 28.42 years @ 7% | | 12.1973 | 179 |
| Value of term | | | |
| Reversion | | | |
| Virtual freehold market value unimproved | | 216,000 | |
| Deferred 28.42 years @ 5% | | 0.249919 | <u>53,983</u> |
| Freeholder's present interest | | | 54,162 |
| Value of Reversion after extension | 216,000 | | |
| deferred 118.42 years @ 5% | 0.003095 | 669 | |
| Calculation of Marriage Value | | | |
| Value of proposed interests: | | | |
| Landlords' | 669 | | |
| Tenant's new 118.42 year lease at a peppercorn | <u>215,000</u> | 215,669 | |
| Less value of existing interests: | | | |
| Landlords' | 54,162 | | |
| Tenant's existing lease | <u>124,700</u> | <u>178,862</u> | |
| Marriage Value | | 36,807 | |
| 50% marriage value attributed to landlord | | say | <u>18,404</u> |
| TOTAL PREMIUM PAYABLE | | | <u><u>£72,566</u></u> |