



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

<b>Case reference</b>	:	<b>KA/LON/OOAK/OLR/2019/0927</b>
<b>Property</b>	:	<b>Ground Floor Flat 66 Brownlow Road London N11 2BS</b>
<b>Applicant</b>	:	<b>Setrak Melikian and Marina Melikian</b>
<b>Representative</b>	:	<b>Mark Tempest of Counsel</b>
<b>Respondent</b>	:	<b>Chrysostomos Chrysostomou and Solon Chrysostomou</b>
<b>Representative</b>	:	<b>Panicos Loizides Surveyor</b>
<b>Type of application</b>	:	<b>Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993</b>
<b>Tribunal members</b>	:	<b>Judge Professor Robert M. Abbey Pat Casey MRICS</b>
<b>Date of determination and venue</b>	:	<b>3 December 2019 at 10 Alfred Place, London WC1E 7LR</b>
<b>Date of decision</b>	:	<b>18 December 2019</b>

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**DECISION**

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**Summary of the tribunal's decision**

- (1) The appropriate premium payable for the new lease is **£39,250**. The basis for this valuation is set out in detail in appendix A to this decision.

**Background**

1. This is an application made by the applicant leaseholder pursuant to section 48 of the Leasehold Reform, Housing and Urban Development

Act 1993 (“the Act”) for a determination of the premium to be paid for the grant of a new lease of **Ground Floor Flat 66 Brownlow Road London N11 2BS** (the “subject property”).

2. By a notice of a claim served pursuant to section 42 of the Act, the applicant exercised the right for the grant of a new lease in respect of the subject property. At the time, the applicant held the existing lease of the subject property. The applicant subsequently proposed to pay a premium of £19,500 for the new lease.
3. The respondent freeholder served a counter-notice admitting the validity of the claim and subsequently counter-proposed a premium of £48,500 for the grant of a new lease.
4. On 2 August 2019, the applicant applied to the tribunal for a determination of the premium.

### **The issues**

#### **Matter not agreed**

5. The following matter was not agreed:
  - (a) The premium payable.

#### **The hearing**

6. The hearing in this matter took place on 3 December 2019. The applicant was represented by MarkTempest of Counsel and the respondents were represented by their Surveyor as set out above.
7. Neither party asked the tribunal to inspect the subject property and the tribunal did not consider it necessary to carry out a physical inspection to make its determination.
8. The applicant relied upon the expert report and valuation of Mr Colin Rickard FRICS dated 19 November 2019 and the respondent relied upon the expert report and valuation of Mr Panicos Loizides Surveyor dated 25 November 2019.

#### **The tribunal’s determination**

9. The tribunal determines that the appropriate premium payable for the new lease is **£39,250**.

#### **Reasons for the tribunal’s determination**

10. The single unresolved issue for the tribunal was the calculation of the premium for the extended lease. Dealing firstly with Deferment Rate, the applicant, in adopting 5¼%, the Tribunal believes that he misconstrues the leases. The tenants are liable for repairs etc. to common parts but the present disrepair may affect the value of their leasehold interests but has no impact on the value of the freehold reversion.
11. Turning now to improvements, the Tribunal cannot accept the applicant's argument that the flat as originally laid out is a one bed flat. It is a poorly laid out three room flat but the works carried out by the tenant have significantly improved the layout and added an en suite bathroom. These are clearly tenant's improvements the effect on value of which falls to be disregarded under the Act and the Tribunal accept the respondent's assessment of this at £30,000 as being appropriate and proportionate.
1. With regard to the extended lease/freehold value, the Tribunal do not find helpful any of the following comparable namely smaller one bed roomed flats, first floor flats or those of over 1,000 square foot GIA. There are four sales' comparables of ground floor flats with gardens of a similar size to the subject property which do not need adjustment for floor level, garden or size as follows:

Address	Price	Date	Size	Adjustments	Adj Price
98A Brownlow Road	£360,000	2/19	769 sq ft	+ £20,000 condition	£380,000
5 Natal Road	£410,000	4/19	719 sq ft	- £25,000 side street	£385,000
83A Maidstone Road	£499,900	9/18	771 sq ft	-- £25,000 side street	£474,900
67 Marlborough Road	£480,000	8/18	<u>710 sq ft</u>	- £25,000 side street	<u>£455,000</u>
Average adjusted price					£423,750
Average area 742 sq ft – price per sq ft					£571
Extended lease value of number 66 at 735 sq ft (agreed) x £571					£419,685
Say					£420,000
Less tenant's improvements = £390,000. Both valuers add 1% for freehold value					£393,900

12. Next the Tribunal considered Condition adjustments. Mr Loizides claims on the basis of what a local estate agent told him that 98A Brownlow needed complete refurbishment but the Tribunal have no direct evidence of this. R offered a condition adjustment which he thought necessary of £20,000 which we accept but we have no reliable information to make any such adjustments for the others. We do however accept Mr Rickard's view that the flats on the quieter side roads are more valuable than those on the busy Brownlow Road. Mr Loizides accepted that they would at least appeal to more buyers and sell more readily. We therefore make an adjustment of £25,000 to each of the sales for better location (approximately 5% of the most expensive flat). The index of house price movements included with Mr

Rickard's report shows hardly any price movement over the period covered by the sale dates of the comparables and the valuation date and we make no time adjustment.

13. Finally, and with regard to the existing lease value, the Tribunal was of the view that there is no open market sales evidence of shorter leases and we have to use, as did both valuers, graphs which purport to show the percentage of freehold value that the value of any given unexpired term has. Mr Rickard takes the average of the five Outer London/England graphs published in an RICS report in 2009, 89.27%. These are now largely discredited and the Upper Tribunal has increasingly looked at various Gerald Eve and Savills graphs. This is what Mr Loizides does, he says following the Upper Tribunal decision in *Reiss v Ironhawk Limited [2018] UKUT 311*, with his adoption of the Savills Enfranchiseable graph adjusted to exclude the value of the Act rights to give 83.33%. He said that the 2½% he used for Act rights should have been 3.6% but he did not seek to alter his opinion or valuation. We adopt his 83.33% of freehold value to give an existing lease value, disregarding the value of tenant's improvements of £328,327 say £328,500. Mr Rickard's argument that we can't look at Reiss as the decision was after the valuation date is not appropriate particularly when the Tribunal considered that he could not say why the effect of lease length per se should vary with location.

14. Rights of appeal are set out below.

**Name:** Judge Robert. M Abbey      **Date:** 18 December 2019

**Determination of the premium payable for an extended lease of  
66 Brownlow Road, London N11 2BS**

**Valuation date: 21 January 2019 – Unexpired term 64.92 years**

**Diminution in Value of Freehold Interest**

Capitalization of ground rent pa	£45	
YP for 64.92 years @ 7%	<u>14.109</u>	£635
Reversion to F/H value with VP	£393,900	
Deferred 64.92 years @ 5%	<u>0.0421</u>	<u>£16,583</u>
		£17,218
Less value of F/H after grant of new lease	£393,900	
Deferred 154.92 years @5%	<u>0.000522</u>	<u>£205</u>
		£17,013

**Marriage Value**

*After grant of new lease*

Value of extended lease	£390,000	
Plus freehold value	<u>£205</u>	£390,205

*Before grant of new lease*

Value of existing lease @ 83.88%	£328,500	
Plus freehold value	<u>£17,218</u>	<u>£345,718</u>
		£44,487

**50% share to Freeholder**

£22,243  
£39,256

**Premium Payable Say £39,250**

## **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).