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

Case Reference : **LON/00AO/OLR/2016/0130**

Property : **56 Sirdar Road, London, N22 6RD**

Applicant : **Anna Katherine Tse Tustian**

Representative : **Streathers, Solicitors**

Respondent : **Roger Finn**

Representative : **Did not appear and was not represented**

Type of Application : **Section 50 of the Leasehold Reform, Housing and Urban Development Act 1993**

Tribunal Members : **Judge Ian Mohabir
Mrs S Redmond BSc MRICS**

Date and venue of Determination : **20 April 2016
10 Alfred Place, London WC1E 7LR**

Date of Decision : **20 April 2016**

DECISION

Introduction

1. This is an application made by the Applicant under section 50 of the Leasehold Reform, Housing and Urban and Development Act 1993 (as amended) (“the Act”) for a determination of the premium to be paid for the grant of a new lease for the property known as 56 Sirdar Road, London, N22 6RD (“the property”).
2. The Applicant is the lessee of the ground floor flat in the building.
3. The Respondent is the landlord and freeholder.
4. By a claim form issued on 14 October 2015 under action number B02EC808 in the Clerkenwell & Shoreditch County Court the Applicant sought an order under section 50 of the Act that the Applicant was entitled to the grant of a new lease and to dispense with the service of a section 42 claim notice on the basis that the Respondents could not be found.
5. By Order of Deputy District Judge Davies dated 5 January 2016 the Court recorded that it was satisfied that the Respondent could not be found and that the Applicant was entitled to the grant of a new lease. It ordered, *inter alia* service of the section 42 notice be dispensed with and the matter transferred to the Tribunal for a determination of the premium to be paid for the grant of the new lease.
6. On 24 February 2016, the Tribunal issued Directions, which included a direction that its determination would be based solely on the basis of the documentary evidence filed by the Applicants. However, by supplementary Directions dated 18 March 2016, the Tribunal listed the matter for a short hearing to deal with various valuation matters arising from the Applicant’s valuation report.
7. The valuation evidence relied on by the Applicants is set out in the supplemental report prepared by Mr Christopher Stone, Chartered Surveyor, dated 7 April 2016.

The Law

8. 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.
9. 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.

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

Decision

13. The hearing in this matter took place on 20 April 2016. The Applicant was represented by Mr Stone. The Respondent did not attend and was not represented.
14. The Tribunal relied on the description of the property internally given in Mr Stone's report and refer to paragraph 5 of that report for the description. The Tribunal did not carry out an inspection.
15. The existing lease was granted for a term of 99 years from 25 March 1986 with a current ground rent of £50, £100 and £200 per annum for each 33 year period of the term. At the relevant date, namely 14 October 2015, the lease had 69.44 years to run.
16. Because the lease has less than 80 years to run, marriage value at 50 per cent is payable. Compensation under paragraph 5 of Schedule 13 to the Act does not arise. In respect of (any) arrears of rent, the landlord has not served demands in statutory form, so no arrears of rent are payable.
17. The value of the ground rents should be discounted at 7% per annum. We agree with Mr Stone's figure on the basis that the ground rent would not be attractive to an investor due to the relatively small amount receivable and the relatively high cost of collecting it. This accords with the Tribunal's own knowledge of market values for this type of investment.
18. We agree with Mr Stone's use of 5% for the deferment of the reversion, which is in accordance with the decision in *Sportelli*.
19. We do not accept Mr Stone's evidence that the extended lease value is £400,000. Mr Stone produced a number of comparables details of properties

mainly within the same street which were elaborated in his supplemental report. He explained that there were no other similar purpose built maisonettes in the area and that he had been unable to trace any sales in 2015. He had not produced index linked figures, although he said he had carried out the exercise, as he felt that the Land Registry index which he considered was the most useful did not reflect his experience in the area over the period concerned. As a result, the most useful comparables were a year prior to the valuation date. He had been informed by a reliable local estate agent of a sale in January this year at 196 Sirdar Road but had not been able to obtain LR information. Index linking using the Haringey index for flats produced figures of £452,423 and £457,746 for the closest comparables at 45 and 116 Sirdar Road, first floor flats which had been sold a year earlier in October 2014. The sale in January 2016 produced £402,859. On balance and taking into account the features outlined in the sales evidence, including condition, and making allowance for the effect of 12 month indexing, the Tribunal concludes that the virtual freehold value of this flat is £420,000.

20. Mr Stone assesses the existing leasehold value of the flats by applying an average relativity of 91.385%, which he derives from the taking an average from two graphs of relativities from the graphs prepared by Nesbitt & Co and Andrew Pridell. He preferred these graphs as he considered them to be more suitable for location and more reliable as he had had many negotiations with the firms concerned. We do not accept this figure and consider that when there is no alternative market evidence a full average of all the graphs is more appropriate. In this case this produces a relativity of 92.19%.
21. In his calculation, Mr Stone adopted a freehold value in relation to the extended lease value concluded at relativity of 99%. Whilst this is commonly used in Prime Central London, we do not consider this appropriate in this area and there he provided no evidence in this respect.
22. The Tribunal's valuation is annexed hereto and shows the premium payable is £24,093.
23. The terms of the draft lease provided by the Applicant's solicitors are approved.

Judge I Mohabir

20 April 2016

VALUATION FOR PREMIUM FOR A NEW LEASE
Leasehold Reform & Urban Development Act 1993
56 Sirdar Road, London, N22 6RD

Facts and matters agreed

Lease 99 years commences 25/3/1986
 Ground rent rising every 33 years £50/£100/£200
 Valuation date 14/10/2015
 Unexpired term 69.44 years
 GIA 60.95 sq m
 Capitalisation rate 7%
 Deferment rate 5%
 Improvements none

Matters determined

Virtual freehold value £420,000
 Existing lease (unimproved) £387,198
 Existing lease relativity as %age of FHVP value 92.19%

Diminution in Value of Freeholder's interest

| | £ | £ | £ |
|--|----------------|-----------------|--------|
| Present value of Freeholder's interest | | | |
| Ground rent | | 50 | |
| YP 3.44 years @ 7% | | <u>2.9444</u> | 147 |
| Ground rent | | 100 | |
| YP 33 years @ 7% | 12.7537 | | |
| deferred 3.44 Years @ 7% | <u>0.79236</u> | 10.1055 | 1,011 |
| Ground rent | | 200.0000 | |
| YP 33 years @ 7% | 12.7537 | | |
| deferred 36.44 Years @ 7% | <u>0.08496</u> | 1.0836 | 217 |
| Value of term | | | |
| Reversion | | | |
| Virtual freehold market value unimproved | | 420,000 | |
| Deferred 66.44 years @ 5% | | <u>0.033776</u> | 14,186 |
| Freeholder's present interest | | | 15,560 |
| less Value of Reversion after extension | | 420,000 | |
| deferred 159.44 years @ 5% | | <u>0.000418</u> | 176 |
| | | | 15,385 |

Calculation of Marriage Value

| | | | |
|--|----------------|---------|------------------------------|
| Value of proposed interests: | | | |
| Landlords' | 176 | | |
| Tenant's new 159.44 year lease at a peppercorn | <u>420,000</u> | 420,176 | |
| Less value of existing interests: | | | |
| Landlords' | 15,560 | | |
| Tenant's existing lease | <u>387,198</u> | 402,758 | |
| Marriage Value | | 17,417 | |
| 50% marriage value attributed to landlord | | say | <u>8,709</u> |
| TOTAL PREMIUM PAYABLE | | | <u><u>£24,093</u></u> |