



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

Case Reference : **RC/LON/00BK/OLR/2014/1548**

Property : **Flats 1 & First Floor Premises
Adjoining Flat 1, Basement Store 1
and Basement Garage Spaces 9,10,
& 11 38-40 Devonshire Close
Flat 2 & Basement Store 2
53-57 Portland Place, London W1B
1QL**

Applicant (landlord) : **Howard de Walden Estate Limited**

Representative : **Mr Michael Pryor, counsel
instructed by Charles Russell
Speechleys LLP**

Respondents (tenants) : **Shari Alikhani Mahdavi & Kamran
Mahdavi (Flat 1)
Priory Investments Limited (Flat 2)**

Representative : **Mr Philip Rainey QC, instructed by
Mishcon de Reya**

Type of Application : **Lease extension**

Tribunal Members : **Judge Tagliavini
Mrs S Redmond FRICS**

**Date and venue of
hearing** : **10 & 11 February 2015
10 Alfred Place, London WC1E 7LR**

Date of Decision : **23 March 2015**

DECISION

The tribunal's decision

1. (i) The FHVP value of Flat 1 is £4,427,700
- (ii) The FHVP value of Flat 2 is £4,021,750
- (iii) The relativity at 20.81 years is 48.65%.

The parties are now invited to utilise these figures in order to produce a final (agreed) valuation for Flat 1 and Flat 2 Portland Place for final approval by the tribunal.

2. The reasons for the tribunal's decision are set out below.

The application

3. This is an application seeking the tribunal's determination of the premium payable for the extension of leases for Flats 1 and 2 at the subject property.

The hearing & inspection

4. Prior to the start of the hearing the tribunal inspected the subject properties both internally and externally. The tribunal also made an external viewing of the comparable properties relied upon by the parties. The tribunal was provided with a number of lever arch files containing the parties' relevant documents as well as the case law relied upon and heard the oral evidence of the parties' valuers.

The background

5. The subject flats are situated on the first floor of a purpose built block of flats situated in a prime central location in Portland Place. The flats are both situated directly over commercial premises on the ground floor below and overlook Portland Place itself, rather than being located in the rear of the building. Both flats are held on long leases, which the tenants now seek to extend. Flat 1 is the larger of the two flats as included within its demise is part of a light well and three-car parking spaces together with one basement storeroom. Flat 2 includes a basement storeroom.

The issues

6. The parties agreed upon the following issues:
 - (i) The Valuation Dates are 11 June 2014

- (ii) The qualifying tenancies had 20.81 years remaining.
- (iii) The intermediate landlord's interest is not valuable*.
- (iv) The terms of the new leases are agreed including a term of 90 years from expiry of the existing leases..
- (v) The values of a parking space and a store are agreed.
- (vi) The works to the lightwell in Flat 1 are works of improvement and are to be disregarded.
- (viii) The capitalisation rate is 6.5%.
- (ix) The relativity of the flats held on 110.81 years unexpired as compared to leases held on 999 years with a share of the freehold.
- (x) Details of 12 comparable properties.

**The intermediate landlords are Legal and General Property Partners (Life Fund) Ltd and Legal and General Property Partners (Life Fund) Nominee Ltd.*

- 7. The parties seek the tribunal's determination on the following issues:
 - (i) The unimproved value of the flats, taken as 999 year with a share of the freehold ('FHVP) by assessing VP values by reference to adjustments from the comparable transactions.
 - (ii) Assessment of relativity at 20.81 years unexpired.

- 8. The valuers, Mr Kevin Ryan FRICS of Carter Jonas (capital values) and Mr Charlie Coombes BSc MRICS (relativity) for the landlord assert:
 - (i) The capital values are £5,000,000 (Flat 1, store and garage spaces) and £4,571,400 (Flat 2 and store).
 - (ii) The relativity is 44.13%.
 - (iii) The premiums payable are £2,241,300 (Flat 1, store and garage spaces) and £ 2,049,200 (Flat 2 and store).

- 9. The valuer for the tenants, Mr Andrew Channer BSc MRICS of Langley Taylor asserted:
 - (i) The capital values are £3,845,000 (Flat 1, store & garage spaces and £3,485,000 (Flat 2 & store) based on a 999-year lease/share of freehold.
 - (ii) The relativity is 53.5%.

- (iii) The premiums payable are £1,543,647 (Flat 1, store & garage spaces) and £1,339,164 (Flat 2 and store).
10. In support of the valuers' arguments the tribunal was provided with a copy of each of their reports dated 4 February 2015 (Mr Coombs), 5 February 2015 (Mr Ryan) and 6 February 2015 (Mr Channer) and heard their oral evidence. The tribunal was also provided with a number of lever arch files containing the relevant documents and past cases on which the parties' relied.

Capital Values

11. In considering the comparable data and analysis of the parties the tribunal noted that although Mr Ryan and Mr Channer had agreed a list of comparables, they were not able to come to a conclusion on the appropriate \pounds ps. Mr Ryan produced a helpful table while Mr Channer's approach was narrative and therefore a ready comparison between the two valuers was difficult to achieve. This meant that detailed analysis of the comparables relied upon leading the tribunal to produce its own table of the comparables used by the parties at Appendix I.
12. The tribunal noted that the valuers differed in their approach to the deductions required for the garage/garage space and storage. Mr Ryan deducted amounts for garage/garage space and storage from the agreed sale price figure. Mr Channer stated that in each case he deducted the agreed amounts but adjusted to freehold sale price before making the adjustment to the relativity agreed for the value at 110.75 years. The tribunal prefers and adopts Mr Ryan's approach because in two cases (ie Flats 21 and 22, 55 Portland Place), there is no arithmetical difference as both valuers use 98%, although one adopts 99%, the other 98.5%. The tribunal considers the difference is negligible. In the case of Flat 4, 10 Park Crescent, where there is 0.5% between them on relativity, Mr Ryan deducts £100,000 for a lock up garage, Mr Channer deducts the 'adjusted' agreed amount for a parking space of £86,735. The tribunal accepts that a garage commands more value than a parking space, but no evidence was given by either party on this issue so therefore the tribunal deduct the average of these figures before adjustment, ie £92,500.
13. On the matter of relativities applied to the comparables, there is only slight variance between the parties. Neither side made any representations on this point and the tribunal takes the average to derive the value at 110.75 years unexpired.
14. There is however, a variance between the parties on choice of time adjustment. Mr Ryan used the month when he says the sale figures are agreed. Mr Channer preferred to use the month of registration. During

the hearing Mr Ryan stated that in both these matters these varying approaches made no significant difference. As a general rule, the tribunal prefers the use of Land Registry dates and therefore uses Mr Channer's figures to reach the sale figure as at June 2014.

15. As regards to matters of improvements, both valuers had personal knowledge of a number of the comparables, and both made subjective judgements as to the extent of the value of the improvements, which they had either seen or deduced from the sales particulars provided. During the hearing, Mr Channer altered his adjustment for Flat 43, 2 Mansfield Street from £71 pfs to £286 pfs although at the same time made an additional adjustment for the mansard roof which he had not noted previously. Mr Channing also made an analysis of the two sales of Flat 22, 55 Portland Place which he said indicated that £594 pfs had been added to the value because of improvements that he said supported his deduction of £379 pfs in respect of the later sale.
16. The parites also sought an adjustment to reflect the differences in location. There were two major points of contention between Mr Ryan and Mr Channer in this regard. Mr Ryan made a 20% adjustment for flats at the back of the subject building on the basis that the rear of the property presents as a very different building to the front, which overlooks Portland Place. On inspection the tribunal noted that whilst sharing the same lobby, portage, door entry system, the rear flats are in a block accessed via a long corridor with a less attractive lift and stairs and crucially with no view onto or from Portland Place. After inspection the tribunal is of the view that the physical approach to the rear block is inferior, but we were given no comparable evidence as to the extent of the adjustment required as a consequence of this inferiority. Mr Channer, in his evidence made an adjustment of 10% for this factor while Mr Ryan adopted a figure of 20%. Without the benefit of any material evidence the tribunal adopts the average of 15% in respect of location but considers that there is a significant difference between the front and the rear of the building in which the subject properties are situated.
17. Mr Channer also made extensive representations in respect of the location of the subject block in respect of the neighbouring Chinese Embassy, pointing out it has a permanent armed guard, and the associated protests that are held in the street from time to time. Therefore, Mr Channer made an adjustment of 8% for the flats at the front of the building, reducing to 7% for the flats at the rear. In addition, Mr Channer made an adjustment of 1% for the commercial premises comprising a dentist and a fertility clinic both situated immediately below the subject flats. Although these commercial premises are separately accessed through their own front doors and share no facilities with the subject properties, Mr Channer asserted that the occupiers were inconvenienced by the users of these commercial services. A further adjustment was made by Mr Channer of 1% for the adjacent girls' prep school.

18. The concerns about the location of the Chinese Embassy and the commercial premises appeared to arise from his clients' perceptions, as well as from Mr Channer's efforts to interview local porters and to obtain internet references of protests in the locality
19. In contrast, Mr Ryan asserted that he considered that none of these factors would affect values in the block.
20. While Mr Ryan considers that Flat 5, 5 Portland Place is less well located to the subjects and adds 5% to the value
21. With respect to the flats in Mansfield Street, Mr Ryan asserted that no adjustment is needed for location. Mr Channer argued for an 8% deduction to reflect 4% for the block appearing to be detached and 4% for its position off the busy thoroughfare
22. Some other factors were taken into account by the respective valuers. Mr Ryan made a deduction of 2.5% for each of the balconies. Mr Channer considered that the two 'bedroom' balconies at Flat 5, 5 Portland Place added £400,000 to the value which the tribunal noted as approximately 9.7%. He considered that there is no additional value added in respect of the balconies of the 'back' flats.
23. At 2 Mansfield Street, the properties, unless already adapted, have small kitchens and both valuers made adjustments for this. Mr Channer made a 6% for Flat 39 and Mr Ryan 15%. There is also a 'mansard' effect on the top floor (Flats 39 and 43) which Mr Ryan considered too small to warrant an adjustment. Mr Channer ascribed 10% to this feature (he corrected his omission in respect of Flat 43 at the hearing). There was some discussion in the tribunal as to whether any 'mansard' affected the GIA as this was excluded from the agreed GIA. The tribunal examined the particulars of these properties with plans attached and were able to identify only one room at Flat 42 marked on the plan and of which, there is a clear photograph showing a window in a sloping wall
24. At Flat B, 82 Portland Place, Mr Channer made an adjustment for the linear layout, although did not apply this to other flats with a linear layout.
25. The valuers took different approaches to their adjustments for floor level. Mr Ryan adopted 1.5% per floor but applies it by averaging the floor levels of the comparables and then making adjustments. At the hearing Mr Ryan told the tribunal he did not consider this approach unusual and said that making the adjustment for each comparable would make little or no effect on the final result. Mr Channer went into far greater detail and explained that the subject property required an adjustment of 2% per floor, but at the 2nd floor a further 2% adjustment was needed. He accepted that he had adopted 1.5% when dealing with another property regarding relativity

26. A further difference between the two valuers was the nature of the basket of comparables to be averaged. Mr Ryan included two where a further adjustment for lease length was required. Mr Channer excluded these because of the need for an additional large adjustment based on the valuers' opinion. He sought to argue that their relevance is in respect of relativity of the subjects. Mr Ryan argued that 4 of the comparables were 'outliers' requiring large adjustments: the 'back' flats; Flat 4, 10 Park Crescent and Flat B, 82 Portland Place, the earliest in time and coming in substantially below the other comparables.
27. After applying this figure to the agreed GIA, the treatment of the lightwell improvement must be considered. Mr Ryan applied a site value approach at 50% of his rate. Mr Channer adjusted the price paid by his client.

The tribunals' decision and reasons – capital values

Portland Place - Comparable data and analysis

28. Mr Ryan and Mr Channer agreed a list of comparables but were not able to come to a conclusion on the appropriate £pfs. Mr Ryan produced a helpful table but Mr Channer's approach was narrative which together do not lend themselves to ready comparison. This meant that detailed analysis of each comparable is required and the Tribunal has produced its own table.

Garage and Store

29. There are garage spaces and stores with the subject flats. The 110.81 year lease value of the basement garage spaces was agreed at £255,000 (£85,000 each) and the 110.81 year lease value of the basement store rooms at £8,000 each. The valuers therefore adjusted those comparables which included garage/space/stores to exclude their value. Mr Ryan deducted amounts for garage/garage space and storage from the agreed sale price figures. Mr Channer deducted the agreed amounts adjusted to freehold, after having adjusted the sale price to freehold value.

Garage and Store - Decision:

30. The tribunal adopts Mr Ryan's approach because in two cases (i.e. Flats 22, 55 Portland Place), there is no arithmetical difference as both valuers use 98%. Flat 21, 55 Portland Place one valuer adopts 99%, the other 98.5%. The tribunal considers the difference negligible. In the case of Flat 4, 10 Park Crescent, where there is 0.5% between them on relativity, Mr Ryan deducted £100,000 for a lock up garage, Mr Channer deducted the 'adjusted' agreed amount for a parking space of £86,735. The tribunal accepts that a garage commands more value

than a parking space, but as no evidence was given by either party on this issue, the tribunal deducts the average of these figures before adjustment, ie £92,500.

Adjustment to 110.81 year lease value - decision

31. On the matter of relativities applied to the comparables, there was some slight variance. Neither side made any representations on this point and we take the average to derive the value at 110.81 years unexpired. During the hearing Mr Ryan said that the variance of these figures made no significant difference and the tribunal agrees with this view.

Adjustment for time

32. Both valuers used the Savills' PCL flat index to adjust for time. The completion date and month agents state contracts exchanged are agreed. Mr Ryan used the month when the sale figures are stated to be agreed. Mr Channer used the month of completion. During the hearing Mr Ryan said that the different approaches made no significant difference.

Adjustment for time - decision

33. As a general rule the tribunal prefers the use of completion dates and therefore use Mr Channer's figures to reach the sale figure as at June 2014.

Adjustments for 'physical' differences

34. Mr Ryan applied the agreed GIA to the sale price of the comparable to give a value per square foot. He listed 3 categories as being of importance; 1. condition, 2. location, 3. other and showed a percentage adjustment. Mr Channer included similar factors in his narratives for each comparable.

Improvements.

35. Both valuers had personal knowledge of various of the comparables, and both made subjective judgements as to the extent of the value of the improvements which they had either seen or deduced from the sales particulars provided. During the hearing, Mr Channer altered his adjustment for Flat 43, 2 Mansfield Street from £71 pfs to £286 pfs (at the same time he made an additional adjustment for the mansard roof which he had not before noted. He also made an analysis of the two sales of Flat 22, 55 Portland Place which he said indicated that £594 pfs had been added to value because of improvements that he said supported his deduction of £379 pfs in respect of the later sale.

Improvements - decision

36. With no familiarity with these comparables and not having been able to view interiors, the tribunal had particular reservations about Flat 4, 10 Park Crescent and Flat S, 82 Portland Place where there was a considerable difference in opinion between the valuers. However, taking all the representations into account the tribunal finds that this being a subjective matter, an averaging approach is appropriate

Location - Rear Block at 55 Portland Place

37. Mr Ryan made a 20% adjustment for flats at the back of the subject building because he said that it is a very different building. Whilst sharing the same lobby, portage, door entry system, the flats are in a block accessed via a long corridor with less attractive lift and stairs and crucially with no view onto or from Portland Place. Mr Channer adjusted by 10% for this factor.

Rear Block at 55 Portland Place – decision

38. After inspection, the tribunal agrees that the approach to the rear block is inferior, but it was not given any evidence as to the extent of the adjustment. Without material evidence the tribunal considers it appropriate to adopt the average of 15%.

Chinese Embassy, School and commercial premises

39. Mr Channer made extensive representations in respect of the location of the subject block in respect of the neighbouring Chinese Embassy, pointing out it has permanent armed guard, and the associated protests that are held in the street from time to time and because of this makes an adjustment of 8%, although he reduces this to 7% for the flats at the back of Portland Place. In addition he made an adjustment of 1% for the commercial premises, a dentist and a fertility clinic, which are below the subject flats. These premises are separately accessed through their own front doors and share no facilities with the flats. However, he stated that there is specific disturbance arising from these users. There was a further adjustment of 1% for the adjacent girls' prep school. The concerns about these features appeared to arise from his clients' perceptions, in addition Mr Channer had made efforts to interview local porters and to obtain internet references to protests in the locality.
40. Mr Ryan says that he considered that none of these factors would affect values in the block.

Chinese Embassy, School and commercial premises-decision

41. Having carefully examined the material presented and undertaken the inspection of all the comparables externally, the tribunal accepts that close proximity to the Embassy and general awareness of associated protests may have some effect on the desirability of this particular

block. However, the tribunal does not rate this any greater than 1%, and it does not consider that the 'back' flats would be differentiated in this respect. It is the tribunal's view that the majority of properties in Portland Place are adjacent or close to commercial users and it does not consider that any adjustment is needed in respect of the dentist, fertility clinic and school.

Other location issues

42. Mr Ryan considered that Flat 5, 5 Portland Place is less well located to the subjects and added 5%. Mr Channer argued that positive and negative factors relating to location, other than that discussed above, equally outweighed one another so that no adjustment was needed.
43. With respect to the flats in Mansfield Street, Mr Ryan felt no adjustment was needed for location. Mr Channer argued for 8% to reflect 4% for the block appearing to be detached and 4% for its position off the busy thoroughfare.

Other location issues – decision

44. The tribunal agrees with Mr Channer that positive and negative factors at Flat 5, 5 Portland Place relating to location, other than that discussed above, outweigh one another so that no adjustment is needed.
45. As regards Mansfield Street, on balance, the tribunal considers that there should be a distinction made for the relatively quieter but convenient location of this block at the level of 4%.

Other

46. Mr Ryan took 2.5% for each of the balconies. Mr Channer considered that the two 'bedroom' balconies at flat 5, 5 Portland Place added £400,000 to the value which, the tribunal notes is approximately 9.7%. He considered that there is no additional value to the balconies of the 'back' flats.
47. At Mansfield Street, the properties, unless already adapted, had small kitchens and both valuers made adjustments for this. Mr Channer 6% at Flat 39 and Mr Ryan 15%. There was also a 'mansard' effect on the top floor (flats 39 and 43) which Mr Ryan considered too small to warrant adjustment. Mr Channer ascribed 10% to this feature (he corrected his omission in respect of Flat 43 at the hearing). There was some discussion as to whether any 'mansard' affected GIA was excluded from the agreed GIA.
48. At Flat B, 82 Portland Place, Mr Channer made an adjustment for the linear layout. He did not apply this to other flats with linear layout. Mr Ryan considered that no adjustment was needed.

Other – decision

49. The tribunal considers that the presence of balconies/terraces will have some effect on value. In the absence of any persuasive evidence the tribunal takes the average.
50. As regards Mansfield Street, the particulars and the plans attached were carefully examined and the tribunal was able to indentify only one room at Flat 42 which is marked on the plan and of which, there is a clear photograph showing a window in a sloping wall. The tribunal noted that the total adjustments for other features at Flat 39 are 1% apart, and here, the tribunal takes the average. In respect of Flat 43, the tribunal agrees with Mr Ryan that the GIA is most likely to have excluded the mansard area and that no other adjustment is needed.
51. Again, having done the best the it can with the property particulars at Flat B, 82 Portland Place, the tribunal concludes that the adjustment for linear layout is not warranted.

Floor level

52. The valuers took a different approaches to their adjustments for floor level. Mr Ryan adopted 1.5% per floor but applied it by averaging the floor levels of the comparables and then adjusting. At the hearing he did not consider this unusual and said that making the adjustment for each comparable would make little or no effect on the final result. Mr Channer went into far greater detail and explained that the subject property required an adjustment of 2% per floor but at the 2nd floor a further 2% adjustment was needed. He accepted that he had adopted 1.5% when dealing with another property regarding relativity.

Floor level – decision

53. The tribunal is not persuaded that Mr Channer's 'doubling' of the adjustment for floor between 1st and 2nd is appropriate. Neither does the tribunal find Mr Ryan's averaging approach useful. Therefore, the tribunal determines that an adjustment of 1.5% per floor is appropriate.

The appropriate basket of comparables to be averaged.

54. Mr Ryan included two comparables with shorter leases where a further adjustment for lease length is required. Mr Channer exludes these because of the need for an additional large adjustment based on valuers' opinion. He argued that their relevance is in respect of relativity of the subjects. Mr Ryan argued that 4 of the comparables were 'outliers' requiring large adjustments: the 'back' flats; Flat 4, 10 Park Crescent and Flat B, 82 Portland Place, the earliest in time and coming in substantially below the other comparables.

The appropriate basket of comparables to be averaged. – decision

55. The tribunal agrees with Mr Channer that the two shorter lease comparables should be excluded from the average. The tribunal takes GTV

the view that the majority of the comparables have had large adjustments, and it is appropriate to include all the others including Park Crescent which has the same date of sale as the first sale of Flat 21, 55 Portland Place.

The FHVP for Flat 1 is therefore, $£1705 \times 2336 = £3,982,880$ plus
 $50\% \text{ of } £1705 \times 207 = \underline{£176,468}$
 $£4,159,348$

The FHVP for Flat 2 is $£1705 \times 2354 = £4,013,570$

To these values must be added the value of the stores and garages. We agree with Mr Channer's reasoning that these values must reflect the freehold ie adjusting from the agreed values as at 110.81 years. We therefore add £260,205 for the 3 garage spaces and £8,163 for the store at Flat 1 making a total of £4,427,716 say **£4,427,700**. Adding £8,163 for the store at Flat 2 making £4,021,733 say **£4,021,750**.

Relativity

56. In his evidence to the tribunal, Mr Channer looked at transactional evidence. Firstly using the sale of Flat 15, 55 Portland Place in April 2014 at the front of the block and with 21 years unexpired. He made deductions of £173,469 in respect of the garage/store. He found a deduction of £50,000 was required for improvements and then added 4% for the problem of roof leaks in Flat 15. Mr Channer also deducted £160,000 for the terrace whilst making an adjustment of 14% for floor level. After making these adjustments Mr Channer finds a relativity of 58.11% having deducted 15% for the benefit of the Act.
57. Mr Channer went on to a detailed analysis of sales of one long lease and two short leases – 16.64 and 16.78 years unexpired – of one bedroom flats at Carisbrooke Court. He said that these would require fewer adjustments when comparing long and short leases to give a useful indicator of 'with act relativity'. He concluded that these produced an average relativity of 9.845% in excess of Savills 2002 'Enfranchisable'

index for an average lease term of 16.71 years. Although he did not state that he believed this graph was an accurate indicator of relativity including benefit of the Act, he did believe that 'some reliance can be placed on the gradient of the graph being accurate'. He therefore added 9.845 to the Savills graph relativity for 20.81 years to give 68.7522%. This produced a relativity of 58.44% after deduction 15% for the benefit of the Act. He had made an adjustment for the double aspect feature of this block. In examination Mr Channer accepted that the average without this adjustment would be 52.13%, but held to his original figures.

58. Mr Channer stated that in the absence of transactional evidence he would prefer the John D Wood graph resulting in 50.972%. He went on to assess an average of a section of graphs from the RICS report, eliminating WA Ellis and Cluttons houses and substituting the revised Knight Frank graph, however, he did not substitute the original John D Wood graph (54.9720) with the John D Wood revised graph (50.97). After considering a number of LVT decisions in relation to the Gerald Eve and John D Wood graphs, Mr Channer adopted the figure of 53.5% being the average of the graphs 48.6581% and his comparables 58.3%.
59. Mr Coombes, in contrast did not carry out any transactional analysis and felt that he had been surprised by the late inclusion of the Carisbrooke analysis. Although Mr Ryan had included Flat 15, 55 Portland Place in his comparables averaging exercise, neither he or Mr Coombes had carried out any analysis for this sale in respect of relativity. However, Mr Ryan had in his table set out his opinion of deductions needed for the garage/store which he put at £158,000. He did not consider any deduction was needed in respect of improvements but he did deduct 5% for the balcony and 9% for floor level.
60. In regard to the Carisbrooke Court evidence, Mr Ryan did not consider that the dual aspect 'feature' adjustment was warranted and also commented that he would have deducted more than 15%, ie 20 to 25%, for the benefit of the Act.

The tribunals' decision and reasons - relativity

61. The tribunal is of the opinion that had the parties' valuers carried out the exercise of establishing relativity using the same methodology, there would be considerably less disparity between the parties. In reaching its decision, the tribunal considers there is considerable need for caution given our opinion on the differences for the other comparables. Doing the best the tribunal can with Mr Ryan's figures, it is estimated these would produce a relativity figure of 46.85%. Mr Channer in considering Carrisbrooke Court was of the opinion that an adjustment

for the double aspect feature was needed. In examination he accepted that the average without that adjustment would be 52.13% but held to his original figures of 58.44%. Again the problem of establishing the appropriate relativity is aggravated by the effect of subjective adjustments that must be made together with the lack of evidence/agreement as to the extent of the 'with rights' deduction. Consequently, the tribunal is not convinced that there is sufficiently strong evidence to substitute reliance on the graphs with the transaction evidence.

62. The tribunal finds that the mid point of the valuers' relativities is 48.815%. Therefore, doing the best it can with the evidence provided, the tribunal prefers to adopt Mr Channer's average for the graphs providing a figure of 48.65%. In reaching its decision, the tribunal has regard to the approach taken in *Arrowdell* [2007] RVR 39 (LT) and *Nailrile Ltd v Earl Cadogan* [2009] 2EGLR 151. The tribunal is also assisted by the Upper Tribunal's decision in *82 Portland Place (Freehold) Limited v Howard De Walden Estates* [2014] UKUT 0133 (LC). The tribunal accepts that the house graphs should not be included, but includes the substitution of the revised Knight Frank figure. The tribunal considers that the revised graph of John D Wood (JDW) appears to be a pure tribunal graph so only helpful as a cross check (50.97%).
63. The tribunal notes that if both JDW graphs are included, the average would be 49%. The tribunal also noted that in applying the relativities quoted in Mr Ryan's table, this produced a figure of £1182 for the short lease. When compared to the average of Mr Ryan's long lease comparables of £1911, a relativity of 61.85% is produced, which results in 46.85% after deducting 15% for the benefit of rights) However, we are aware that Mr Ryan was not asked to carry out this exercise and we therefore treat this figure with great caution.

Conclusion

64. In conclusion, the tribunal determines that the FHVP for Flat 1 is £4,021,750. The FHVP for Flat 2 is £4,021,750. The relativity is 48.65%. The parties are now required to apply these determination in order to determine the price payable for the lease extensions of the subject properties.

Signed: Judge Tagliavini

Dated: 23 March 2015

Appendix I

I	F/H	address	sale price			garage/store			relativity %			110.75 value	time adjustment		6/14	GIA	Efps	improvements			location				other	
			L/H	F/H	FTT	F/H	FTT	L/H	F/H	FTT	L/H		F/H	L/H				F/H	FTT	L/H	F/H	FTT	FTT	L/H	F/H	
	p22	5/5 Port.Pl.	\$4,025,000						99.00	100	99.50	3,964,322	223.8	223.8	4,120,202	1,563	2,636	331	448	390	5%	-10%	-1%	26	-5.0%	-9.7%
	p26	22/55 PP	\$2,965,000	\$15,000	\$16,326	\$15,000	98.00	98.00	98.00	2,950,000	223.8	223.8	3,065,996	1,453	2,110	316	379	348	20%	+10%	-9%	14%	295	-2.5%	0.0%	
	p25	39/2 MS	\$3,198,000				99.00	98.50	98.75	3,173,711	230.8	231.4	3,190,170	1,705	1,871	281	235	258	0%	-8%	-10%	-5%	94	15.0%	16.0%	
	p22	25/2 MS	\$5,700,000				99.00	98.50	98.75	5,656,709	220.2	220.2	5,975,252	2,540	2,352	352	433	393	0%	-8%	-10%	-5%	118	0.0%	0.0%	
	24	4/10 ParkC	\$4,250,000	\$100,000	\$86,735	\$92,500	99.00	98.50	98.75	4,125,924	217.7	220.2	4,358,265	2,465	1,768	312	71	192	0%	-8%	-10%	-1%	18	10% 15%	15.0%	
	23	S/82 PP	\$5,275,000				97.50	98.00	97.75	5,288,491	213.1	214.6	5,732,074	2,857	2,006	0	193	97	0%	-10%	-1%	20	0.0%	0.0%		
	P24	43/2 MS	\$4,200,000				99.00	98.50	98.75	4,168,101	213.1	214.6	4,517,709	2,099	2,152	324	286	305	0%	-8%	-10%	-5%	108	0.0%	10.0%	
	p25	22/55 PP	\$2,100,000	\$100,000	\$103,861	\$100,000	98.00	98.00	98.00	2,000,000	210.4	213.1	2,183,013	1,441	1,515	0	0	0	20%	+10%	-9%	14%	212	-2.5%	0.0%	
	p26	21/55 PP	\$1,995,000	\$15,000	\$16,326	\$15,000	99.00	98.00	98.50	1,969,949	207.7	210.4	2,177,805	1,453	1,499	0	0	0	20%	+10%	-9%	14%	210	-2.5%	0.0%	
	p23	B/82 PP	\$4,250,000				97.50	98.00	97.75	4,260,870	207.7	207.7	4,771,682	2,725	1,751	351	294	323	0%	-10%	-1%	18	0.0%	10.0%		