



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

Case Reference	:	LON/00BH/OLR/2016/1431
Property	:	Flat 2, Orford Court, 93-95 Orford Road, London, E17 9QR
Applicant	:	Jennifer Anne Cottle
Representative	:	Cavendish Legal Group
Respondents	:	Anwar Hussain & Nasreen Akhtar
Representative	:	None (missing landlord)
Type of Application	:	S42 Leasehold Reform, Housing and Urban Development Act 1993 (the Act)
Tribunal Members	:	Mrs H C Bowers MSc MRICS BSc(Econ)
Date and venue of Determination	:	21 October 2016 at 10 Alfred Place, London WC1E 7LR
Date of Decision	:	21 October 2016

DECISION

- **The Tribunal determines that the price payable for the lease extension of Flat 2, Orford Court, 93-95 Orford Road, London, E17 9QR (the subject property) shall be £18,295.00.**
 - **No other sums are payable under section 51(5) of the Leasehold Reform, Housing and Urban Development Act 1993**
 - **The terms of the draft deed of surrender and re-grant are approved**
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REASONS

BACKGROUND

1. By an order made by District Judge Dixon dated 26 August 2016 in the County Court at Bow in claim number Co2BO317 ("the Order") between the parties named on the front page of this decision, the matter was remitted to this Tribunal. The Tribunal is required to determine the terms of the new lease and the appropriate sums to be paid into court pursuant to section 51(5) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") in respect of the of Flat 2, Orford Court, 93-95 Orford Road, Walthamstow, London, E17 9QR (the subject property).
2. The Tribunal had before it a bundle prepared by the Applicant's solicitors. These papers included the Claim Form, witness statement of the Applicant, the Court Order of 26 August 2016, copies of the freehold and leasehold registers of title, the lease of the subject flat. The freehold interest is under title number EGL141218. The lease for the subject property (title number EGL220940) is dated 6 May 1988. This lease is for a term of 99 years from 29 September 1987.
3. In addition the Tribunal was provided with a copy of a report of Mr T J Henson BSc MRICS of Clarke Hillyer Limited dated 15 September 2016. The valuation date under the current case would be the date of the service of the Claim Form, and is stated to be 15 July 2016. At this time there was an unexpired term of 70 years and 2 months (70.17 years).
4. The valuation report describes the subject flat as a ground floor flat conversion in a two-storey building. The accommodation comprises a hallway, open plan reception room with kitchen area, a double bedroom and a bathroom. The GIA is provided as 439 sq. ft.
5. The ground rent for the subject flat was £100 for the first 25 years; £200 for the second 25 years; £300 for the next 5 years and £400 for the remainder of the term. The report adopts a capitalisation rate of 7%. Mr Henson values the capitalised ground rent for the subject property at £3,210.
6. A total of four comparables were provided in respect of the long lease interest. In respect of adjustments for time, Mr Henson seemed to utilise the Land Registry Index. The first comparable is Flat 5, Orford Court, the same block as the subject flat. The long lease of 125 years sold on 22 January 2016 for £275,000 and time adjusted this figure is £298,000. It is noted that this comparable is also a one-bedroom flat with a GIA of 355 sq ft. An analysis of the sale produces a rate of £839/sq. ft. Mr Henson then deducted 10% to reflect the size of this comparable and his rate therefore becomes £755 per sq.ft. The second comparable was 2C Beulah Road that is within 0.25 miles of the subject flat. A new lease for this flat sold for £395,000 on 10 September 2015

and adjusted to the valuation date this equates to £451,500. The flat is described as a 1-2 bedroom flat with a GIA of 602 sq.ft. The adjusted price devalues to £750 per sq. ft. The third comparable is 38 First Avenue, again within 0.25 miles of the subject property. A long lease for this flat sold for £360,000 on 9 December 2015 and adjusted to the valuation date this equates to £435,000. The flat is described as a one-bedroom flat with a GIA of 591 sq. ft. The adjusted price devalues to £736 per sq. ft. The final comparable is 21B Orford Road within 0.25 miles of the subject property. A new lease for this flat sold for £313,000 on 26 May 2016 and adjusted to the valuation date this equates to £322,000. The flat is described as a one-bedroom flat above a retail unit but as being in a superior position with a GIA of 441 sq.ft. The adjusted price devalues to £730 per sq. ft.

7. From these comparables Mr Henson adopts a rate of £742.75 and applied to the subject property, this produces a long lease value of £326,000. He then makes an adjustment to reflect the superior condition of the comparables and his adjusted long lease value becomes £320,000. Mr Henson applies a 1% adjustment to obtain the freehold value.
8. As to relativity, Mr Henson has no short lease open market evidence and relies upon the RICS Research paper on relativities. It is stated that the average of the graphs for outside Prime Central London for 70.2 years is 92.65% and Mr Henson adopts that figure. A deferment rate of 5% is proposed.
9. By inputting these figures into a recognised valuation formula, Mr Henson calculates the premium to be £17,100.00.
10. The Tribunal comments on these submissions in the findings section below

FINDINGS.

11. In essence the Tribunal is prepared to adopt the capitalisation and deferment rates proposed. These seem appropriate given the reserved ground rent and the provisions of Sportelli as to deferment rates. The detailed calculations for the capitalisation of the ground rents have been fully set out. The Tribunal considers that this element of the valuation is reasonable and determines this element at the proposed figures.
12. As to the long lease interest in the subject flat, Mr Henson made an adjustment to the first comparable to reflect its size. However, he made no adjustment to the second and third comparables that were significantly larger than the subject flat. If a similar adjustment was made to those comparables as Mr Henson made to comparable 1, then the rates per sq.ft. would become £825 and £810 respectively. Additionally, Mr Henson states that the fact that comparable 4 is

located above a retail unit is balanced out by the fact it is in a superior location. No specific evidence was produced as to the superior location of comparable 4. It seems that in the expert opinion of the Tribunal that flats located above a retail unit would command a lower capital value than those in a more conventional residential location. Accordingly, the Tribunal applies a 10% uplift to reflect the inferior position of this comparable. The adjusted rate of this comparable becomes £803 per sq. ft. Averaging the rates of the four comparables out produces a rate of £798 per sq. ft. Applying this to the subject property produces a long lease value of £350,322. The Tribunal accepts that a further adjustment would be appropriate to reflect the more modern condition of the comparables in comparison to the original condition of the subject property at the grant of the lease. Accordingly, the Tribunal adopts a value of £345,000 as the unimproved long lease value of the subject flat.

13. Mr Henson has taken a conventional approach to the issue of relativity and has used the average of the outer PCL graphs, which is entirely appropriate. Mr Henson has also made an adjustment of 1% to calculate the freehold value of the flat. This is a conventional approach and is accepted by the Tribunal. Therefore, taking these elements into account the Tribunal adopts the sum of £18,295.00 as the premium for the lease extension of the subject property. The Tribunal's valuation is attached to this decision.
14. The Tribunal is also required to determine any other sums payable under section 51(5) of the Act. There are no details as to whether any ground rent or service charges have been demanded. However, if the Respondent landlord has not served any rent demands in the statutory form and no arrears of rent are payable and therefore no sum is therefore payable into court under section 51(5) of the Act.
15. Included in the papers is a copy of the draft deed of surrender and re-grant in respect of the subject flat. The Tribunal has considered this document and confirms that the terms of the draft deed of surrender and re-grant new lease are approved.

Helen Bowers
Valuer Chair

21 October 2016

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office, which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking

SCHEDULE 1

**Flat 2, 93 Orford Road
Walthamstow, London
E17 9QR**

Long Lease Value (Unimproved)	£345,000
Freehold Value (Unimproved) (1%)	£348,450
Existing Lease Value (Unimproved)	£322,839
Deferment Rate	5%
Capitalisation Rate	7%

Freeholder's Present Interest

Term

Term 1

Rent Reserved	£200	
YP to 1st review 21.17 years @ 7%	<u>10.8742</u>	
		£2,175

Term 2

Rent Reserved	£300	
YP to 2nd review 25 years @ 7%	11.6536	
PV of £1 @ 7% in 21.17 years	<u>0.2388</u>	
		£834

Term 3

Rent Reserved	£400	
YP to 2nd review 24 years @ 7%	11.4693	
PV of £1 @ 7% in 46.17 years	<u>0.044</u>	
		£201

Reversion

FH reversion	£348,450	
PV of £1 in 70.17 years @ 5%	<u>0.0326</u>	
		<u>£11,359</u>
		£14,569

less

Freeholder's Proposed Interest

FH reversion	£348,450	
PV of £1 in 160.17 years @ 5%	<u>0.0004</u>	
		<u>£139</u>
		£14,430

Marriage value

Proposed	
Extended lease value	£345,000
FH in reversion	£139
less	
Existing	

Freeholder's Interest	£14,569		
Short lease value	£322,839		
Marriage Value		<u>£7,731</u>	
50:50 division			<u>£3,865</u>
Premium for lease extension			£18,295