



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

**Case reference** : **LON/00AH/OLR/2020/0471**

**HMCTS code** : **V: VIDEO**

**Property** : **27 St James Court, St James Road, Croydon  
CR0 2SE**

**Applicant** : **Sureset Consulting Limited**

**Representative** : **JCP Solicitors Limited**

**Respondent** : **Brickfield Properties Limited**

**Representative** : **Wallace LLP**

**Type of application** : **Section 48 Leasehold Reform Housing and  
Urban Development Act 1993**

**Tribunal members** : **Judge Pittaway  
Mr I Holdsworth FRICS**

**Date of hearing** : **19 January 2021**

**Date of decision** : **1 February 2021**

---

**DECISION**

---

## **Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has been not objected to by the parties. The form of remote hearing was V: CVPREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents before the tribunal at the hearing were;

1. The indexed bundle of documents (403 pages)
2. The statement of agreed facts and outstanding issues (2 pages).

In addition, immediately after the hearing both valuers provided revised valuations to the tribunal and Mr Bradley provided a revised version of his Appendix 5, "Short Lease Transactions", to correct certain arithmetical errors.

At the hearing the tribunal heard evidence from Mr Bradley MRICS of Bradley Harris Ltd, acting for the applicant and from Mr Sharp FRICS, acting for the respondent.

## **Summary of the tribunal's decision**

- (1) The value of the extended lease with vacant possession is £244,018.
- (2) Relativity is 73.97%.
- (3) The premium payable for the new lease is £40,000.

## **The application**

1. This is an application made by Sureset Consulting Limited pursuant to section 48 (1) Leasehold Reform Housing and Urban Development Act 1993 ("**the 1993 Act**") for a determination of the premium to be paid for a lease extension, or other terms of acquisition of the lease of the ground floor flat 21 Hazlemere Gardens Worcester Park KT 4 8AH (the "**Property**").
2. By a notice of claim dated 24 September 2019, served pursuant to Section 42 of the Act, Mr Malcolm Edward Needs and Ms Denise Anne Needs exercised the right to claim a new lease of the property and proposed to pay a premium of £33,344 for the new lease. The notice was assigned to Open Property Finance Limited on 8 October 2019, and by Open Property Finance Limited to Sureset Consulting Limited on 27 November 2019.
3. On 9 January 2020 the respondent landlord served a counter-notice admitting the validity of the claim and counter-proposed a premium of £98,915.00 for the new lease.
4. On 4 May 2020 the applicant applied to the tribunal for a determination of the premium.

## **The issues**

## **Matters agreed**

5. The following matters were agreed before the hearing

- (i) The subject property is a purpose built 2-bedroom first floor flat of approximately 65.9 sqm, with a kitchen, reception room, two bedrooms and a bathroom/WC. It has the right to use the communal gardens.
  - (ii) The valuation date: 23 October 2019.
  - (iii) Unexpired term at valuation date: 54.17 years
  - (iv) Details of the tenant's underleasehold interest:
    - (a) Date of lease: 26 March 1975
    - (b) Term of lease: 99 years from 25 December 1974
    - (c) Ground rent: £25 p.a for the first 33 years of the term; then rising to £50 p.a. for the remainder of the term.
  - (v) Deferment rate: 5%
  - (vi) Headlessee's compensation: £1
6. Both valuations assumed the freehold vacant possession value to be 101% of the extended lease value.
7. At the hearing the parties agreed capitalisation of ground rent at 6.5% and both submitted revised valuations to the tribunal after the hearing, reflecting this agreed capitalisation.

### **Matters not agreed**

8. The following matters were not agreed
- (i) The value of the extended lease with vacant possession. Mr Bradley contended that this should be £245,000 and Mr Sharp £252,000.
  - (ii) Relativity. Mr Bradley contended that this should be 73.97% and Mr Sharp that it should be 66.05%.
  - (iii) The premium. Mr Bradley contended that this should be £40,155 and Mr Sharp that it should be £51,358.

### **The hearing**

9. The hearing took place on 19 January 2021. The applicant was represented by Mr W R S Bradley MRICS of Bradley Harris Limited and the respondent by Mr R D Sharp FRICS.
10. Neither party asked the tribunal to inspect the property and the tribunal did not consider it necessary to carry out a physical inspection to make its determination.
11. The applicant relied upon the expert report and valuation of Mr Bradley 21 December 2020 and the respondent relied upon the expert report and valuation of Mr Sharp dated 29 December 2020.
12. The following cases were referred to by the valuers;
- Mallory v Orchidbase Limited* [2016] UKUT 468 (LC) ("**Orchidbase**")
- Sloane Stanley v Mundy* [2016] UKUT 223 (LC) ("**Mundy**")
- Reiss v Ironhawk Ltd* [2018] UKUT 0311 (LC) ("**Reiss**")
- Deritend Investments (Birkdale) Limited v Ms Kornelia Treskonova* [2020] UKUT 0164 (LC) ("**Deritend**")

## **The tribunal's determination**

13. The tribunal has had regard to, the valuation reports in the bundles, the evidence that it heard, and the case law referred to in reaching its decision. As appropriate these are referred to in the reasons for the tribunal's decision.

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

### **Extended lease value**

14. In calculating the value of an extended lease with vacant possession both valuers looked to comparable evidence within the development and both referred the tribunal to 12 St James Court which sold in good condition two days after the valuation date for £260,000 (with lease with a term of 103 years), and 35 St James Court. The latter in average to good condition, with a lease term of 143 years sold at auction on 14 January 2020 for £205,000 and was resold by private treaty in the same condition on 14 August 2020 for £230,000.
15. Mr Bradley was of the opinion that the auction sale showed that property auction sold achieved a price of 10% less than that achieved by a private treaty sale. He considered that the two private sale prices were the best comparables to work from and took an average of these to conclude that the appropriate long leasehold value for the property was £245,000.
16. Mr Sharp adjusted the price of 35 St James Court for time by reference to the Croydon flats and maisonettes Land Registry index to £228,350. He also adjusted the price achieved for 35 St James Court to reflect that it is a flat on the third floor of the property. He considered the property, being on the first floor, to be marginally more valuable than 12 St James Court, which is on the second floor. He also adjusted the price to reflect that 12 St James Court had an electric source of hot water and space heating. Mr Sharp did not take an average of the two adjusted prices for the comparables. He gave more weight to 12 St James Court because 35 St James Court was marketed during the pandemic and was two floors above the property. He used his judgement to reach a value of £252,500 for the extended lease value of the property.
17. The tribunal finds that Mr Bradley was correct in taking an average of the prices achieved for the sale of the two comparables by private treaty. It finds that Mr Sharp was correct to make a time adjustment for 35 St James Court, to £228,350, which Mr Bradley did not do. It does not consider that the different floors upon which the property and the comparables are located, nor their different form of energy supply for water and heating necessitate an adjustment to the prices achieved for the comparables. The tribunal has therefore averaged the price of 12 St James Court and the time adjusted price for 35 St James Court, giving a long leasehold value of £244,018 and a notional freehold value of £246,458.

### **Relativity**

18. Both valuers were agreed that following the decision in *Mundy* the preferred method of establishing relativity is to look to market transactions around the valuation date as

the starting point for determining the value of the existing lease without rights under the 1993 Act.

19. The property itself had sold at auction on 27 November 2019 for £148,405, with a guide price of £149,000.

20. In his valuation Mr Bradley analysed eight short leasehold transactions in the development between 2015 and 2017. He did not adjust the sale prices where the properties had been sold between 2018 and 2020 as he considered that the market had been static during this period. For sales between 2015 and 2017 he adjusted the price achieved with reference to the Land Registry HPI. On the basis of the evidence of the sale of 35 St James Court by auction and by private treaty he made a 10% adjustment to the sale prices of the three comparable properties that had been sold by auction. To adjust for a "No Act World" he deducted 6% for leases with less than 57 years remaining and 5.5% for leases with over 57 years remaining. Where the flats were described as requiring refurbishment Mr Bradley added £30,000 to the price to provide for refitting the kitchen and bathroom, replacing electrics and floor coverings and redecoration throughout. This provided a range of values from which Mr Bradley took an average, which he compared to the Gerald Eve (2016) and Savills Unenfranchiseable graphs. He considered that it was preferable to exclude those properties that had been sold at auction, as short leases do not achieve their best price at auction and so he averaged the adjusted prices of the five comparables sold by private treaty and compared these to the Gerald Eve (2016) and Savills Unenfranchiseable graphs. Given that the calculated averages corroborated the results from the graphs he adopted an average of the two graphs to give a relativity of 73.97%.

21. Mr Sharp started from £149,000, based on the sale price achieved at auction for the property. He deducted 10% for the 'No Act World' on the basis that he normally deducted 10% on leases which had between 50 and 60 years unexpired. He accepted that not all tribunals accepted this deduction but referred the tribunal to certain decisions of the first tier tribunal where 10% had been accepted. He referred to the deduction of 5.5% accepted in *Orchidbase* but commented that the Upper Tribunal had considered this modest and that the decision (from 2015) was now 'historic'. He submitted that the deduction should be greater than the Savills value of Rights Acts of 7.83%, as this derives from Prime Central London not the suburbs, where mortgageability is relevant. Deducting 10% from £149,000 and taking his freehold value of £255,050 gave a relativity of 52.7% which he stated was low.

Mr Sharp therefore considered other evidence. He considered the sale of 53 St James Court in May 2018 for £168,000, which he adjusted for condition, floor, time and 'No Act Rights' to £162,650. He then took an average of this adjusted value and his adjusted value of the property short lease to achieve a relativity of 58.17%. He did not consider it necessary to refer to other short lease sales in the development.

Mr Sharp then considered the various relativity graphs, submitting that the Beckett and Kay 2017 mortgage dependent graph, is the most reliable and up to date of the suburban graphs. He referred the tribunal to relativities determined by the Upper Tribunal in *Orchidbase* and *Reiss* as being below those of Savills 2016 graph.

Mr Sharp submitted that the tribunal should accept a relativity based on an overall average of his market evidence, the Beckett and Kay graph and 73.97%, being the average of the Gerald Eve (2016) and Savills Unenfranchiseable graphs. He therefore proposed a relativity of 66.05%.

**22.** The tribunal is concerned by the limited market evidence provided by Mr Sharp to produce his market-based relativity. It considers that his deduction of 10% to reflect the 'No Act World' to be high, without sufficient supporting evidence. The tribunal notes that the difference between the relativities determined by the Upper Tribunal in *Orchidbase* and *Reiss* differed from those of the Savills 2016 graph by less than 1%. It is not persuaded that it is appropriate to place as much weight on the Beckett and Kay graph as Mr Sharp has. The tribunal is mindful that in *Deritend* the Upper Tribunal described the Beckett and Kay graph as, having 'severe limitations and cannot be regarded as reliable' (paragraph 48). The tribunal prefer the approach adopted by Mr Bradley to relativity. He has provided a wider range of comparables, the average of which is close to the average relativity of the Gerald Eve (2016) and Savills Unenfranchiseable graphs. In light of the wide range of values which produce the average it accepts his adoption of the average relativity of the Gerald Eve (2016) and Savills Unenfranchiseable graphs, an approach which is endorsed by the Upper Tribunal in *Deritend*. The tribunal therefore adopts relativity of 73.97%.

### **The premium**

**23.** Based on his extended leasehold value and relativity Mr Bradley considered the premium for the lease extension to be £40,155 commenting that his approach was that adopted by the first-tier tribunal in 34 St James Court CRO 2SE LON/00AH/OLR/2019/1000.

**24.** Based on his extended lease value and relativity Mr Sharp considered the premium for the lease extension to be £51,358.

**25.** Taking an extended leasehold value of £246,458 and relativity at 73.97% the tribunal determine that the premium is £39,996, say £40,000, as set out in its valuation in the Appendix.

**Name:** Judge Pittaway

**Date:** 1 February 2021

### **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).

## Appendix

<b>Property: Flat 27 St James Court St James Road CROYDON CR0 2SE</b>				
Reference: ARG/LON/00AH/OLR/2020/0471				
<b>Lease and Valuation Data</b>				
Lease Term:		25/12/1974		
Lease Expiry date:		24/12/2073		
Unexpired term as at valuation date:	54.17		years	
Date of Valuation		23/10/2019		
Rent receivable by landlord:				
Payable from valuation date for 54.17 years	£	50.00	pa	
<b>Values</b>				
Extended lease value on statutory terms	£	244,018		
Notional Freehold	£	246,458		
LHVP with current term unexpired	£	182,305	Relativity	<b>73.97%</b>
Capitalisation rate (%)		<b>6.50</b>		
Deferment rate (%)		<b>5.00</b>		
<b>Value of Freeholders present interest</b>				
<b>Term 1</b>				
Ground rent payable	£	50.00		
YP @ 54.17 years @ 6.5%		14.87697	£	744
Reversion				
Freehold in vacant possession	£	246,458		
Deferred @ 54.17 years @ 5%		0.07115	£	17,536
Current value of the freeholders interest				<b>£ 18,279</b>
Less				
Freehold value after leasehold extension	£	246,458		
PV of £1 in 144.17 years at 5%		0.00088	£	217
Freeholders interest value				<b>£ 18,062</b>
<b>Marriage value</b>				
Value of flat with long lease on statutory terms	£	244,018		
Landlords proposed interest	£	217	£	244,235
Less				
Value of Leaseholders existing interest	£	182,305		
Value of Freeholders current interest	£	18,062	£	200,367
Marriage value	<b>Total</b>			<b>£ 43,868</b>
Division of Marriage Value equally between				
Freeholder share at 50%			£	21,934
Leaseholder share at 50%			£	21,934
<b>Price payable to Freeholder</b>				
Value of freeholders current interest			£	18,062
Plus share of marriage value			£	21,934
			<b>Total</b>	<b>£ 39,996</b>
			<b>Say</b>	<b>£ 40,000</b>
<b>19.01.21</b>				