



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

**Case reference** : **LON/00BB/OLR/2022/0503**

**Property** : **48 Ling Road, London E16 4AL**

**Applicant** : **Happy Homes Limited**

**Representative** : **Mr Wilson Dunsin FRICS**

**Respondent** : **Bickenhall Engineering Company Limited**

**Representative** : **Mr Richard Clarke of counsel**

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

**Tribunal members** : **Judge Tagliavini  
Mrs Sarah Redmond MRICS**

**Date of determination  
and venue** : **4 October 2022 at  
10 Alfred Place, London WC1E 7LR**

**Date of decision** : **8 November 2022**

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**DECISION**

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

- (1) The premium payable for the new lease is £51,122.
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### **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 48 Ling Road, London E16 4AL (the “property”).
2. By a notice of a claim dated 7 March 2022 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 19 August 1977 for a term of 99 years from 24 June 1976 at an annual ground rent of £22,000. The applicant proposed to pay a premium of £47,000 for the new lease.
3. On 23 April 2022, the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £62,500 for the grant of a new lease.
4. In an application dated 1 July 2022 the applicant applied to the tribunal for a determination of the premium.

### **The issues**

#### **Matters agreed**

5. The following matters were agreed:
  - a. The subject property is a self-contained purpose-built maisonette on the first floor of a two-storey mid-terraced building of two residential units with private entrance hall on the ground floor, first floor landing, lounge, kitchen, three bedrooms, bathroom and a section of the rear garden.
  - b. The valuation date: 7 March 2022
  - c. Unexpired term: 53.29 years
  - d. Ground rent: £22.00 per annum throughout the term
  - e. Long leasehold (unimproved) value: 99% of the freehold (unimproved) value

- f. Capitalisation of ground rent: 6% per annum
- g. Deferment rate: 5%
- h. Marriage value: 50%

### **Matters not agreed**

- 6. The following matters were not agreed:
  - i. The extended lease value, the applicant contending for £283,362~~xx~~ and the respondent contending for £307,960.
  - j. The premium payable.

### **The hearing**

- 7. The hearing in this matter took place on 4 October 2022. The applicant was represented by Mr Wilson Dunsin FRICS and the respondent by Mr Richard Clarke of counsel with valuation evidence given by Mr Stephen R Jones BA(Hons) MRICS. 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.
- 8. The applicant relied upon the expert report and valuation of Mr Wilson Dunsin dated 13 September 2022 and the respondent relied upon the expert report and valuation of Mr Jones MRICS dated September 2022.
- 9. In his report Mr Dunsin contended a premium of £47,481 is payable. Mr Jones in his report, contended a premium of £51,575 is payable.

### **The applicant's evidence**

- 10. Both valuers gave oral evidence to the tribunal and spoke to their respective valuation reports. Mr Dunsin relied upon comparable three-bed properties located at 33 Ling Road and Nos 123, 139 and 113 Carson Road, London E16 4BG. Mr Dunsin made adjustments for time using the Land Registry House Price Index (Flats and maisonettes) for the London Borough of Newham and then deducted £20,000 in each case to allow for the tenant's improvements which he said fell to be ignored: these being the installation of a modern full-fitted kitchen; modern bathroom suite; UPVC double glazing and a full central heating system.
- 11. This methodology produced an average adjusted extended lease value of £283,362. Having agreed with the respondent's valuer that the Extended Lease Value is 99% of the Freehold Vacant Possession Value (FHVP) thereby resulting in the figure of £286,224 (FHVP) and a premium payable of £47,841.

## **The respondent's evidence**

12. In his valuation report, Mr Jones relied upon the sales of six comparable properties at 33, 49 and 9 Ling Road and 139, 113 and 123 Carson Road although he was unable to confirm if Nos 33 and 49 Ling Road had been 'open market' sales and the auction sale price of 139 Carson Road had not been officially recorded and he therefore discounted these comparable properties. He adjusted the sale prices for his judgement as to the value of improvements on a case-by-case basis and used the Newham HPI for All properties to adjust for time. Mr Jones submitted that the adjusted recorded- 'open market' sales prices of the remaining three comparable properties of 9 Ling Road, 113 and 123 Carson Road equated to £311,155 (£311,000 rounded) and an extended leasehold value of £307,890.
13. A relativity of 73.28% to the share of freehold value of £311,000 equated to a premium payable of £51,575.

## **The tribunal's determination**

14. The tribunal determines the extended lease value of the subject is £305,175 which results in a premium payable of £51,122.

## **The reasons for the tribunal's determination**

15. Overall, the tribunal preferred the evidence of Mr Jones to that of Mr Dunsin determined that the sales of 123, 113 Carlson Road and 9 Link Road should be the comparable properties included in the valuation. Both valuers relied upon these two Carson Road properties. Although, the sale of 9 Ling Road took place 15 months before the valuation date the tribunal regarded it as a relevant sale. It considered there was a need to treat with caution the other sales relied upon by Mr Dunsin, due to the uncertainties created by the mode of sale and the unreliability of the Particulars of Sale.
16. The tribunal does not accept that it is appropriate to make a blanket deduction of £20,000 for improvements but carefully considered each comparable and made deductions accordingly. The tribunal did not accept Mr Jones' use of the Newham HP for all properties to adjust for time. It considered that the index for flats and maisonettes was the most appropriate and that it would include properties which benefitted from gardens. All the comparable properties used benefitted from gardens.
17. Applying this approach, the tribunal calculated the following:

### **123 Carson Road:**

Adjusting for time gives £310,206. The tribunal made a deduction of £12,000 to reflect the new boiler and kitchen refit in 2017 as indicated in the Particulars of Sale, although the accompanying photographs indicated a lack of care in carrying out these works. This results in a value of £298,206.

### **113 Carson Road:**

Adjusting for time provides a figure of £315,192 The Particulars indicate certain improvements had been made and a £16,000 deduction was made to reflect the fitted kitchen, gas central heating and the generally good condition as indicated in the Particulars of Sale. This produced a value of £299,192.

### **9 Ling Road:**

The adjustment for time provides a value of £338,127 ( $12/20=134.3$  and  $3/22=142.8$ ). The Particulars of Sale indicated the property was in a good, modernised condition and therefore, in this instance the tribunal determined a deduction of £20,000 was appropriate resulting in a value of £318,127.

18. The average of these three figures provides an extended lease value of £305,175 (rounded). Applying a 1% uplift gives a FHVP value of £308,258 (rounded).

### **The premium**

19. The tribunal determines the appropriate premium is £51,122 as shown from the calculation attached.

**Name:** Judge Tagliavini                      **Date:** 8 November 2022

**Appendix:** See Valuation attached

### **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).