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

Case Reference : LON/00AW/OLR/2013/0682

Property : Flat 2, Grove House, 95 Addison Road, W14 8DD

Applicant : William Harold Peter Godwin & Sujaya Misra

Representative : Self represented

Respondent : Felicia Rana Bolig & Robert Gunther Bolig

Representative : DWFM Beckman (Solicitors)
Ms S Lewis (Counsel)

Type of Application : Grant of new lease (Section 48 Leasehold Reform, Housing and Urban Development Act 1993)

Tribunal Members : Mr M Martynski (Tribunal Judge)
Mr D Banfield FRICS

Date and venue of Hearing : 10 Alfred Place, London WC1E 7LR

Date of Decision : 22 October 2013

DECISION

Decision summary

1. The Tribunal decides that the premium to be paid for a new lease is £50,050.

Background

2. The Applicants are the long leasehold owners of Flat 2 Grove House ('the Flat') which is a two-bedroomed basement flat within a building ('the Building') consisting of two semi-detached Victorian houses laterally converted into 12 flats over six floors (including the roof space).
3. The Applicants' notice of claim requiring a new lease of the flat is dated 23rd October 2012. The landlords' counter-notice is dated 18th December 2012.
4. The Applicants' lease of the Flat is dated 1 July 1983 and is for a period of 99 years from 19 March 1982. As at the date of the Applicants' notice therefore, there were 68.4 years left to run on the lease.
5. At the hearing of the application on 8 October 2013 the Applicants represented themselves accompanied by their son. They relied upon their own valuation for the new lease and therefore they were not professionally represented either in terms of lawyers or surveyors.
6. The Respondents were represented by solicitors and counsel and they relied upon the expert valuation report and oral evidence of Mr Ian Asbury Bsc (Hons) MRICS.

Inspection

7. We inspected the Building on the morning of 21 October 2013. The Applicants were present at that inspection. We inspected the interior of the Flat. We also gained access to the interior of flat 4 situated on the first floor of the Building. We also viewed the internal common parts and the exterior of the Building.
8. We found that the external front façade of the building was in poor condition with peeling paint and falling masonry in parts. The building was urgently in need of redecoration and some external repair.
9. The Flat is accessed via the main front door of the Building, it does not have its own separate entrance but is reached by way of a staircase leading from the communal hall. The Flat has wooden floor covering in the living room. The bathroom and kitchen have been refitted recently.
10. The Flat is at full basement level both at the front and the rear and so has reduced natural light. The outlook from the living room and smaller bedroom is of the walls opposite those rooms. Adjacent to the basement well area immediately outside the living room is a rubbish store area where other residents place their rubbish. The outlook to the second bedroom is a little brighter and it has some shared, but not very attractive, space immediately outside. There is no right to use the communal rear garden.

11. Water, and possibly waste, drain and discharge from the Building into the areas immediately external to the Flat. There is evidence of some ponding of water to the front external well area.

The parties' respective positions

12. The parties' opening positions at the hearing are summarised as follows:-

Issue	Applicants' position	Respondents' position
Extended lease value	416,000	613,500
Value of freehold	420,000	620,000
Value of existing lease	-----	537,540
Relativity	90.17%	86.7%
Deferment Rate	5.25%	5%
Capitalisation Rate	6%	6%
Premium	26,000	50,050

The Applicants' valuation

13. The Applicants first of all looked at the sale prices of various basement flats in the Royal Borough of Kensington over a period of 10 years (2003-12). Having done this, they arrived at a figure of £408.825 being an average asking price over those years.
14. The Applicants then relied on a basement flat advertised as under offer at the valuation date of October 2012. The flat relied upon was in Elsham Road W14 and was said to be under offer at a price of £450,000. This flat is approximately 100 sq. feet larger than the subject Flat.
15. The Applicants considered recent sales of flats 8 & 9 (third floor) and flats 11 & 12 (fourth floor) in the Building. In analysing the sales, the Applicants deducted the premiums paid for the lease extensions of those flats from the sale prices.
16. The Applicants pointed to the various disadvantages of the flat relating to its lower ground situation.
17. The Applicants also considered that the existing lease of the Flat provided for a percentage contribution to the Service Charge that was greater than its size in relation to the other flats and the Building generally.
18. In their Statement of Case the Applicants stated that the Flat had previously been rented out and that the tenants had caused significant damage to the Flat. They said that in 2009 they had to spend some £30,000 completely refurbishing the Flat with a new kitchen including

tiling and a new floor; a new bathroom including tiles and flooring and new carpets and wooden flooring in the living room and hall area.

19. The Applicants referred to the noise that they suffer from the flat above them due to the floor of that flat being wood or covered with lino and not carpeted.
20. The Applicants pointed out the difficulty of having a dishwasher in the kitchen due to the kitchen's layout and size. They felt that this would detract from the value of the Flat.
21. The Applicants stated that they had been told by an estate agent that a basement would achieve a price 20% lower than a flat above basement level.
22. To arrive at an unimproved value for the long leasehold interest in the flat the Applicants relied on the average price of a flat in Grove house (taken from recent sales) with an unextended lease. This gave a figure of £603,000. From this figure they deducted 20% to account for the lower value of the basement compared to an upper floor. This brought the figure down to £482,993. They then referred to the figure for the average price of a basement flat over the 10-year period referred to above. They split the difference between this figure and the figure of £482,993 to arrive at a figure of £445,879. They deducted from this figure the sum of money said to have been spent on improvements, £30,000, to arrive at a final figure of £416,000.
23. As to Relativity, the Applicants relied upon the graphs produced by the College of Estates Management report and John D Wood. They took the average of the relevant figures in those graphs to arrive at a figure of 90.17.
24. The Applicants relied upon a deferment rate of 5.25% based on the view that the management difficulties of a building containing a number of flats required a higher return.

The Tribunal's comments on the Applicants' valuation

25. We do not accept the Applicants' methodology of taking figures over a 10-year period for flat sale values. This method is not an accepted method of valuation so far as the Tribunal is aware. This method is open to a number of further criticisms, in particular;
 - (a) The individual sales figures within that 10 year period are not adjusted for time to the relevant valuation date in this application
 - (b) The Applicants were not able to give any details as to:-
 - i. The sizes of the flats in question
 - ii. The precise location of those flats
 - iii. The condition of those flats
 - iv. The lease lengths for those flats

26. Accordingly the Tribunal felt unable to take any account of this part of the Applicants' valuation.
27. As to the property at Elsham Road, there are too few details available for this property to be relied upon as a comparable. The precise location of the property was not known. The flat may be on that side of Elsham Road which backs on to Holland Road. This would make it very susceptible to traffic noise and would adversely affect its value. Further, nothing was known about the lease of this flat.
28. As to the sale prices of the other flats in the building, the Applicants were wrong to deduct from those sale values (of unextended leases) the sums paid for the lease extensions. Further the Applicants did not adjust their figures for time.
29. We agree that the value of the Flat would be affected by the poor external condition of the building. We further accept that the Flat *may* have a lower value than the upper flats on a price per square foot basis due to the Flat's location and outlook.
30. We do not agree that the value of the Flat would be affected significantly by the problems with the floor covering on the flat above or by the difficulties of installing a dishwasher.
31. As to improvements, whilst we accept that a significant sum was spent on the Flat in 2009, we do not accept that this sum represents an improvement value to be deducted from the value of the Flat. We say this for three reasons; First, by the Applicants' own admission, the expenditure, relied upon (or some of it) was in respect of repairs (as opposed to improvements) resulting from damage caused by tenants; Second, the works specifically relied upon by the Applicants to the kitchen, bathroom and living room floor were no more, in our view, than the normal updating and maintenance that any leaseholder would carry out over time (contrast this for example with the installation by a leaseholder of central heating into a flat that previously did not have such heating); Third, the Applicants did not supply any breakdown of how the £30,000 was spent.
32. We took no account of the Applicants' comments as to Service Charges. The Applicants were unable to demonstrate that the Flat bore an unfair percentage burden of the Service Charge.
33. As to Relativity, whilst there is no objection as such to the graphs relied upon by the Applicants, we consider that the graph principally relied upon by the Respondent is the better source material to use.
34. As to Deferment, the Applicants were not aware of the recent decision of the Upper Tribunal in *Voyvoda v Grosvenor West End Properties et al* [2013] UKHT 0344 (LC) which effectively, for a building of this kind, settles the Deferment Rate at 5%.

The Respondents' valuation

35. The Tribunal accepts the valuation carried out by Mr Asbury.
36. As to the sales figures for other flats in the Building relied upon by Mr Asbury, in respect of flats 8, 9, 10 & 12, so far as freehold vacant possession value is concerned, those figures are based on his analysis of the premiums paid for extended leases. That analysis was not challenged by the Applicants and did not appear to be incorrect so far as the Tribunal is concerned.
37. Mr Asbury looked at some other basement flats outside of the block. Some of those flats were clearly better than the subject Flat. Those flats that are not clearly better have, on Mr Asbury's analysis, a higher value than the subject Flat.
38. We do not consider that there is any real evidence that the value of a basement flat is routinely less than a flat on an upper floor and certainly no evidence (that we can realistically place reliance upon) that such a difference amounts to 20%. We have however accepted that the Flat may have a lower value than other flats in the building due to its particular physical circumstances. However, we consider that any such lesser value has been taken into account in Mr Asbury's figures.
39. We accept Mr Asbury's values for the other flats in the Building, his figures for those flats, adjusted to the relevant date in October 2012, are all higher than his figure for the Flat and therefore would properly reflect any value differential between the Flat at basement level and the upper flats.
40. As to Relativity, Mr Asbury set out figures from five regularly used graphs. His figure of 86.7% was based most closely on the Gerald Eve graph. His reason for this was that Gerald Eve have represented freeholders in nearby properties and that their graph is partly based on figures from these properties. The Gerald Eve figure is within the range of the figures provided by the other graphs referred to by Mr Asbury. Mr Asbury fine tuned the figure that was obtained from his chosen graph by reference to the figure he arrived at for flat 12 in the Building as that flat had the most similar term remaining on its lease at the relevant date. We are satisfied that Mr Asbury's relativity figure is better supported in evidence than the Applicants' figure.
41. For the above reasons, we accept that Mr Asbury's valuation is the valuation to be preferred in this application. A copy of that valuation is attached to this decision.

Mark Martynski, Tribunal Judge

INPUT INFORMATION

lower ground floor 2 bed flat

Lease expires		19/03/2081	
Valuation Date		24/10/2012	
Number of years unexpired		68.40	
Rent Review		19/03/2015	
Number of years to re	2.40	33.00	33.00
Rent passing	£ 100.00	£ 150.00	£ 200.00
Capitalisati	term 6.00%	6.00%	6.00%
reversion	5.00%		

Value of freeold / headlease + sh of FH			£	620,000	Sq ft	678	£/sq ft	914.45
Value of extended lease			£	613,800		678		905.31
Value of existing lease	86.70%		£	537,540		678		792.83

Diminution in Value of Freehold current interest

Value Before

Rent reserved	£	100.00	
YP to 1st review		<u>2.1749</u>	£ 217
Rent reserved	£	150.00	
YP to 1st review		14.2302	
PV of £1 to Reversion		<u>0.8695</u>	£ 1,856
Rent reserved	£	200.00	
YP to 1st review		14.2302	
PV of £1 to Reversion		<u>0.1271</u>	£ 362
Reversion to VP value	£	620,000	
x PV of £1 to Reversion		0.0355	£ 22,032
			£ 24,105

Value After

Reversion to VP value	£	620,000	
x PV of £1 to Reversion		0.0004	£ 273
			£ 273
			£ 23,832
			£ 561,372
			£ 52,428
			50%
			£ 26,214
			£ 23,832
			£ 50,046

Corrected valuation of Ian Asbury 8th October 2013 for the FTT

Say

£50,050