



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

Case Reference : LON/00AC/OLR/2017/0064

Flat : 110A Station Road, London N3 2SG

Applicants : Daniel Amar and Lucelle Drake

Representative : Streathers LLP, solicitors

Appearances : Ms Nazan Baytar, MRICS

Respondent : Kirphil Properties Limited

Representative : Gisby Harrison, solicitors

Appearances : Mr Peter Phillips

Type of Application : Application under Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993

Tribunal :

1. Judge Amran Vance
2. Mr D Jaggar, FRICS
3. Judge Hargreaves

Date of Hearing : 8 August 2017

Date of Decision : 11 August 2017

DECISION

Decisions of the tribunal

1. The tribunal determines that the premium payable by the applicants under Schedule 13 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") on the grant of a new lease of the subject Flat is £65,872. The reasons for the tribunal's decision are set out below and a copy of its valuation is annexed at appendix 2.
2. The tribunal approves the terms of the draft lease as agreed between the parties. A copy of the draft lease is annexed to this decision at appendix 3.

Background

3. This is an application under section 48 of the Leasehold Reform Housing and Urban Development Act 1993 (the "1993 Act").
4. The applicants are entitled to a new lease of 110A Station Road, London N3 2SG ("the Flat") under Chapter II of the 1993 Act. The Flat is a self-contained two-bedroom split-level first and attic floor maisonette in a converted two-storey Victorian semi-detached house that has been converted into two separate flats. According to Ms Bayter, the applicants' valuer, the gross internal area of the Flat is 753 sq ft, a figure that was not challenged by Mr Phillips, the respondent's representative.
5. The applicants served notice of a claim to take a new lease of the Flat on 26 July 2016. In that notice, the applicants stated that the proposed terms of the new lease should be the same as those contained in the existing lease except for those terms required by virtue of section 57 of the 1993 Act, including a 90 year extension of the lease term at a peppercorn rent. The premium proposed was £59,200.
6. On 6 September 2016, the respondent served a counter-notice admitting the applicants' entitlement but disputing the proposed terms of acquisition. The counter-proposal was a premium of £94,350.
7. The applicants subsequently applied to this tribunal for the determination of the premium.

Lease

The following are particulars of the applicants' leasehold interest:

- (a) Date of lease: 17 June 1970
- (b) Term of lease: 99 years commencing on 29 September 1969
- (c) Ground rent: £21 per annum
- (d) The unexpired term at valuation date of 26 July 2016 (the date of service of the applicants' notice) is therefore 52.18 years.

8. The respondent is the freehold proprietor of the Flat and was registered as such on 10 September 1980. The applicants' leasehold interest was registered on 17 April 1984.
9. The applicants' proposed premium before the Tribunal was £64,186.
10. The respondent's proposed premium was £82,150.
11. The following matters were agreed between the parties:
 - (a) A valuation date of 26 July 2016;
 - (b) An unexpired term at the valuation date of 52.18 years;
 - (c) A deferment rate of 5%;
 - (d) A capitalisation rate of the ground rent of 6%; and
 - (e) An extended lease value of £460,000
12. The following issues were in dispute:
 - (b) the virtual freehold vacant possession value ("FHVP") of the Flat;
 - (c) the relativity between the FHVP and the existing lease value of the Flat.

Inspection

13. Neither party requested that the tribunal inspect the Flat and the tribunal did not consider it necessary or proportionate to do so.

The Law

14. Schedule 13 the Act provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable for other loss.
15. The value of the landlord's interests before and after the grant of the new lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the assumption that the tenant has no rights under the Act to acquire any interest in any premises containing the tenant's flat or to acquire any new lease.
16. Para 4 of the Schedule, as amended, provides that the landlord's share of the marriage value is to be 50%, and that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.

17. Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.
18. Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

The Hearing

The evidence before the Tribunal

19. The tribunal had the benefit of written reports from Ms Baytar and Mr Phillips and hearing their oral evidence. Whilst Ms Baytar gave expert evidence, as a registered valuer, Mr Phillips acknowledges in his report that he was providing evidence as an advocate and not an expert. His position, however, was that despite being both a director and shareholder in the respondent company he was able to provide objective and unbiased evidence to the tribunal. He explained that he had qualified as a member of RICS in 1997 but then resigned in 2012 for personal reasons. He assured us that he had approached this valuation exercise with the same degree of professional objectivity and integrity he would have applied if he were acting as an expert witness and continuing member of RICS.

FHVP

20. An assessment of the FHVP at the valuation date is required in order to value the respondent's reversionary interest and the value of the long leasehold interest in the Flat once extended.
21. Ms Baytar considered that in order to ascertain the FHVP it was necessary to increase the extended lease value by 1% to represent the value of the property to a landlord in possession. Mr Phillips disagreed. He relied on the Upper Tribunal decision in *Arrowdell Ltd v Coniston Court (North) Hove Ltd* [2007] RVR 39 as support for his submission that a 1% uplift was not appropriate unless there was market evidence to justify it. He asserted that in his experience a purchaser would pay no more for a share of the freehold than it would for an extended lease, although he accepted that the situation may be different if the lessee also acquired management control of a block at the same time.

Relativity

22. Both Ms Baytar and Mr Phillips agreed that the best evidence to assist when determining relativity was empirical evidence of market transactions. Mr Phillips relied upon two transactions which he considered to be useful despite the fact that both properties are located at some distance from the subject Flat. In his view, the key factor when determining relativity was the length of the remaining term of the lease rather than its geographical location. He relied on the decision in *Arrowdell* as support for that proposition.
23. The first transaction Mr Phillips relied on concerned 19 Halegrove Gardens, Mill Hill, London, NW7 which is a property that he manages on behalf of the freeholder. This flat was, he said, sold at auction on two occasions. Firstly, on 16 February 2016, for what he believed was a sale price of around £285,000, and then

on 7 June 2016 for £250,000. He explained that the reason why the initial purchaser accepted a loss on the second sale was because he underestimated the cost of extending a lease with an unexpired lease term of 46 years. Mr Phillips stated that the initial buyer did not assign the benefit of the original owner's notice under section 42 of the Act and the current owner paid £250,000 without the benefit of immediate rights under the Act as they will have to wait two years before they can exercise the right to extend the lease.

24. Mr Phillips's evidence was that the current owner intended to spend £30,000 modernising 19 Halegrove Gardens and that he had previously instructed solicitors to sell it for £450,000, subject to an extended lease. A buyer emerged, who wished to purchase it by way of a private sale, but, he states in his report, this buyer was forced to withdraw from the purchase for personal reasons. Despite this, Mr Phillips suggested that in his professional experience and particular knowledge of the market in the Mill Hill area, this price sought was a fair market value for the property.
25. Utilising the anticipated sale price for this property of £450,000 Mr Phillips arrives at a relativity of 62.2%, adjusted for the costs of the proposed works. He then adjusted for time to the valuation date by applying an adjustment of 1% per annum, arriving at a relativity percentage of 68.4%.
26. The second transaction Mr Phillips relied on concerned 46 Ivy Close, Harrow. This too is a property that he manages on behalf of the freeholder and which is located 10 miles from the subject Flat. It is a two-bed ground floor purpose built flat situated in a block of flats that forms part of a freehold estate comprising 76 flats. In his report, Mr Phillips states that the lessee in question had agreed to sell the flat, which has an unexpired lease term of 58.5 years, for £237,000. Mr Phillips calculated the long leasehold value of the flat as being £330,000 with an indicative relativity of 71.8%. When adjusted to reflect the unexpired term for the subject Flat this equated to 65.5%. He recognised, however, that the usefulness of this property as transactional evidence was very limited as the lessee was under pressure to sell the flat due to mortgage arrears and because the proposed transaction concerned a sale and lease back of her flat.
27. Despite stating in his report that he was disregarding the intended sale of 46 Ivy Close, Mr Phillips includes it in his final relativity calculation for the subject Flat. This calculation involved him adding together the adjusted relativity figures for 19 Halegrove Gardens (68.4%) and 46 Ivy Close (65.5%) as well as the relativity figures derived from the Nesbitt and Beckett & Kay graphs of relativity for the subject Flat (77.2% and 75% respectively) together with adjusted relativity values he stated were applied in two previous tribunal LVT decisions. The first of those decisions involved 110B Station Road which Mr Phillips records involved an adjusted relativity of 77.75%. The second was the LVT decision referred to in the Upper Tribunal decision in the case of *Latifa Kosta v The Trustees of the Phillimore Estate* [2014] UKUT 0319 (LC) which he stated resulted the tribunal applying an adjusted relativity of 75.75%. Mr Phillips then averaged these six percentage figures to arrive at a relativity figure of 73.2% which he then adjusted downwards to 73%, a figure he felt comfortable with as reflecting the appropriate relativity for the subject Flat.
28. Ms Baytar's starting point was a completed sale of a flat on a short lease at 18 Station Close, London N3, a property that is located very close to the subject Flat.

This is a two-bedroom, first floor maisonette with a gross internal area of 567 sq ft which sold for £285,000 on 24 November 2016 with 45 years unexpired on the lease. She adjusted for time by using the Land Registry's house price index for the London Borough of Barnet, arriving at a figure of £286,800. She then made a further adjustment of £14,000 (5%) to reflect the larger size of the subject Flat, £20,000 to reflect the fact that the property required modernisation and £28,500 (10%) to adjust for rights under the Act. These adjustments result in a relativity of 70.98% which, when adjusted to reflect the 52.18 years remaining lease term for the subject Flat showed a relativity of 82.30%.

29. By way of a cross check she then considered the average of all of the 2009 RICS Greater London and England graphs which produced a relativity of 78.56%. As she had only be able to identify one short lease transaction, and out of a sense of caution, she considered it safer to adopt this figure of 78.56% in her valuation calculation.

Decision and Valuation

FHVP

30. The Upper Tribunal decision in *Arrowdell* is not authority for Mr Phillip's proposition that a 1% uplift between the long leasehold value and the FHVP of a flat is only justified where market evidence suggests this to be the case. Mr Phillips relied upon paragraph 19 of the Upper Tribunal's judgment in support of this submission, but that sets out the view of the LVT on this point and not a decision of the Upper Tribunal. In *Arrowdell*, the LVT applied its knowledge of settlements and agreements between valuers as to relativity rates in the Brighton and Hove area and decided that such uplift was not usually applied in the locality. Whilst it stated that no market evidence had been provided to justify the proposed uplift its decision was clearly based in its own knowledge and experience. At paragraph 23 of its decision the Upper Tribunal criticised the LVT for basing its decision on its own knowledge and experience of settlements and agreements without allowing the parties to comment on them. In the light of this criticism, the LVT's reference to a lack of market evidence must be treated with considerable caution and, in any event, it is clear to us that the LVT's decision turned on the facts of the case and its view as to the market position in the Brighton and Hove area.
31. We agree with Ms Bayter's evidence that a 1% uplift is appropriate to reflect the additional value in holding the freehold as compared to a long leasehold interest. In our view there must be an additional benefit in holding a freehold of a flat given that a freeholder has a greater control over their property than the holder of a long lease. Mr Phillips, in his report refers to the Upper Tribunal decision in *Sloane Stanley Estate v Mundy* [2016] UKUT 223 (LC) when referring to relativity and we note that at paragraph 19 of that decision it is recorded that all three valuers involved in the appeal agreed that the value of an extended lease was 99% of the value of the freeholds of the relevant flats, a view that the Upper Tribunal did not interfere with and with which we agree.

Relativity

32. We prefer Ms Bayter's evidence on relativity. She has identified a sale of a short lease flat that sold close to the valuation date, is located very near to the subject

Flat, and is similar in type, being a two-bedroom first floor maisonette. We consider this to be useful market evidence and a good starting point when assessing relativity, although as an isolated transaction, Ms Baytar was correct not to view it as conclusive on the question of relativity. Mr Phillips did not challenge any of the adjustments Ms Baytar made to the sale price in either his report or in his oral evidence and in our view the adjustments are appropriate. We agree that it was proper to adjust for time using the Land Registry house price index for London Borough of Barnet. From looking at the colour sales particulars and floor plan provided we are satisfied that a 5% size adjustment and a £20,000 adjustment for condition is appropriate in order to bring the property a standard comparable to the subject Flat. We see no reason to disagree with her evidence that a deduction of 10% to reflect the statutory assumption that the lease of the Flat does not have rights under the Act is appropriate. Again, this was unchallenged by Mr Phillips.

33. However, in our view she was correct to be cautious about adopting the value of 82.30% that resulted from these calculations given that she had only been able to identify a single relevant market transaction and that she was right to instead adopt the lower relativity figure of 78.56% produced by averaging the 2009 RICS Greater London and England graphs, given the Flat's location in outer London. In our judgment, all of the graphs have their flaws but averaging out the results of all them is likely to balance out the inherent weaknesses in the each of them. In *Kosta* the Upper Tribunal considered that published graphs were widely referred to and relied upon by valuers and that a hypothetical purchaser who was considering bidding in the open market for the existing lease would likely seek advice from a valuer who would inevitably have in mind, as one of the ingredients which informed the advice, these published graphs. In our view, a successful hypothetical purchaser for this lease is likely to be a purchaser who was prepared to base their bid upon the average of all the 2009 RICS Greater London and England graphs rather than one adopting the methodology proposed by Mr Phillips.
34. We did not find either of Mr Phillips' two transactions useful for the following reasons:
- (a) both were prospective private sales and not open market sales;
 - (b) neither sale had completed;
 - (c) no documentary evidence was before us to evidence the background behind the two sales,
 - (d) both properties were a considerable distance from the locality of the subject Flat which we consider would have been a pertinent factor undermining the usefulness of any transaction if a sale had, in fact, occurred;
 - (e) the usefulness of the intended sale of 46 Ivy Close was highly dubious given that the lessee was selling because of mortgage arrears under a lease-back arrangement. This can not, in our view, be considered an open market transaction.

35. For the reasons stated above, we prefer Ms Bayter's approach of averaging all of the Greater London RICS graphs as opposed to Mr Phillips' reliance on just the Nesbitt and Beckett & Kay graphs as one component of his relativity calculation. We see no benefit in having regard to the decisions reached on relativity in the previous two LVT decisions referred to by Mr Phillips. Neither decision had been provided to us but in our judgment no benefit can be derived from applying the percentage relativities arrived at by previous tribunals, when each case will have turned on its own particular facts.
36. We therefore agree with Ms Bayter that the appropriate relativity to be applied is 78.56% and that a 1% uplift is appropriate when calculating the FHVP.
37. The diminution in the value of the landlord's interest in the Flat is represented first by the capitalised value of the grounds rent receivable under the lease which will be surrendered and replaced by a peppercorn rent under the terms of the Act. That income stream is capitalised by the parties at 6% which the Tribunal accepts is appropriate in this case.
38. Next, the effect of the grant of the new lease will be to defer the landlord's freehold reversion for a further 90 years, thereby for practical purposes depriving the landlord of the current value of the freehold reversion indefinitely. The present value of the reversion is determined by applying a deferment rate to the FHVP of £464,646. The deferment rate appropriate for leasehold flats in Central London was authoritatively determined to be 5% in the case of *Earl Cadogan v Sportelli (2006) LRA/50/2005*. The parties have agreed a deferment rate of 5% which the tribunal accepts.
39. Marriage value is the difference between (on the one hand) the aggregate value of the interests of the leaseholders, the landlord and the intermediate leaseholder before the new lease; and (on the other) the aggregate value after the grant of the new lease. It is to be shared equally between the parties, as required by the Act.
40. The premium payable by the applicants under Schedule 13 of the Act on the grant of a new lease of the Flat is therefore £65,872. The tribunal's valuation is attached at appendix two.

Lease terms

41. The applicant's solicitors have prepared a draft lease which the tribunal is invited to approve. The draft lease provides for the surrender of the existing Lease and the grant of a new lease with a term of 189 years in accordance with section 56(1) of the Act. The terms of the new lease are the same as those of the Lease (with the addition of statutory rights of termination for redevelopment).
42. The tribunal is satisfied that the terms proposed are appropriate for the new lease

Name: Amran Vance

Date: 11 August 2017

Appendix 1
Rights of Appeal

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix 2

The Tribunal's Valuation

110A Station Road London N3 2SG

APPENDIX A

The Tribunal's Valuation

Assessment of premium for a new lease

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

LON/OOAC/OLR/2017/0064

Components

Valuation date:	26 th June 2016	
Deferment rate:	5%	
Capitalisation rate:	6%	
Freehold value:	£464,646	
Long lease value	£460,000	
Existing leasehold value	£365,026	
Relativity	78.56 %	
Unexpired Term	52.18 years	
Ground rent currently receivable	£21	
Capitalised @ 6.0% for 52.18 years	15.86979	£333
Reversion to:	£464,646	
Deferred 52.18 years @ 5%	0.078418	<u>£36,437</u>
		£36,770
Marriage Value		
<u>Value of Proposed Interests</u>		
Extended leasehold interest		£460,000
<u>Value of Existing Interests</u>		
Landlord's existing value	£36,770	
Existing leasehold value	<u>£365,026</u>	<u>£401,796</u>
		£58,204
Freeholders share @ 50%		£29,102
LEASE EXTENSION PREMIUM		£65,872

Appendix 3

Agreed Lease

Dated

2017

KIRPHIL PROPERTIES LIMITED

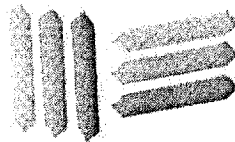
and

DANIEL AMAR & KAREN LUCELLE DARKE

**NEW LEASE OF A FLAT UNDER THE LEASEHOLD REFORM,
HOUSING AND URBAN DEVELOPMENT ACT 1993**

of

110a Station Road, Finchley, London N3 2SG



MANUEL SWADEN

SOLICITORS

340 West End Lane London NW6 1LN

DX 53654 West Hampstead

Tel: +44(0)20 7431 4999

Fax: +44(0)20 7794 9900

PRESCRIBED CLAUSES

LR1. Date of lease

LR2. Title number(s)

LR2.1 Landlord's title number(s)

NGL50508

LR2.2 Other title numbers

NGL136929 (being the Tenant's existing title number)

LR3. Parties to this Lease

Landlord

Kirphil Properties Limited incorporated and registered in England and Wales with company number 00678506 whose registered office is at 1 Brampton Lane, London, NW4 4AB.

Tenant

Daniel Amar & Karen Lucelle Darke of 110a Station Road, Finchley, London N3 2SG.

Other parties

None.

LR4. Property

In the case of a conflict between this clause and the remainder of this Lease then, for the purposes of registration, this clause shall prevail.

See the definition of "Property" in clause 1.1 of this Lease and the Original Lease.

LR5. Prescribed statements etc.

LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.

This Lease is granted under section 56 of the Leasehold Reform, Housing and Urban Development Act 1993.

LR5.2 This Lease is made under, or by reference to, provisions of:

None.

LR6. Term for which the Property is leased

The term as specified in this Lease at clause 1.1 in the definition of "Term".

LR7. Premium

£

LR8. Prohibitions or restrictions on disposing of this Lease

This Lease contains a provision that prohibits or restricts dispositions.

LR9. Rights of acquisition etc.

LR9.1 Tenant's contractual rights to renew this Lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

None.

LR9.2 Tenant's covenant to (or offer to) surrender this Lease

None.

LR9.3 Landlord's contractual rights to acquire this Lease

None.

LR10. Restrictive covenants given in this Lease by the Landlord in respect of land other than the Property

None.

LR11. Easements

LR11.1 Easements granted by this Lease for the benefit of the Property

The easements included in clause 1.1 of this Lease in the definition of "Incorporated Terms" and specified in clause 2 of the Original Lease.

LR11.2 Easements granted or reserved by this Lease over the Property for the benefit of other property

The easements included in clause 1.1 of this Lease in the definition of "Incorporated Terms" and specified in in clause 3 of the Original Lease.

LR12. Estate rentcharge burdening the Property

None.

LR13. Application for standard form of restriction

None.

LR14. Declaration of trust where there is more than one person comprising the Tenant

Joint Tenants.

THIS LEASE is made on the

day of

2017

PARTIES

- (1) **KIRPHIL PROPERTIES LIMITED** incorporated and registered in England and Wales with company number 00678506 whose registered office is at 1 Brampton Lane, London, NW4 4AB (the "Landlord"); and
- (2) **DANIEL AMAR & KAREN LUCELLE DARKE** of 110a Station Road, Finchley, London N3 2SG (the "Tenant").

WHEREAS

- (A) The freehold reversion to the Property is vested in the Landlord and is registered at HM Land Registry under title number NGL50508.
- (B) The residue of the term of the Original Lease is vested in the Tenant and is registered at HM Land Registry under title number NGL136929.
- (C) The Tenant requires the Landlord to grant a new lease of the Property in accordance with the Tenant's rights under the Leasehold Reform, Housing and Urban Development Act 1993 and the Landlord has agreed to do so.

IT IS HEREBY AGREED

1. INTERPRETATION

The following definitions and rules of interpretation apply in this Lease.

1.1 Definitions:

"Annual Rent" a peppercorn, if demanded.

"Incorporated Terms" all of the terms, requirements, covenants and conditions contained in the Original Lease except to the extent that they are inconsistent with the clauses written in this Lease and with such modifications as are necessary to make them applicable to this Lease and the parties to this Lease and as specifically varied by clause 3:

(a) including:

- (i) the definitions and rules of interpretation in the Original Lease;
- (ii) the agreements and declarations contained in the Original Lease;
- (iii) the rights granted and reserved by the Original Lease (including the right of re-entry and forfeiture); and

(iv) the third party rights, restrictions and covenants affecting the Property.

(b) but excluding any terms of the Original Lease which are specifically excluded by the terms of this Lease or substituted by the terms of this Lease.

"Landlord's Covenants" the obligations in this Lease, which include the obligations contained in the Incorporated Terms, to be observed by the Landlord.

"Original Lease" the lease by virtue of which the Tenant holds the Property, which is dated 17 June 1970 and made between (1) New Keln Realty Co. Limited and (2) Walid Moussa for a term of 99 years beginning on and including 29 September 1969 and registered at HM Land Registry under title number NGL136929 (a copy of which is annexed to this Lease).

"Premium" £ .

"Property" the property known as 110a Station Road, Finchley, London N3 2SG as described in the Original Lease.

"Rent Payment Date" 1 January.

"Tenant's Covenants" the obligations in this Lease, which include the obligations contained in the Incorporated Terms, to be observed by the Tenant.

"Term" a term of 189 years beginning on and including 29 September 1969.

1.2 References to the landlord and tenant in the Original Lease shall be read as references to the Landlord and Tenant in this Lease.

2. GRANT

2.1 In consideration of the Premium, the Landlord lets with limited title guarantee the Property to the Tenant for the Term at the Annual Rent.

2.2 This grant is made on the terms of this Lease which include the Incorporated Terms as if they were set out in full in this Lease.

2.3 The Tenant covenants with the Landlord that it will comply with the Tenant's Covenants.

2.4 The Landlord covenants with the Tenant that it will comply with the Landlord's Covenants.

3. CHANGES TO THE ORIGINAL LEASE

For the purposes of this Lease only, the terms of the Original Lease shall be varied as set out in the Schedule and this Lease shall be read and construed accordingly.

4. THE ANNUAL RENT

The Tenant shall pay the Annual Rent on or before the Rent Payment Date.

5. LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993

5.1 This Lease is granted under section 56 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act").

5.2 No long lease created immediately or derivatively by way of sub-demise under this Lease shall confer on the sub-tenant, as against the Landlord, any right under Chapter II of the Act to acquire a new lease. For this purpose, "long lease" shall be construed in accordance with section 7 of that Act.

5.3 At any time during the period of:

(a) 12 months ending with the term date of the Original Lease; or

(b) five years ending with the term date of this Lease,

the Landlord may apply to the court for an order for possession of the Property on the basis that the Landlord intends to demolish, reconstruct or carry out substantial works of construction on the whole or a substantial part of any premises in which the Property is contained, and that the Landlord could not reasonably do so without obtaining possession of the Property. If the court makes such an order, the Tenant will be entitled to compensation from the Landlord for the loss of the Property and the provisions of section 61 and of Schedule 14 of the Act shall apply accordingly.

6. REGISTRATION OF THIS LEASE

Following the grant of this Lease, the Tenant shall without delay apply to register this Lease at HM Land Registry. The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly. The Tenant shall send the Landlord official copies of the Tenant's title within one month of the registration being completed.

7. SECTION 62 OF THE LAW OF PROPERTY ACT 1925

Neither the grant of this Lease nor anything in it confers any right over neighbouring property nor is to be taken to show that the Tenant may have any right over neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this Lease.

8. ENTIRE AGREEMENT

8.1 This Lease constitutes the whole agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

8.2 Each party acknowledges that in entering into this Lease it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently).

8.3 Nothing in this clause shall limit or exclude any liability for fraud.

9. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this Lease shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Lease. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

10. GOVERNING LAW

This Lease and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

11. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Lease or its subject matter or formation (including non-contractual disputes or claims).

IN WITNESS WHEREOF THIS DOCUMENT HAS BEEN EXECUTED AND DELIVERED AS A DEED ON THE DATE FIRST STATED ABOVE.

SCHEDULE 1
Changes to the Original Lease

There shall be added to the terms of the Original Lease the following:-

1. The existing clause 5(xiii) shall be deleted and shall be replaced with the following wording:-

"To refund on demand to the Landlord one half part of the premium payable by the Landlord for insuring the freehold reversion in accordance with the Landlord's Covenants hereinafter contained.

2. As a new clause 7(v):-
 - (i) That the Landlord will insure and keep insured the building included in which is the demised premises in the full rebuilding value thereof (including architects' and surveyors' fees) against loss or damage by fire storm tempest explosion subsidence heave and landslip in some reputable insurance office in the joint names of the Landlord and the Tenant and note the interest of any mortgagee of the Tenant and in the Landlord's agency and upon the request of the Tenant will produce the policy of such insurance the receipt for the current premium but no more often than once a year and will cause all sums received in respect of such insurance to be forthwith laid out and expended in rebuilding or repairing or otherwise reinstating the building as soon as possible in accordance with the present plan and elevation thereof or otherwise as may be approved by the Landlord provided that the Landlord's obligations under this covenant shall cease if the insurance shall be rendered void by reason of any act or default of the Tenant.

 - (ii) If for any reason the repair, rebuilding or reinstatement of the building of which the demised premises form part shall be impossible following damage or destruction by an insured risks:
 - (a) the Landlord's obligation to reinstate the building contained in clause (i) above shall be deemed to have been discharged; and

 - (b) the Landlord shall hold all proceeds of the insurance policy of the building on trust for the Landlord, the Tenant and the owners of the other flats in the building in proportion to their respective interests in the building at the time of the damage or destruction as determined by the Landlord's surveyor acting reasonably, whose decision shall be final and binding on all parties.

 - (iii) If and whenever the building included in which is the demised premises shall be destroyed or damaged by fire storm tempest or explosion or any other insured risk (unless the insurance shall have been rendered void or voidable through or by reason of the actual default of the Tenant) so as to render the building or any part thereof (including the gardens and any other common part belonging thereto) unfit for habitation or inaccessible then the rent or a proportionate part thereof according to the nature and extent of the damage sustained or the degree or inaccessibility shall as from the date of such event cease and be suspended so long as the demised premises or any part thereof (including the common parts belonging thereof) remain unfit for habitation use or is inaccessible.

3. In clause 5(xiv) the fee for registration of a disposition shall be a reasonable sum but being not less than £60 plus VAT.

Executed as a deed by **KIRPHIL PROPERTIES LIMITED**
acting by a director in the presence of:

.....

Director

.....
Signature of witness

Name of witness:

Address of witness:

Occupation of witness

Signed as a deed by **DANIEL AMAR**)
in the presence of:)

.....
Signature of witness

Name of witness:

Address of witness:

Occupation of witness

Signed as a deed by **KAREN LUCELLE DARKE**)
in the presence of:)

.....
Signature of witness

Name of witness:

Address of witness:

Occupation of witness