

4658



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

**Case Reference** : **LON/00BH/OLR/2018/0579**

**Property** : **Flat 1, 18, Belmont Park Road,  
Leyton, London, E10 6AU**

**Applicants** : **Emmanuel Jude-Manorajh  
Antoneciya Tereen Jude-Manorajh**

**Representative** : **Cavendish Legal Group**

**Respondent** : **Henry Thomas Smith**

**Representative** :

**Type of Application** : **S42 Leasehold Reform, Housing  
and Urban Development Act 1993  
(the Act) – Missing Landlord**

**Tribunal Members** : **Mrs H C Bowers – Valuer Chair  
Mr A Ring**

**Date and venue of  
Determination** : **4 June 2018 at 10, Alfred Place,  
London, WC1E 7LR**

**Date of Reasons** : **7 June 2018**

3. Additionally, the Tribunal was provided with a copy of a valuation report of Mr Andrew Cohen MRICS that was dated 12 May 2018. The Tribunal was also provided with a copy of the proposed Deed of Surrender and Re-Grant.
4. The report describes the subject flat as a ground floor flat, with access via a communal front door and lobby. Within the flat there is an entrance hall, two bedrooms (one double and one single), lounge, kitchen and a bathroom with WC. It is noted to have a GIA of 45 square metres. It is stated that included in the demise is a section of rear garden and part of the front garden, but that there is no garage or off-street parking. The information that is supplied is in conflict of what appears to be demised under the lease and briefly described in paragraph 2 above.
5. At the valuation date of 28 December 2018 there is an unexpired term of approximately 70 years. Mr Cohen has valued the rising ground rent as described in paragraph 2 above with a capitalisation rate of 6% to reflect the more attractive nature of the ground rent provision in comparison to similar leases. He has valued the capitalised ground at a total of £2,272.00.
6. Mr Cohen explained that when carrying out the valuation he has assumed that the subject flat would be well-maintained but without the benefit of any improvements, namely it would be assumed to have its original kitchen and bathroom fittings. He commented that the comparables would need to be adjusted to reflect the benefit of more modern features.
7. Details of several comparable properties within a short distance of the subject property were provided:
  - 75a, Belmont Road sold in December 2017 for £359,999. This is described as a similar one-bedroom flat of 41.4 square metres with an attractive garden. He makes a deduction of £20,000 for the superior condition of this comparable.
  - 65a Pembroke Road sold in February 20018 for £330,000. This is described as a one-bedroom flat of 39 square metres and having a small courtyard garden.
  - 16a Frasier Road sold for £340,000 in August 2017. This is a two-bedroom ground floor flat of 61.8 square metres with a share of the freehold.
  - 71, Bakers Avenue sold for £357,000 in June 2017. This is a two bedroom flat of 48 square metres with a small garden and described as being in good order.
  - 21a, West End Avenue sold for £390,000 in January 2018. This is a two bedroom flat of 58.6 square metres with exclusive use of the garden.

- 128 Capworth Street sold for £330,000 in February 2018. This is a two-bedroom flat of 77 square metres and a basement area of 12 square metres.
8. From these comparables, Mr Cohen concluded that the value of the subject flat in an unimproved condition would be £360,000. He also adopts a deferment rate of 5% following the principles set out in Sportelli, seeing no reason to depart from that rate.
  9. Mr Cohen makes a 1% differential between the long lease value and the freehold value of the flat.
  10. It is stated that there is no evidence of local short lease sales. Accordingly Mr Cohen relied on the default position of using the 2009 RICS Report on Relativities. He used the five non-Prime Central London (non-PCL) Graphs for an unexpired term of 69.99 years. The relativities ranged from 90.99% to 93.45%, with an average of 92.55%, which Mr Cohen adopted. It is noted that Mr Cohen applied the relativity to the long lease value rather than to the freehold value.
  11. By inputting these variables into a recognised valuation formula, Mr Cohen calculated the premium to be £20,450.00.
  12. The Tribunal comments on these submissions in the findings section below.

#### **FINDINGS.**

13. In essence the Tribunal is happy to adopt the capitalisation rate proposed by Mr Cohen. The ground rent doubles every 25 years and would be deemed more attractive than more modest ground rents with limited increase patterns. The detailed calculations for the capitalisation of the ground rents have been fully set out. The adoption of 5% as a deferment rate is standard and in line with relevant case law and is accepted by the Tribunal.
14. In respect of the long lease values for the subject flat, Mr Cohen has provided evidence of sales that would support his long lease value of £360,000. The Tribunal therefore adopts that figure.
15. As to the issue of relativity, it is accepted that due to the lack of any short lease evidence the use of the relativity graphs would be appropriate in this case. Mr Cohen has taken the average of five of the non-PCL graphs. There are a number of criticisms could be made of any of the graphs and the Tribunal agrees that the preferred approach is to take an average of the five non-PCL graphs. Therefore, the Tribunal accepts the relativity of 92.55% as adopted by Mr Cohen.
16. The Tribunal has checked all these variables and the valuation and confirms a premium of £20,450.00.

17. The Tribunal has also considered whether any sums are payable under section 51(5)(c) of the Act. It would appear that no ground rents have been demanded and there are no details as to whether any service charges have been demanded. However, if the Respondent landlord has not served any rent or service charge demands in the statutory form no arrears of service charges are payable and therefore no sum is therefore payable into court under section 51(5)(c) of the Act.
18. In respect of the draft Deed of Surrender and Re-grant under paragraph 5 the word 'full' before 'limited title guarantee' should be removed. Arrangements should be made for the relevant sums to be paid into court in accordance with the Civil Procedure Rules, otherwise the draft Deed of Surrender and Re-Grant is agreed.

Chair: Helen Bowers

Date: 7 June 2018

#### **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