



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

**Case reference** : **CHI/00MW/OLR/2020/0118**

**Property** : **1 Jireh Place  
Yarmouth  
Isle of Wight  
PO41 0NR**

**Applicant** : **Jonathon Billowes**

**Representative** : **Glanvilles Damant Ltd**

**Respondent** : **Trustees of Frank Collins Estate**

**Representative** : **Veale Wasborough Vizards LLP**

**Type of application** : **Determination of premium section 48  
of the Leasehold Reform, Housing and  
Urban Development Act 1993**

**Tribunal members** : **Mr I R Perry FRICS  
Mr M J F Donaldson FRICS  
Mr N I Robinson FRICS**

**Date of determination  
and venue** : **3<sup>rd</sup> June 2021  
Paper Determination**

**Date of decision** : **3<sup>rd</sup> June 2021**

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**DECISION**

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**Decision**

**The Tribunal determines a value of £14,685 (Fourteen Thousand Six Hundred and Eighty-Five Pounds) for the extended lease of the subject property at a peppercorn rent.**

**Background**

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 1 Jireh Place, Yarmouth, Isle of White, PO41 0NR (“the property”).

1. By a notice of a claim dated 3<sup>rd</sup> March 2020 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 granted on 6<sup>th</sup> November 1987 for a term of 99 years from 24<sup>th</sup> June 1987.
2. The initial ground rent was £25 per annum with reviews after the 33 years and 66 years to £75 per annum and £150 per annum respectively. The Applicant proposed to pay a total premium of £9,500 for the new lease of the flat.
3. On 23<sup>rd</sup> March 2020 the Respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £16,750 for the grant of a new lease.
4. On 23<sup>rd</sup> June 2020 the Applicant applied to the Tribunal for a determination of the premium.
5. On the 24<sup>th</sup> July 2020 the Tribunal issued directions indicating that because of the Coronavirus outbreak the matter would be dealt with on the papers without an oral hearing. The Tribunal informed the parties that it may ‘inspect’ the property on the internet. Subsequently a determination on the papers was arranged for Thursday 3<sup>rd</sup> June 2021.
6. The directions issued by the Tribunal were clear in saying that the parties’ Valuers must have exchanged valuations and communicated with each other to seek to narrow the issues in dispute. In addition “the Applicant must prepare a bundle containing one copy of all of the documents either party considers relevant to the dispute”.
7. In its submission to the Tribunal the Applicant included a valuation report dated 15<sup>th</sup> March 2021 prepared by Mr S Woolford MBA, BSc (Hons), Dip Pro Man, MRICS, an experienced Chartered Surveyor who practices on the Isle of Wight.
8. The papers submitted to the Tribunal also included a valuation report dated 18<sup>th</sup> March 2021 prepared for the Respondent by Mr A N How FRICS, IRRV(Hons), an RICS Registered Valuer. Mr How has acted in a number of

cases including *The Trustees of The Barry and Peggy High Foundation vs Zucconi* determined by the Upper-Tier Property Tribunal in August 2019.

### **The Matters Agreed**

9. From the papers submitted the Valuers agree that the original lease is for 99 years from 24<sup>th</sup> June 1987 and that the initial ground rent was £25 per annum with reviews after the first 33 years to £75 per annum and after a second 33 years to £150 per annum.

The Valuers agree that the valuation date is 3<sup>rd</sup> March 2020 and agree that the unexpired term is 66.25 years.

The Valuers further agree that the capitalisation rate shall be 7% and a deferment rate 5%.

### **The Matters in Dispute**

10. The following matters are in dispute.

The Relativity.

The equivalent freehold value of the flat.

The value of the current lessee's interest.

The extended lease value.

### **The Law**

11. The statutory provisions dealing with the premium payable by the Applicants for the grant of a new lease are found in paragraph 2, part 11 of schedule 13 of the 1993 Act. The premium is the aggregate of:
- i. The diminution in value of the landlord's interest in the tenant's flat
  - ii. The landlord's share of the marriage value
  - iii. Any amount of compensation payable to the landlord.
12. Paragraph 3(1) states that the diminution in value of the landlord's interest is the difference between:
- i) The value of the landlord's interest in the tenant's flat prior to the grant of the new lease: and
  - ii) The value of his interest in the flat once the new lease is granted.
13. Paragraph 3(2) spells out the factors to be taken into account when valuing the landlord's interest. Essentially the valuation equates with the value of an open market sale by a willing seller of an estate in fee simple which ignores the right to acquire a new lease and disregards any value attributable to Tenant's improvements.
14. The value of the Landlord's interest comprises two elements:
- i) The right to receive rent under the existing lease for the remainder of the term (*The term*).
  - ii) The right to vacant possession at the end of the term subject to the tenant's right to remain in occupation (*The reversion*).

15. Paragraph 4 of schedule 13 deals with the marriage value which is calculated by aggregating the values of the Landlord and Tenant's corresponding values prior to the grant of the new lease. The Landlord is entitled to a 50 per cent share of the marriage value.
16. Paragraph 5 of the schedule 13 enables compensation to be paid to the Landlord for any loss or damage arising out of the grant of a new lease. The question of loss or damage was not an issue in this application.

### **The Evidence and consideration**

17. The first matter that the Tribunal needed to do was to consider whether it was fair and reasonable for this matter to be dealt with by reference to the papers and without an oral hearing. Having considered the documents provided and the matters in dispute the Tribunal decided that it could reasonably and fairly proceed to a decision on the papers which had been submitted.

### **Existing lease value**

18. The property is a first floor flat within a converted three-storey building of traditional construction with a mansard roof. The ground floor has a commercial use and there are flats on the two upper floors. Jireh Place is a pedestrianised alley between the Town Hall and a public house in the centre of Yarmouth. The property is a short walk from Yarmouth harbour and pier.
19. From the plans attached to the lease the property is seen to be accessed via a common staircase from the ground floor to a first-floor landing. An entrance door opens into the flat which has a Living Room, Kitchen, Bathroom and Bedroom. The property is stated as having a floor area of 40 sq. metres.
20. Mr Woolford states that Yarmouth has a population which, in 2011, was less than 1000 persons. Accordingly, there is relatively little transactional evidence of property sales.
21. Mr Woolford identifies only 8 transactions of "flatted accommodation" within the PO1 0 postcode area from the beginning of 2016 to March 2020. Of note is the sale of 2 Jireh Place, 49 sq. metres, on 5<sup>th</sup> March 2020 for £150,000 and the sale of 3 Jireh Place, 56 sq. metres, on 7<sup>th</sup> November 2019 for £116,500. Both these flats are in the same block as the property. Analysis of these sales produce figures of £3,061 per sq. metre and £2,080 per sq. metre respectively. The lease term and rents for both properties are said to be the same as flat 1.
22. Mr Woolford states that he cannot give a definitive explanation for the much higher figure paid per metre for flat 2 but he suggests that the higher rate might be due to it being, as described in the Estate Agents particulars, "a very bright and airy apartment and is the only one on the top floor in this part of the development – so the staircase only serves the property at this level". He asserts that number 2 Jireh Place should not be taken as a reasonable comparator.
23. Mr Woolford goes on to argue that the "lack of transactional activity" leads him to conclude that to apply "a broad average for price inflation adjusted sales values relevant to 3 and 4 Jireh Place, to the Property, having regard to its agreed size, would make the short leasehold interest to have a value of around

£89,000, at the date of valuation. There seems to be an error in his statement as within his calculation he uses a figure of £108,000.

24. Mr How arrives at the value of the existing lease for the property by taking the sale price of flat 3 in November 2019 at £116,500 and reducing this by 7.5% to reflect a 'no act world'. He then asserts that the value of the existing lease for flat 1 is £107,808 within a market where the leaseholder has no opportunity to extend the lease.
25. The Tribunal must therefore decide between the two suggested values of £108,000 and £116,500 for the value of the existing lease, within a market where leases can be extended by statutory process.
26. If the Tribunal applied the same price per sq. metre as flat 3 the value of flat 1 becomes £83,200 and if the Tribunal applies the same rate as for flat 2 the value becomes £122,400. If the Tribunal applies an average of the rates for flats 2 and 3 then the value becomes £102,820.
27. Contrary to Mr Woolford's suggestion the Tribunal decides that the sale of flats 2 and 3, one in the same month as the valuation date and the other four months prior to the valuation date provide excellent comparators.
28. The Tribunal is aware that values are not simply reached by applying a rate per area of accommodation and decides to accept the lowest of the two suggestions made by the Valuers for the value of the existing lease, that is £108,000.

### **Relativity**

29. For the Applicant, Mr Woolford referred the Tribunal to a research article by Messrs Savills 'How to calculate relativity' dated 8<sup>th</sup> June 2016 which would suggest a relativity rate for a lease of 66.25 years of 86%. He goes on to argue that the full spread of data behind the Savills Graph can include evidence of market activity of a relativity rate of 90% or more for some individual transactions, and states that a relativity rate of 90% should be applied in this case.
30. Mr Woolford refers the Tribunal to a First Tier Tribunal case on Lower Flat, Woodside, Pier Road, Seaview, Isle of Wight, a copy was not provided, where he states the Tribunal accepted his assertion that the graphs which relied on evidence from the Prime Central London area did not necessarily carry to the Isle of Wight. He states in that case the Tribunal applied a rate of 90% to a lease with 67.75 years remaining.
31. Mr Woolford also drew the Tribunal's attention to case number LR93/H/98 with reference to Cliff Mansions Bonchurch Shute, Bonchurch, Isle of Wight CHI/00MW/OLR/2018/039, a copy was not provided, where the Tribunal stated "Quite simply, Bournemouth is a much stronger market for property of this nature. This fact may in some measure be the reason Mr Tolfrey (Applicant's Surveyor) views that marriage value does not arise on the island".
32. Mr How also referred the Tribunal to the Savills Graph which had been updated in 2015 to include analysis of over 5,000 transactions. Based on the Savills Graph Mr How argues for a relativity rate of 85.9% where a property is

enfranchisable and 82.1% if it is unenfranchisable and where the lease has 66 years unexpired.

33. The Tribunal noted that the Savills Graph included by Mr How showed that a Relativity rate for a unenfranchisable lease with 66.25 years unexpired is 82.3%.
34. The Tribunal was surprised that the Respondent did not refer to the recent Upper Tribunal case *Deritend Investments (Birkdale) Limited v Ms Kornelia Treskonova* (2020) UKUT 0164 (LC) UTLC case Number LRA/123/2019 (*Deritend*). This decision dated 1<sup>st</sup> July 2020.
35. In *Deritend* the guidance given by the Upper Tribunal is “this Tribunal endorses the use of the Savills and Gerald Eve 2016 graphs where there is no transaction evidence, notwithstanding that the subject of the valuation is outside PCL. If persuasive evidence suggests that the resulting relativity is not appropriate for a particular location a tribunal would be entitled to adjust the figure suggested by the PCL.”
36. Whilst the Tribunal was minded to follow this guidance from the Upper Tribunal which would give a relativity rate of 82.42 per cent for a lease with 66.25 years unexpired, it decided it would not venture outside the figures suggested by the Valuers and therefore adopts the rate of 82.3% argued by Mr How as per the Savills Graph.

#### **Extended lease value**

37. Mr Woolford states that the value of the property with a lease extended by 90 years should be £120,000, which he considers to be a “cautiously full figure”, based on his table of sales in the PO41 0 postcode. This is also based on his assertion that the value of the existing lease is £108,000 and the relativity rate is 90%.
38. Mr How assesses the value of an extended long leasehold interest in the property at £130,000. He references four comparable properties including 3 Jireh Place “a very similar albeit large two-bedroom flat in the same building” sold in August 2019 for £116,500 but on same lease terms and 4 Jireh Place which was granted a new lease with an additional 90 years and at a peppercorn rent for the sum of £160,000 based on a freehold vacant possession value of £161,141 and a relativity rate of 83%. Mr How does not state whether the leaseholder was professionally represented.
39. The Tribunal recognised the difficulty in arriving at a market value with such a dearth of local transactional evidence but found that the relatively recent sales of flat 3 Jireh Place, some four months prior to the valuation date, and of flat 2 Jireh Place, which completed in the same month as the valuation date, to be compelling.
40. Having established that the value of the existing lease is £108,000 and that a relativity rate of 82.3% is appropriate the value of an extended lease of 156.25 years becomes £131,227, which the Tribunal rounds to £131,000.

**Freehold Value**

41. Mr Woolford argues that there should be no difference between the value of a new long lease of 156.25 years and a notional freehold interest and referred to a First-Tier Tribunal Decision CHI/00MW/OLR/2018/039, copy not provided. In this case “neither Valuer wished to adopt this approach”. Mr How argues that the Tribunal should adopt a differential of 1% as most recently decided in *Inclendon-Jones vs Daejan properties Ltd.*
42. Mr How suggests the Courts have confirmed that an adjustment of 1% should be made between a long leasehold interest and the notional freehold interest.
43. Whilst recognising that this differential has little effect on the price of extending a lease in lower value property the Tribunal agrees with the assertion that there must be some difference in value between a lease of 156.25 years and a freehold value and applies the rate of 1%, so that for calculation purposes the notional long lease/freehold value shall be taken at £132,310.

**Decision**

39. The Tribunal decides that the disputed issues shall be.

Extended lease value: £131,000

Freehold value: £132,310

Relativity: 82.3%

Existing lease value £108,000

**The Tribunal determines a value of £14,685 (Fourteen Thousand Six Hundred and Eighty-Five Pounds) for the extended lease of the subject property at a peppercorn rent.**

**RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

If the First-tier Tribunal refuses permission to appeal in accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007, and Rule 21 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Applicant/Respondent may take a further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for the permission.



**CHI/00MW/OLR/2020/0118**

1 Jireh Place, Yarmouth, Isle of White, PO41 0NR  
 Lease 99 years from 24<sup>th</sup> June 1987

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1. Diminution in Value of Landlord's Interest per Schedule 13(3)

(a) Value before grant of new lease:

Term 1

Ground Rent	£25	
Years Purchase 0.25 yrs at 7%	0.2396	£5.99

Term 2

Ground Rent	£75	
Years Purchase 33 years at 7%	12.7538	
Present Value £1 in 0.25 yrs at 7%	0.9832	£940.49

Term 3

Ground Rent	£150	
Years Purchase 33 years at 7%	12.7538	
Present Value £1 in 33.25 yrs at 7%	0.1054	£201.71

**plus**

Reversion

Freehold value	£132,310	
Present Value £1 in 66.25 yrs at 5%	0.0395	£5,222

**less**

Freehold value:	£132,310	
Present Value £1 in 156.25 yrs at 5	0.0005	(£65)

Present Value of landlord's interest	<u>£6,305.19</u>	<u>£6,305</u>
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Landlord's Share of Marriage Value per Schedule 13(4)

(i) Value of Tenant's interest with extended lease	£131,000	
(ii) Value of Landlord's interest after new lease	<u>£65</u>	£131,065

**Less**

(i) Value of Tenant's interest Before new lease 82.30% of Long lease value £131,000	£108,000	
(ii) Value of Landlord's interest Before new lease	<u>£6,305</u>	<u>£114,305</u>

Total Marriage Value	<u>£16,760</u>	
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Landlord's share 50%	<u>£8,380</u>	<u>£8,380</u>
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Compensation Payable to Landlord		<u>£14,685</u>
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**Say £14,685**

**CHI/00MW/OLR/2020/0118**