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

Case reference : LON/00BG/OLR/2016/1699

Property : 23 St Michaels Court, St Leonards
Road, London E14 6PS

Applicant : Grace Emily McElwaine

Representative : Mr A Robinson AssocRICS of NJ
Lewis & Associates Limited
Chartered Surveyors

Respondent : St Michaels Court Freehold Limited

Representative : Mr R Bridges BSc(Hons) MIRPM
Assoc RICS of Mcdowalls Chartered
Surveyors

Type of application : Application under section 48 of the
Leasehold Reform Housing and
Urban Development Act 1993

Tribunal members : Judge N Hawkes
Mr D Jagger MRICS

Date and venue : 28th February 2017 at 10 Alfred
Place, London WC1E 7LR

Date of decision : 13th March 2017

DECISION

Decision of the Tribunal

The Tribunal determines that the premium payable by the applicant for the grant of a new lease of 23 St Michaels Court, St Leonards Road, London E14 6PS is £19,958.

Background

1. This is an application under section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act") for the determination of the premium payable for the grant of a new lease of 23 St Michaels Court, St Leonards Road, London E14 6PS ("the property").
2. The Tribunal was informed that the property is a one bedroom, second floor flat in a Grade II listed church conversion. The living accommodation comprises an entrance hall, a kitchen/living room, a bedroom and a bathroom/WC.
3. The church was originally constructed in the 1860s. The development is situated within the Langdon Park Conservation area, approximately 0.1 miles from Langdon Park DLR station.
4. The term of the existing lease is 99 years from 29th September 1986. By a notice dated 12th April 2016 pursuant to section 42 of the 1993 Act, the applicant claims to exercise the right to acquire a new lease of the property. The respondent has served a counter notice under section 45 of the 1993 Act which is dated 17th June 2016.

The hearing

5. The applicant was represented by Mr A Robinson AssocRICS of N J Lewis & Associates Limited Chartered Surveyors at the hearing and the respondent was represented by Mr R Bridges BSc(Hons) MIRPM Assoc RICS of McDowalls Chartered Surveyors. The Tribunal heard oral evidence from both Mr Robinson and Mr Bridges in their capacity as experts.
6. Colour photographs of the development were provided in the hearing bundle. Neither party requested an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issue in dispute.

The law

7. Schedule 13 to the 1993 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 to the landlord.

8. The diminution in value of the landlord's interest is the difference between (a) the value of the landlord's interest in the tenant's flat prior to the grant of the new lease and (b) the value of his interest in the flat once the new lease is granted.
9. The value of the landlord's interest is the amount which at the relevant 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) applying the assumptions and requirements set out in clause 3 of Schedule 13 to the 1993 Act.
10. Paragraph 4 of Schedule 13 to the 1993 Act provides that the landlord's share of the marriage value is to be 50%, but that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.

The issues which are agreed and in dispute

11. The following matters are agreed:

Valuation date	12 th April 2016
Unexpired term	69.38 years
GIA	33 square metres
Deferment rate	5%
Capitalisation rate	6.5%
Differential between the unimproved extended lease value and the freehold vacant possession value	1%
Value of existing Lease with 1993 Act rights	£300,000

12. The sole issues remaining in dispute are the relativity rate and, consequently, the unimproved extended lease value.

The submissions and determination

13. The value of the existing lease with 1993 Act rights is agreed to be £300,000. The 1993 Act requires the unimproved existing lease value to be calculated on the statutory hypothesis that the existing lease does not have rights under the 1993 Act.
14. Mr Robinson was of the opinion that the appropriate deduction to reflect the statutory hypothesis is 1.5 % and Mr Bridges was of the

opinion that the appropriate deduction is 3%. There was some reference to case law but both of the experts essentially relied upon their knowledge experience as valuers.

15. The Tribunal prefers the expert evidence of Mr Robinson on this point which accords with the Tribunal's own assessment and finds that the appropriate allowance to reflect the statutory hypothesis is 3%. Accordingly, the value of the unimproved existing lease, applying the statutory hypothesis that the existing lease does not have rights under the 1993 Act, is £291,000.
16. As regards the long lease value, the valuers agreed that the sales evidence relating to flat 15 St Michaels Court is the most relevant comparable sales evidence and that, adjusted for time, the value of flat 15 is £334,384. Flat 15 is approximately 20% larger than the subject property and it is situated on the second floor whereas the subject property is located on the first floor of the development.
17. Mr Robinson deducted the sum of £16,000 from the adjusted value of flat 15 on account of the difference in size and he thereby arrived at a long lease value of £317,384.
18. The figure of £16,000 was based on Mr Robinson's knowledge and experience. He did not consider that it would be appropriate to make a deduction on a square metre basis because this would have resulted with a figure which was out of line with the sales evidence.
19. Mr Robinson made no adjustment to reflect that fact that the subject property is on the first floor and flat 15 is on the second floor of the development.
20. Mr Robinson arrived at a relativity of 93.70% in reliance upon the adjusted sales evidence relating to flat 15. However, Mr Robinson also carried out an additional valuation calculation using a number of relativity graphs for Greater London as what he described as a "sense check".
21. Mr Robinson relied upon the average of four graphs from the 2009 RICS research paper which produced a relativity of 92.10. He excluded the fifth graph, the Becket & Kay graph, due to its reliance upon opinion evidence and due to the fact that it is out of line with the other graphs (with no evidence supplied to explain the difference).
22. Mr Bridges added £5,000 to the adjusted value of flat 15 on account of the fact that the subject property is on the second floor and flat 15 is on the first floor. Mr Bridges was of the view that a second floor flat would be preferable to a first floor flat because it would be safer and would have better natural light.
23. Mr Bridges made a deduction of £5,000 from the adjusted value of flat 15 on account of the difference in size explaining that he did not

consider a larger deduction to be appropriate, notwithstanding the 20% difference in floor area, because each flat in this development is different and therefore he did not consider size to be the most important factor.

24. Mr Bridges referred to various graphs in his evidence but he did not place any significant reliance upon any of them.
25. The Tribunal finds that a deduction in the sum of £16,000 from the adjusted value of flat 15 is appropriate. The Tribunal notes that, as it pointed out to the parties during the course of the hearing, flat 15 has a superior layout to the subject property in addition to a 20% greater floor area.
26. There was no evidence before the Tribunal that second floor properties in this development have better natural light than first floor properties and there was no evidence of any other particular features of the subject property which would compensate the limited floor area.
27. Further, the Tribunal is not satisfied on the evidence that second floor flats are significantly safer than the first floor flats in this development.
28. Applying the above determinations, the Tribunal finds that the premium payable by the applicant for the grant of a new lease of 23 St Michaels Court, St Leonards Road, London E14 6PS is £19,958.
29. A copy of the Tribunal's valuation is attached to this decision.

Judge N Hawkes

13th March 2017

APPENDIX A
23 St Michaels Court, St Leonards Road, E14 6PS
The Tribunal's Valuation
Assessment of the premium for a lease extension
In accordance with Leasehold Reform, Housing and Urban Development Act 1993
LON/00BG/OLR/2016/1699

Components

Valuation date:	12 th April 2016	
Yield for ground rent:	6.5%	
Deferment rate:	5.0%	
Long lease value	£318,384	
Freehold value	£321,568	
Existing leasehold value	£291,000	
Relativity	90.49 %	
Unexpired Term	69.38 years	
Ground rent currently receivable	£100	
Capitalised @ 6.5% for 20.38 years	11.12175	£1,112
Rising to:	£150	
Capitalised @ 6.5% for 25 years	12.19788	
Deferred 20.38 years @ 6.5%	0.277	£507
Rising to:	£225	
Capitalised @ 6.5% for 25 years	12.19788	
Deferred 45.38 years @ 6.5%	0.277	£155
		1,774
Reversion to:	£321,568	
Deferred 69.38 years @ 5%	0.033876	£10,893
Freeholder's Present Interest		£12,667
Landlords interest after grant of new lease	£321,568	
PV of £1 after reversion @ 5% 0.00042	£135	£12,532
Marriage Value		
Extended lease value	£318,384	
Plus freehold reversion	135	
	£318519	
Landlord's existing value	£12,667	
Existing leasehold value	£291,000	
	£303,667	
Marriage Value	£14,852	
Freeholders share @ 50%		£7,426
LEASE EXTENSION PREMIUM		£19,958