



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

Case reference : **LON/00BH/OLR/2018/1186**

Property : **66 Bloxhall Road, Leyton, London
E10 7LP**

Applicant : **Khatija Habib**

Representative : **Quality Solicitors Mirza**

Respondent: : **Sidewalk Properties Limited**

Representative : **Estates & Management Limited**

Type of application : **A new lease claim**

Tribunal members : **Judge Angus Andrew
Patrick Casey MRICS**

**Date and venue of
hearing** : **18 June 2019
10 Alfred Place, London WC1E 7LR**

Date of decision : **3 July 2019**

DECISIONS

Decisions

1. The extended leasehold value of the flat at the agreed valuation date was £355,000.
2. The price to be paid for the new extended lease is £276,800 in accordance with our attached valuation.

The application and the hearing

3. Ms Habib applied under section 48(1) of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”) for a determination of the price to be paid under section 56(1) of and schedule 13(2) to the Act for the grant of a new extended lease of the flat.
4. We heard the application on 18 June 2019. Ms Habib was represented by Wilson Dunsin FRICS who also gave evidence on her half. The landlord was represented by Andrew Balcombe FRICS FCI Arb who also gave evidence on its behalf.
5. Both Mr Dunisn and Mr Balcombe agreed that it was unnecessary for us to undertake an inspection and given the information contained in the document bundle we did not consider that an inspection was necessary.
6. With the agreement of both Mr Dunisn and Mr Balcombe we allowed the late introduction of (a) a local plan showing the position of the various comparable properties relied on by both parties (b) a revised statement of agreed facts and (c) revised valuations from both parties.
7. During the course of the hearing we directed both Mr Dunisn and Mr Balcombe to submit revised tables of the comparable evidence upon which each of them relied. Those tables, which were agreed between the valuers, have been received and are taken into account in this decision.

Background

8. The Warner estate was built in the Edwardian era. It is located on roads that either run off or are parallel to Lea Bridge Road and consists mainly of two storey properties with purpose built flats on the first and second floors. In 1908 and 1909 Thomas Warner granted 1,000-year leases of each of these properties to Warner Estate Ltd and the lease of 66 and 68 Bloxhall Road was granted on 23 December 1906 for a term of 1,000 years running from 25 December 1906. In this decision we refer to 66 Bloxhall Road as the flat and 66 and 68 Bloxhall Road as the property.
9. On 20 November 1963 the then lessee granted a sub-lease of the flat for a term of 60 years from 15 November 1963. The demise includes the staircase leading to

the flat and part of the rear garden. Three years later the lessee granted a sub-lease of 68 Bloxhall Road (the ground floor flat) for a term of 900 years from 25 December 1963.

10. The landlord now owns the head leasehold interest and is for obvious reasons the competent landlord for the purpose of these proceedings. Ms Habib purchased the sub-leasehold interest in the flat on 9 July 2014 for £105,000, the sublease then having only 9 years left to run. By a claim notice dated 29 January 2018 Ms Habib claimed a new extended lease. By a counter notice dated 27 March 2018 the landlord admitted the claim.

Issues

11. The parties had agreed a description of the property to which we do not object. For the purpose of this decision it is sufficient to record that the parties agreed that the flat has a GIA of 625 sq. ft. and comprises a lounge, kitchen, bedroom, box room and a bathroom with WC. As constructed the flat comprised only one bedroom and the front room has been divided by the leaseholder to provide a smaller reception room and a box room.
12. In addition, the parties had also agreed the following:
 - a. The valuation date of 30 January 2018
 - b. An unexpired term of 5.79 years.
 - c. A capitalisation rate of 6.5%
 - d. A deferment rate of 5%
 - e. An existing lease value of £54,780
 - f. An extended lease/freehold vacant possession relativity of 99%.
 - g. The terms of the new lease at pages 47-55 of the hearing bundle.
13. Consequently, the only issues remaining in dispute were the extended lease value and the premium to be paid by Ms Habib to the landlord. Both valuers shifted their position during the hearing. Ultimately Mr Dunsin contended for a freehold vacant possession value of £320,673 whilst Mr Balcombe contended for an extended lease value of £355,000. These different valuations resulted in Mr Dunsin contending for a premium of £244,680 and Mr Balcombe for a premium of £276,800.

Mr Dunsin's approach

14. Mr Dunsin relied on the sales of 4 flats on the estate to establish the extended lease value: those of 128 Blyth Road (570 sq. ft.), 59 Bloxhall Road (551 sq. ft.), 37 Morieux Road (537 sq. ft.) and 28 Seymour Road (574 sq. ft.). He adjusted the sale prices for time by reference to the relevant Land Registry Index. The lease of 128 Blyth Road was for 114 years and he uplifted the sale price by 1% to give the freehold value but he did not uplift the sale prices of the other 3 flats.
15. He then increased the adjusted sale prices of all four flats by £5,000 because they were all smaller than the flat (625 sq. ft.). Finally, he deducted £10,000 from the sale prices of 59 Bloxhall Road, 37 Morieux Road and 28 Seymour Road for condition to reflect his assessment of the improvements that he assumed had been made to the flat since 1963 and which he considered should be disregarded. These were essentially a modern bathroom and kitchen, double glazed windows and gas central heating.
16. An average of these adjusted sale prices gave Mr Dunsin a freehold vacant possession value of £320,673.

Mr Balcombe's approach

17. Mr Balcombe relied on the sale of 6 flats on the estate: those of 41 Kettlebaston Road (646 sq. ft.), 12 Morieux Road (583 sq. ft.), 28 Seymour Road (574 sq. ft.), 37 Morieux Road (537 sq. ft.), 59 Bloxhall Road (552 sq. ft.) and 128 Blyth Road (570 sq. ft.).
18. As with Mr Dunsin he adjusted the sale prices for time by reference to the relevant Land Registry Index. He then adjusted for condition with adjustments ranging from minus £10,000 to plus £10,000. These condition adjustments resulted in revised extended lease values ranging from £313,610 to £367,360 and implied area rates ranging from £565.38 per sq. ft. to £592.01 per sq. ft. with an average of £578.69 per sq. ft.
19. The application of that rate indicated an extended lease value of £361,684. Mr Balcombe however considered that the market would not look at the sale prices "*in such a scientific way*". Standing back and making "*a final expert judgement*" he concluded that the lower figure of £355,000 was more appropriate.

Reasons for our decision

20. In his representation of the comparable transaction evidence Mr Dunsin has been selective. He has ignored 2 of the comparable sales to which Mr Balcombe drew his attention. His duty as an expert is to consider all the potentially useful evidence of which he is aware. In his report and oral evidence he may explain why some of the transactions are less likely to assist us than others but it is for us to decide what weight to give to each piece of evidence which we can only do if we are given all of it.
21. Although he uplifts the sale price of 128 Blyth Road by 1% to convert extended lease to freehold value he fails to make the agreed adjustment to the other three sale prices.

22. He deducts £5,000 from the sale prices of the comparable flats on which he relies, namely, 128 Blyth Road, 59 Bloxhall Road, 37 Morieux Road and 28 Seymour Road, because they are smaller than the flat by between 10% and 16%. However, he produces no evidence to support this adjustment.
23. Equally we have difficulty with Mr Dunsin's condition adjustments that assume that the flat has been improved. The tenant has repairing obligations under the lease and replacing windows that are in disrepair with double glazed units is still a repair as is the replacement of worn out or damaged kitchen and bathroom fittings. In any event, unless quite new, kitchens and bathrooms are usually replaced by new owners. A central heating system installed more than 20 years ago is likely nearing the end of its useful life. We are not persuaded on the evidence that the claimed improvements have added any value that falls to be disregarded to the extended lease value of the flat.
24. We prefer Mr Balcombe's approach, both in the more extensive comparable sales that he has used and in his adjustments to the sale prices. His consideration of the area rates carries more weight than Mr Dunsin's unsupported adjustment of £5,000. His condition adjustments that reflect the actual condition of the flat and the comparable flats is more realistic.
25. The subject flat is larger than any of the comparable flats save for 41 Kettlebaston Road (646 sq. ft.) which sold shortly before the valuation date for £373,000 albeit in very good condition. Mr Balcombe's extended lease value of £355,000 is the appropriate figure to be adopted to determine the premium to be paid on the grant of the new lease of the flat and our valuation of the premium is set out below.

Name: Judge Angus Andrew

Date: 3 July 2019

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Determination of the premium payable for an extended lease
Valuation date: 30 January 2018 – Unexpired term 5.79 years

Diminution in Value of Freehold Interest

Capitalization of ground rent pa YP for 5.79 years @ 6.5 %	£175 <u>4.6992</u>	£823
Reversion to F/H value with VP Deferred 5.79 years @ 6%	£358,586 <u>0.7137</u>	<u>£255,928</u> £256,751
Less value of F/H after grant of new lease Deferred 95.79 years @5%	£358,586 <u>0.0093</u>	<u>£3,349</u> £253,402

Marriage Value

After grant of new lease

Value of extended lease	£355,000	
Plus freehold value	<u>£3,349</u>	£358,349

Before grant of new lease

Value of existing lease	£54,780	
Plus freehold value	<u>£256,751</u>	<u>£311,531</u>
		£46,808

50% share to Freeholder

<u>£23,404</u>
£276,806

Premium Payable Say £276,800