



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

<b>Case Reference</b>	:	<b>LON/00AG/OLR/2014/0857</b>
<b>Properties</b>	:	<b>Flats 1, 14, 16, 17, 18, 30, 37, 39, 41, &amp; 45 Howitt Close</b>
<b>Applicants</b>	:	<b>Various leaseholders of Howitt Close</b>
<b>Representative</b>	:	<b>Mr Matthew Price BSc (Hons) MRICS</b>
<b>Respondent</b>	:	<b>Brickfield Properties Limited</b>
<b>Representative</b>	:	<b>Mr Gary Cowen (Counsel)</b>
<b>Type of Application</b>	:	<b>Grant of new lease (Section 48 Leasehold Reform, Housing and Urban Development Act 1993)</b>
<b>Tribunal Members</b>	:	<b>Mr M Martynski (Tribunal Judge) Miss M Krisko BSc (EstMan) BA FRICS</b>
<b>Date and venue of Hearing</b>	:	<b>7 October 2014 10 Alfred Place, London WC1E 7LR</b>
<b>Date of Decision</b>	:	<b>16 October 2014</b>

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**DECISION**

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**Decision summary**

1. The Tribunal decides that the square foot value for each of the flats in question for a valuation date in January 2014 is £876.50.

2. As to the flats which have Claim Notices served in February 2014, the value determined by the Tribunal is to be based on the January value determined above and adjusted in accordance with the Land Registry Index for flats and maisonettes in Camden.

### **Background**

3. This application concerns claims for new leases made by the Applicant leaseholders of ten separate flats. The claims have been admitted by the Respondent freeholder.
4. The Applicants are the long leasehold owners of various flats in Howitt Close ('the Building'). The Building is a purpose-built 1930's residential four-storey block containing 46 flats in total.
5. The Applicant leaseholders served Claim Notices upon the Respondent freeholder on various dates in January and February 2014.
6. The claims have been combined. The parties are represented by just two Valuers, Mr Price BSc (Hons) MRICS for the leaseholders and Mr Sharpiro BSc (Est.Man) FRICS, FCI Arb for the freeholder.

### **Issues agreed and to be decided**

7. The Valuers between themselves agreed to simplify and standardise the claims and also agreed most of the elements of the valuations. This is commendable and has without doubt saved all the parties considerable costs and time. The matters agreed are as follows:-

Capitalisation Rate:	6.5%
Reversion Rate:	5%
Relativity:	77.78% (flat 16) 71.54 (flats 18 & 37) 71.6% (all other flats)
Gross internal areas:	Various
Freehold values:	101% of long lease value
Value of ground rents:	Various
Valuation dates:	Just two valuation dates, one for all notices served in January, the other for the two notices served in February 2014.

8. The Valuers decided only to distinguish between the flats on the basis of size per square foot. No distinctions were therefore made between the flats in terms of bedroom size, location or condition.
9. The only matter in dispute between the parties was the price per square foot (long lease value) to be applied to the valuation. Once this figure has been settled upon it can be multiplied by the square footage of each flat and the result fed into the valuation calculations. The only adjustment to this figure would be for the flats whose Claim Notices were served in February 2014.

## Evidence

10. On the question of the value of the long leasehold interest, both Valuers referred to the same three comparable flat sales within the block which were as follows.

### *38 Howitt Close*

11. Both valuers agreed that this was a good comparable. Mr Price went further however and argued that it was the only comparable of the three that should be taken into account.
12. This flat was sold in January 2014 for £475,000. No adjustment was necessary for condition. The sale price produced a psf of £848.

### *23 Howitt Close*

13. This flat was sold for £500,000 in June 2014. No adjustment was necessary for condition.
14. Mr Shapiro adjusted the sale price for time (January to June 2014) using the Land Registry Index giving an adjusted figure of £458,921 which equates to £891 psf.
15. Mr Price rejected this flat as a valid comparable on the grounds that it was too far from the main valuation date in January 2014 for the subject properties. Mr Price also contended that the Summer market in which this flat sold is very different from the Winter market which is where the valuations for the subject flats lie.

### *28 Howitt Close*

16. This flat was sold in September 2013 for £335,000 with a lease of 78 years remaining. Mr Shapiro made a reduction of £10,000 for condition (new kitchen and bathroom). Taking this into account, he then adjusted the price according to the Savills 2002 Enfranchiseable Graph (to account for the short lease) and then indexed for time producing a figure of £362,960 which equates to £933 psf.
17. Mr Price rejected this flat as a comparable for a number of reasons as follows:-
  - (a) He said that he was told by a director of the RTM Company at the Building that the buyer of the flat (who owned the next door but one flat) and the seller were business associates. He therefore contended that the sale was not an open market sale.
  - (b) The flat had been marketed for a period of two months at £339,950 with no offers
  - (c) The adjustments that need to be made to the sale price are too numerous to make the adjusted figure a reliable one

18. In the event that we did not reject this flat as a comparable, Mr Price provided some workings in which he had adjusted the initial sale price by £15,000 for condition.

## Conclusions

19. We agree that 38 Howitt Close is a good comparable. However we go further than Mr Shapiro (who considered it a good but not necessarily the best comparable – he said all three should be considered equally) and consider it to be the best comparable of the three, so much so that it should be given additional weight to the other comparables. We do not go as far as Mr Price however in considering that it is the *only* valid comparable.
20. Mr Price's only objection to 23 Howitt Close was that the sale was some four to five months after the main valuation date (January 2014). We do not consider this a reason to reject this flat as a comparable. We regularly see adjustments being made for longer periods of time than four to five months and most valuers are happy to rely upon such adjustments. The Land Registry index is based on every sale in a particular area and so in the relatively short term it should be very reliable. We find that the time to be adjusted for in this case is short and the margin for error therefore very limited.
21. As to 28 Howitt Close, we do not consider that Mr Price's main objections bear scrutiny. As to the submission that this was not an open market sale we comment as follows;
  - (a) There was no real evidence that the vendor and purchaser were business associates – Mr Price relied on what he was told by a person who had not made any witness statement nor who had been called to give evidence to us
  - (b) Even if we accept that the vendor and purchaser were business associates, we have no evidence as to the nature of that association or its possible effect on whether or not there was an open market sale
  - (c) The property had been marketed via agents. The fact that it then sold privately does not mean that it was not sold in an open market.
  - (d) Considering the definition of open market sale, there is nothing to suggest here that this was not a sale where there was a willing buyer and seller in an arm's length transaction after marketing and where the parties had each acted knowledgeably, prudently and without compulsion.
22. We do not agree that there is any basis for making seasonal adjustments. We were not referred to any evidence that would support making such adjustments.

23. We agree with Mr Price that the various adjustments that need to be made to take into account condition, time and the short lease make the flat a poorer comparable to the other two. Again however, we do not consider that these adjustments, bearing in mind that such adjustments are regularly made, mean that the flat should not be used as a comparable.
24. Where there is more than one valid comparable for the purpose of a valuation, we believe that the better approach is to take account of all useable comparables so as to avoid the danger of relying upon one transaction which may not in itself properly reflect the average market conditions at the time.
25. However, given that 38 Howitt Close is such a close comparable (given the terms agreed between the valuers on which the flats in the Building are to be compared) and given that the other two comparables require adjustment, we consider that number 38 should be double weighted.
26. We take therefore as our starting point the following figures:

*38 Howitt Close*

25. £848 counted twice in order to weight it

*23 Howitt Close*

27. There was a difference between the valuers as to the mathematical method by which to carry out the time adjustment. We prefer Mr Shapiro's method and so adopt his figure of £891 psf.

*28 Howitt Close*

28. We have adopted Mr Price's suggested adjustment for the improvements in this flat amounting to £15,000 as the improvements appear to be of a high standard and taking into account materials, labour and VAT.
29. This gives an adjusted starting figure of £320,000. Taking then Mr Shapiro's adjustments we come to £348,128 after adjusting for time and then to £357,627 after applying the Savill's index for Act considerations. This produces a psf value of £919.

*Final figure*

30. We have taken the four figures (£848, 848, £891 and 919) and applied a simple average to arrive at a figure of £876.50 which is to be used for the psf value for the flats that have a Claim Notice from January 2014 with that figure suitably adjusted for time for the flats with a February 2014 Claim Notice.

### **Note on valuations**

31. We see from Mr Sharpiro's valuations that he appears to have mistakenly used the uprated freehold value when applying the relativity percentage. The effect of this is to depress his premiums for the leases.
32. It was agreed at the hearing that all we needed to do was to provide a decision as to the psf value to be applied to the January Claim Notice flats and the parties would then agree valuations based on that figure. Accordingly, we do not attach any valuations to this decision.

**Mark Martynski, Tribunal Judge**  
**16 October 2014**