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

Case Reference : LON/00BK/OLR/2013/0518

Property : Flat 4, 87 Great Titchfield Street,
London W1W 6RL

Applicant : James Temple Whitmore

Representative : Wilson Dunsin FRICS, Dunsin surveyors
Barnes & Partners

Respondent : Nativio Investments Ltd

Representative : Andreas Christou MA MRICS, Robert
Irving Burns
Philip Ross solicitors

Type of Application : Lease extension premium

Tribunal Members : NK Nicol
N Maloney FRICS FIRPM MEWI

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

Date of Decision : 13th August 2013

DECISION

Decisions of the Tribunal

- (1) The Tribunal determined that the freehold vacant possession value of the subject property would be reduced by £10,000 due to the current condition of the external parts and communal areas of the building in which it is located.
- (2) The Tribunal further determined that the freehold vacant possession value of the subject property must be reduced by £30,000 to take account of the tenant's improvements.
- (3) In the light of the above findings and the matters agreed between the parties, the Tribunal determines that the amount to be paid by the Applicant to the Respondent as the premium for an extended lease under the Leasehold Reform, Housing and Urban Development Act 1993 shall be £56,865, in accordance with the calculation set out in the Appendix to this decision.

The application

1. The Applicant lessee seeks a determination of the premium to be paid to the Respondent freeholder for an extended lease under the Leasehold Reform, Housing and Urban Development Act 1993 of the subject property. The application was heard on 13th August 2013 when the parties were represented by their respective surveyors, Mr Dunsin and Mr Christou.
2. The parties had reached agreement on the following elements:-
 - a) Valuation Date 28th October 2012
 - b) Capitalisation Rate 6.5%
 - c) Relativity 88.12%
 - d) Deferment Rate 5%
 - e) Marriage Value 50%
 - f) Gross Internal Area of the flat 825 sq ft
3. The parties remained in dispute on two issues, namely the freehold vacant possession value of the subject property in its current condition (Mr Dunsin argued for £635,000 and Mr Christou for £958,000) and the value attributable to tenant's improvements (£100,000 and £24,000 respectively).

Current Condition of Property

4. Mr Dunsin pointed out to the Tribunal, with the assistance of some colour photos, that there was penetrating damp into the communal areas, rotten window cills and cracking and defective pointing to the exterior of the building. He also pointed to correspondence which indicated that the Respondent's predecessor had realised the need for remedial works as long ago as 2006 but had failed to carry any out. He submitted that this showed neglect for which a potential purchaser would require a discount to the price, which he put at 25%.
5. Mr Christou said that the Respondent only became the freeholder in November 2012 and their newly-appointed agents have drawn up a specification of works which should cost each lessee £5-10,000. Temporary works have dealt with the penetrating damp until the full works are executed. He accepted that a potential purchaser would look for a discount in the price if the condition of the exterior and communal parts justified it but asserted that the works were mostly part of the usual cyclical maintenance and, in this case, the discount would amount to no more than £5,000 at the most, if anything were allowed at all.
6. Purchasers of London flats are fully aware of the need to pay service charges which include the costs of regular cyclical maintenance. They would not expect to have to meet the costs of past neglect and would seek to pay a lower price if that neglect were likely to result in higher service charges in future. Also, poor external and communal conditions suggest a poorly-managed building for which, again, a potential purchaser would want to take account of in the price to be paid.
7. Having said that, Mr Christou is right to point out that, in this area of London in particular, Fitzrovia, location is uppermost in the minds of purchasers. Mr Dunsin's suggested 25% discount bears no relation to the potential costs risk implied by poor maintenance and fails to take account of the costs of the usual cyclical maintenance or the nature of the market.
8. The Tribunal is satisfied that the evidence demonstrates that the condition of the building in which the subject property is located indicates a sufficient degree of neglect as to affect its value. Taking a very approximate view of the likely future additional costs and the inconvenience in having to attend to a greater extent than normal to the management of the building, the Tribunal determines that a purchaser would obtain a reduction of £10,000 on the freehold vacant possession value.

Tenant's Improvements

9. The Applicant obtained a licence to alter the subject property from the Respondent's predecessor and carried out extensive refurbishment works. The layout of the flat was altered to remove a small room (it was

unclear if it was large enough to constitute a bedroom), relocate and enlarge the kitchen and bathroom, install a toilet and augment one of the two bedrooms with a walk-in wardrobe. The kitchen and bathroom were modernised as part of the works.

10. The Applicant provided no details of the cost of the works. The Respondent obtained a short report from Clive Morley FCIQB MRICS MFPWS estimating the cost of the works at £35,000, of which he attributed £30,000 to the cost of compliance with the tenant's repairing covenants.
11. However, Mr Dunsin submitted that the cost of the works was irrelevant. He pointed to three comparable properties for which the price had increased around £100,000 following refurbishment works. He argued that this change in value should be taken as the value of the Applicant's improvements.
12. Mr Christou took Mr Morley's report and his own impression of the various comparables which he had provided to suggest that the difference in the value of the subject property attributable to the Applicant's improvements would be 2.5% of the freehold vacant possession value. In his opinion, this produced a figure of £24,000.
13. The Tribunal did not find either approach very helpful. Mr Morley included in his calculation of the costs of complying with the tenant's repairing covenants the costs of new floor coverings, a new bathroom and a new kitchen, none of which are likely to come within such a covenant. There was no evidence as to the condition of the property before the Applicant carried out the work. Some of the work produced results which were entirely a matter of the Applicant's own preferences, such as the walk-in wardrobe, and would be unlikely to increase the value of the property whereas other elements, such as the new bathroom and kitchen, would normally be expected to do so.
14. Mr Dunsin's approach again overestimated the impact of the improvements while Mr Christou's approach of using a percentage seemed to involve a random figure unrelated to behaviour in the market. The Tribunal is satisfied that the Applicant's works involved a significant element of improvement which would have affected the market value of the property. In the circumstances, the Tribunal determines that the freehold vacant possession value of the flat would include £30,000 attributable to the Applicant's improvements.

Valuation

15. Mr Dunsin put forward 5 comparables and Mr Christou put forward 15. They both sought to make adjustments to take account of the differences in purchase dates and other matters. The Tribunal accepts

the figures presented but with the disputed adjustments removed. By the Tribunal's calculation, the average price per square foot of all the parties' comparables comes to £948.09. Standing back and taking an overall view, the Tribunal is satisfied that, multiplied by the square footage of the subject property, this produces a broadly acceptable valuation of the freehold with vacant possession in the sum of £782,174.25.

16. Deducting the effect of the current condition of the external and communal areas and the value of the tenant's improvements in the total sum of £40,000, the unimproved freehold value of the subject property is taken for these purposes as £742,174.25. This figure is incorporated into the calculation set out in the Appendix to this decision to arrive at the premium of £56,865.

Name: N.K. Neal

Date: 13th August 2013

Flat 4, 87 Great Titchfield Street, London, W1

Agreed issues

Valuation Date	28.10.12
Lease	99 yrs less 3 days from 24.6.83
Unexpired Term	69.64 yrs
Capitalisation Rate	6.5 %
Deferment Rate	5 %
Relativity	88.12 %
Flat Size	825 sq.ft
Freehold Value Increase	1 %
Marriage Value	50 %

Tribunal Decision

Rate per sq ft	£ 948.09
Current Condition F/H Value	£ 782,174.25
Value of Tenants Improvements /	
Landlord's Repairs	£ 40,000.00
Unimproved F/H Value	£ 742,174.25

CALCULATION

Rent Passing	£ 200.00		
YP 6.5% 20.64 yrs		<u>11.19477</u>	£ 2,238.95
1st Rent Review	£ 400.00		
YP 6.5% 25 yrs	12.1979		
PV £1 6.5% 20.64 yrs	<u>0.2724</u>	<u>3.32270796</u>	£ 1,329.08
2nd Rent Review		800	
YP 6.5% 23.99 yrs	11.9886		
PV £1 6.5% 45.64	<u>0.0564</u>	<u>0.67615704</u>	£ 540.93
Reversion	£ 742,174.25		
PV £1 5% 69.64 yrs		<u>0.03345</u>	£ 24,825.73
			£ 28,934.69
Value of landlord's interest after lease extension			
Rental Income	£ -		
Reversion	£ 742,174.25		
PV £1 159.64 yrs	<u>0.00041</u>	<u>£ 304.29</u>	£ 304.29
MINUTION OF VALUE OF LANDLORD'S INTEREST			<u>£ 28,630.40</u>

Freehold interest after Lease Extension	£ 304.29		
Leasehold Interest after Lease Extension	<u>£ 774,352.51</u>	£ 774,656.80	
Freehold Interest before Lease Extension	£ 28,934.69		
Leasehold Interest before Lease Extension	<u>£ 689,251.95</u>	£ 718,186.64	
		<u>£ 56,470.16</u>	

MARRIAGE VALUE

£ 28,235.08

£ 56,865.48

PREMIUM TO BE PAID

say

£ 56,865