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

**Case Reference** : **LON/00AG/OLR/2015/1904**

**Property** : **126B Mill Lane London NW6 1NE**

**Applicant** : **Ms S Singer**

**Representative** : **Mr A Lester**

**Respondent** : **Michael O'Sullivan**

**Representative** : **Mr M Walsh**

**Type of Application** : **S.48 Leasehold Reform Housing and  
Urban Development Act 1993**

**Tribunal Members** : **Mrs F J Silverman Dip Fr LLM  
Mr L Jarero BSc FRICS**

**Date and venue of  
Hearing** : **22 March 2016.  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **23 March 2016**

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**DECISION**

**The Tribunal determines that the freehold vacant possession value of  
the property is £462,000 .**

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## Reasons

1. The applicant seeks a determination pursuant to s.48 Leasehold Reform Housing and Urban Development Act 1993.
2. The hearing of this matter took place before a Tribunal sitting in London on 22 March 2016 at which Mr A Lester represented the Applicant tenant and Mr M Walsh represented the Respondent landlord .
3. On behalf of the Applicant the Tribunal heard evidence from Mr Lester and for the Respondent evidence was given by Mr Walsh the respective parties' valuers.
4. The sole issue which the Tribunal was asked to determine was the freehold vacant possession value of the property. A number of criteria had been agreed by the parties' surveyors prior to the hearing and these were accepted by the Tribunal.
5. The Tribunal inspected the subject property on 23 March 2016. The subject property is a split level first floor flat in a converted Victorian house situated on a busy road in West Hampstead consisting of mixed residential and retail properties. The property itself comprises a living room, kitchen and bedroom on one floor with a second bedroom and a bathroom on a lower level accessed by a short staircase. Both bedrooms were rear facing and small (one particularly so). The modestly sized kitchen/dining area is divided from the main living area by a wall and open archway. There is no outside space .The building in which the flat is situate is of conventional brick construction with a tiled pitched roof. The common areas of the building were narrow with a carpeted staircase and in reasonably good condition, as was the flat itself. There is no private garage or parking but on-street parking in adjacent streets is available subject to the possession of a parking permit. Access to shops and other local amenities is within walking distance and a bus stop is a few metres from the main entrance to the building.
6. All the comparables proposed by the parties' surveyors were situated in Mill Lane and although each surveyor had put forward some properties which his opponent had omitted there was a commonality of approach . At the time of their inspection (and with one exception noted below) the Tribunal viewed the exterior of all the comparables included in both parties' surveyors schedules.
7. A number of the comparables were felt by the Tribunal to be inappropriate for the following reasons. No 9 Mill Lane was at some distance from the subject property, was adjacent to the railway embankment and no conclusive evidence of a sale was put before the Tribunal. No 16 Mill Lane was disregarded because it was a three bedroom flat and much larger than the subject property. No 57A Mill Lane (opposite the subject property and situate above a dry cleaners) similarly was a three bedroomed flat and also had two bathrooms and a patio. No 60A Mill Lane was a studio flat and no concrete evidence of a sale was produced to the Tribunal . Flat 2 at 120 Mill Lane with its single bedroom was considered to be too small to be a valid comparable to the subject property. Although no 124 Mill Lane had two bedrooms (like

the subject property) its square footage was more than twice that of the subject property which made it an unsuitable comparable.

8. This left the Tribunal with three comparables which it considered suitable equivalents to the subject property. These were no 60C Mill Lane, a second floor flat comprising two bedrooms, two bathrooms and an open plan living/kitchen area and Flat 4 at 120 Mill Lane which comprises two reception areas (one is a mezzanine platform) an open plan kitchen, one bedroom and one bathroom. The floor area of this latter is 592 sq ft comparing favourably with the 581 sq ft of the subject property. The Tribunal made an adjustment of 5% to account for the second bathroom (no. 60C) and the same amount to compensate for the additional living space at Flat 4 no 120. Another two bedroomed flat, Flat 1 at no 114 Mill Lane was also taken into account although it was larger than the subject property and had two bathrooms and a garden. This last was a lower-ground floor flat access to which it is assumed is via an interior staircase within the hallway of no 114. No part of this property was visible from either Mill Lane or from the adjacent side street. Adjustments totalling 15% were made to this property to account for the larger size and garden space.  
It was also considered appropriate to apply a weighting to the properties allocating 40% each to no 60C and Flat 4 at no 120 with the remaining 20% being attributed to Flat 1 at 114 Mill Lane.
9. Taking these factors into account the Tribunal concluded that the vacant possession value of the freehold of the subject property at the relevant date was £461,900 but say: £462,000.

### The Law

10. Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (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.
11. 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.
12. 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.
13. Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.
14. Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Judge F J Silverman

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As Chairman

.....23 March 2016 .....

Note:

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.