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

Case Reference : **CAM/11UF/OLR/2013/0135**

Property : **Flats at Greenhill Gate, High Wycombe,
Buckinghamshire HP13 5QQ**

Applicant : **See attached schedule for Applicants and
flat addresses**

Representative : **Bruce Lance & Co Solicitors
Mr S J Brook MSc MRICS of South East
Leasehold**

Respondent : **Chromegrove Limited**

Representative : **Mr A Cohen MRICS of Talbots Surveying
Services Limited**

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

Tribunal Members : **Tribunal Judge Andrew Dutton
Mr Derek Barden MRICS
Miss Michele Henington BSc MRICS**

**Date and venue of
Hearing** : **De Vere Upland House, High Wycombe,
Buckinghamshire on 12th February 2014**

Date of Decision : **3rd March 2014**

DECISION

The Tribunal determines that the price payable in respect of the lease extension for each of the flats, which are the subject of these proceedings under the provisions of s48 Leasehold Reform, Housing and Urban Development Act 1993 (the Act), is £13,700 as set out on the attached valuation.

BACKGROUND

1. On 5th November 2013 applications were made on behalf of the named Applicants for a determination as the terms of a new lease under the provisions of Section 48 of the Act. The Applicants are named on the attached schedule. However, the application by Miss Martin, the owner of Flat 12, had been compromised and a figure of £12,500 was agreed as the premium payable. We did not, therefore, need to consider her application further.
2. The Applicants were represented by Mr Simon Brook who had filed a report dated 21st January 2014, with numerous attachments. The Respondents were represented by Mr Andrew Cohen who had filed, it appears, two reports, the later one being sent to us by Bruce Lance and Co just prior to the Hearing. It seems, however, that the changes to Mr Cohen's report from the original which is included within the bundle are minimal and do not impact upon the figures for which he seeks an order.
3. We had the opportunity of considering the various reports in advance of the Hearing and also of inspecting three of the subject properties. Those were at 26, 34 and 46 Greenhill Gate and we are grateful to Mrs Wright, Mrs Holt and Mrs Rijpkema for allowing us to view their respective properties.

INSPECTION

4. We inspected the three properties in the company of Mr Brook. All were two bedroomed flats, in three purpose built blocks of four storeys, with a flat roof, built we think in the 1960's. Each flat had the benefit of double glazing and, save for Flat 42, central heating. Flats 36 and 46 had been modernised in that a new kitchen had been installed but otherwise they were, if not identical, very similar in size and layout. All three had panoramic views across High Wycombe, although in the summer months that view would have been affected by the foliage on the substantial trees to the rear.
5. The flats were to be found in purpose-built blocks which appeared to be in good external order. The common parts were basic but were carpeted and clean and were well decorated. The development had an air of being cared for.

MATTERS AGREED

6. Prior to the Hearing the valuers had been able to agree a number of issues, which was of a great assistance to us. The following are those agreed matters:-

- The general description, location and accommodation of the flats which are the subject of these proceedings.
 - The lease terms commenced on 25th December 1975 and have an unexpired term of 61.8 years with a ground rent fixed at £10.
 - The valuation date is agreed as 20th March 2013.
 - The capitalisation rate is agreed at 8%.
7. The issues which were not agreed and upon which we were required to make a determination were the extended unimproved lease value, the deferment rate and relativity. As a consequence, of course, we were required to determine the premium.
8. Mr Brooks for the leaseholders was of the opinion that the unimproved long lease value was £151,800, that the deferment rate was 5.25%, that the relativity was 90% and allowing an adjustment to freehold value of 1%, he concluded that the premium payable for all flats was £10,200, although on his valuation attached to the report, the figure is actually £10,100.
9. Mr Cohen in contrast was of the view that the unimproved long lease value was £165,000 that the deferment rate was 5%, the relativity 86% and without making an allowance for the freehold value he concluded that the premium was £15,662 for all flats, a figure consistent with his valuation attached to his report.

THE HEARING

10. As both sides have copies of their respective valuers' reports, it is not necessary for us to go into great detail as to matters upon which they rely. Both valuers have chosen to confine their comparable properties to those within the development. Flats numbered 40, 39, 23, 32, 27 and 47 were suggested as comparables. The closest example to the valuation date was the sale of 40 Greenhill Gate to which both agents referred. The difference between the valuers' approach was that Mr Cohen made no adjustment for improvements in respect of the various comparables put to us, whereas Mr Brook did make adjustments. Those adjustments were £5,000 for double glazing and central heating and additional sums if the property in question had, for example, a garage for which he made a further deduction of £10,000 (Flat 23), high quality kitchens and bathrooms for which he made a further deduction of £2,500 (Flats 32 and 27). In addition, he made a further adjustment in respect of Flat 27 for the use of a patio area.
11. On the question of the deferment rate Mr Brook argued for an additional 0.25% uplift to reflect what he considered to be obsolescence involved in the subject premises. Reference was made to the Upper Tribunal case of *Voyvoda vs Grosvenor West End Properties (1) and 32 Grosvenor Square Limited (2) reference [2013]UKUT 0334(LC)*. This case had reflected the earlier Upper Tribunal decision in the case known as Zuckerman and had in effect decided that the additional uplift in the deferment rate for management should no longer apply following the Supreme Court decision in Daejan. Mr Brook's argument was that the question of obsolescence still, therefore, applied. He was of the view that in Zuckerman an uplift of 0.25% in respect of flats in Edgbaston

Birmingham would also be appropriate for the subject premises. He appeared to be suggesting that every purpose-built block outside the prime central London area had an obsolescence factor. This particular property, he thought, might well suffer in the future from carbonation or concrete cancer given its form of construction, although there was no evidence of such problem at this time. Mr Cohen argued that the Sportelli deferment rate of 5% applied and that there was no obsolescence to be taken into account.

12. On the question of relativity, Mr Brook had relied upon graphical evidence but had nailed his colours to the mast in using the South East Leasehold graph which had formed part of the report prepared by the RICS following urging for them to do so by the Upper Tribunal. The report before us contained, albeit somewhat illegible, copies of the graphs and data prepared by Beckett and Kay, South East Leasehold, Nesbitt and Co, Austin Gray and Andrew Pridell Associates. Mr Brook's use of the South East Leasehold graph was on the basis that a recent Tribunal decision in the case of appeals by Coolrace and others indicated that the use of a single graph was in certain circumstances appropriate. In that case, the member rejected the use of the number of graphs and instead based the determination upon the Lease graph. Mr Brook was of the view that the South East Leasehold graph prepared by his company, although not by him directly, was the most appropriate graph to use giving a relativity of 90%.
13. Mr Cohen took a cross reference of four graphs, Beckett and Kay, Nesbitt and Co, Austin Gray and Pridell Associates to give him the relativity of 86%. Mr Brook had helpfully prepared a page showing the relativity applicable to the various graphs using the unexpired term of 61.8 years and we will refer to those percentages in due course. Taking these elements into account, both valuers had reached their assessment of the valuation of the subject premises as set out above.

THE LAW

14. The law applicable to the assessment of the value of the subject flats is contained at Section 48 and schedule 14 of the Act. We have borne those matters in mind when reaching our decision.

FINDINGS

15. We have recorded above those elements of the valuation which are agreed and it therefore may be taken as read that they are incorporated within the value that we have determined with regard to the price payable for the subject flats. We were told that the terms of the lease had in all cases been agreed, as had the costs.
16. The first matter we will consider is the deferment rate. In Zuckerman the member of the Tribunal recited at paragraph 45 the conclusions on obsolescence and condition set out in Sportelli. The cited words are as follows "*as with location, while we do not rule out the possible need to adjust the deferment rates to take account of such matters as obsolescence and condition, we think that it would only exceptionally be the case that such factors were not fully*

reflected in the vacant possession value and risk premium. Evidence would be needed to establish that they were not fully reflected in this way."

17. With respect to Mr Brook, no evidence was produced to support his contention that the construction of the blocks would lead to the problems which he set out in his report. The development appears to be under the management of a tenant controlled management company. Our inspection of the various blocks indicated that they were well cared for, both internally and externally, and there was no evidence at present of any problems with which Mr Brook thought the block might be blighted at some time in the future. Whilst we accept there may be latent defects, there is no evidence before us at the time of the valuation that such problems existed, nor did he produce any evidence to show the probability of such difficulties as he suggested appearing in the future. In addition no evidence was produced to tell us what the reserve fund (if any) might be for carrying out any substantial repairs. The value of these properties is certainly higher than those in Birmingham which were the subject of the Zuckerman decision. Accordingly we are not persuaded that there should be any uplift above the deferment rate fixed in Sportelli of 5% for flats.
18. We turn then to the relativity argument. Mr Brook has used one graph only, which as a matter of coincidence, is the graph prepared by his company. Criticism was made that these were post-Act analysis. However, that seems to be the case with nearly all the various graphs produced. It is noted, however, that the research included both converted and purpose-built blocks confined to the Beckenham area of the London Borough of Bromley. It appeared to be accepted that the newer Beckett and Kay graph should not be used but Mr Cohen relied upon the "older" Beckett and Kay graph included within the RICS documentation as well as the Nesbitt and Co, Austin Gray and Pridell Associates graphs. He did not make use of the South East Leasehold graph nor the Lease graph. We do not think it is appropriate just to concentrate on the one graph as has Mr Brook. Whilst it is accepted, we believe, that the major impact on relativity is the lease length, his use of the South East Leasehold graph alone, having a relativity of 90%, which is considerably higher than any of the other graphs that were the subject of the RICS report seems to us to be inappropriate. Equally, however, we do not understand why Mr Cohen sought to exclude some of the graphs from his assessment. All graphs have had their criticism and a definitive view on relativity is, we believe, still awaited. However, as we are not in the prime central London area, it seems to us appropriate to take advantage of the findings as to relativity of all six graphs, that is to say Beckett and Kay, South East Leasehold, Nesbitt and Co, Austin Gray, Pridell and Lease, combine those and take the average relativity which on our calculations is 87.36%. It is, therefore, that relativity which we apply.
19. We should just mention that we do not consider it necessary for there to be any variation between the long lease and the freehold value of 1% as argued by Mr Brook. Interestingly when he dealt with other flats on the development some time ago, he did not seek to ask for this 1% but Mr Cohen did. Given that the management of the development is within the control of the leaseholders, it being a leaseholder management company, we do not consider that any variation of 1% is necessary in this case.

20. Finally we turn to the extended lease value. The best comparable in our mind is that at Flat 40 which is close to the valuation date. This apparently achieved a sale value of £161,000. We agree with Mr Brook that there should be some allowance, particularly with regard to the improvements made to the central heating and double glazing. His figure of £5,000 seems reasonable to us. The other amendments that he made we do not think are appropriate. All the flats had kitchens and bathrooms and the updating of those is a matter of taste rather than an improvement. In addition we had little or no information concerning the garage which was factored into the valuation for Flat 23 and the small patio area and additional dining area factored into Flat 27 did not seem to be appropriate. The closing off of the dining area would be a matter of choice and we did not consider it added or subtracted from the value. In so far as the patio area was concerned there is no evidence to show that this area was created as a legal right. We, therefore, conclude that the valuation at Flat 40 at £161,000 in an open market sale, less a deduction of £5,000 for improvements gives a value of £156,000 and is a fair reflection of the long lease value of the subject flats. It requires no adjustment for the passage of time and no adjustments for other extraneous matters. It also sits comfortably with the valuations achieved in the open market for the other flats in the blocks which were put forward by both valuers as comparables. Accordingly we conclude that the extended lease value should be £156,000.
21. Applying these determinations gives the figure shown of £13,700 as set out on the attached valuation.

Judge: *Andrew Dutton*

A A Dutton

Date: 3rd March 2014

VALUATION FOR 20,21,24,26,30,34,41 AND 46 GREEN HILL GATE, HIGH WYCOMBE

Matters Agreed

Lease commencement	25/12/1975
Term	99 years
Term unexpired	61.80
Date of Valuation	20/03/2013
Ground Rent	£10
Yield on term	8%

Matters Determined

Freehold/extended leasehold unimproved value	£156,000
Existing leasehold unimproved value	£136,282
Relativity	87.36%
Yield on Reversion	5%
Freehold and extended leasehold interests of equal value	

Value of Landlord's existing interest

Ground rent		£10	
Years Purchase	61.8 years @ 8%	12.3925	£124
Reversion to	Freehold value	£156,000	
Present Value of £1	61.8 years @ 5%	0.0490	£7,644
Landlord's existing interest			£7,768

Value of landlord's proposed interest

Term		
New lease at peppercorn		£0
Reversion		£156,000
Present value of £1 in 151.8 years at 5%		0.0006
Value of landlord's proposed interest		£94

VALUATION FOR 20,21,24,26,30,34,41 AND 46 GREEN HILL GATE, HIGH WYCOMBE

	Diminution of landlord's interest	£7,674
	Marriage value calculation	
	Value of landlord's proposed interest	£94
	Value of tenant's proposed interest	£156,000
	Sub-total	£156,094
	Less	
	Value of landlords existing interest	£7,768
	Value of tenants existing lease	£136,282
	Sub -total	£144,050
	Marriage gain	£12,044
	Landlords 50% share	£6,022
Plus	Diminution of landlord's interest	£7,674
		£13,696
	Premium payable say	£13,700

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Flats at Green Hill Gate, High Wycombe, Bucks HP13 5QQ

Applicants

Jennifer Rebecca Martin, Flat 12

Daniel John Whitmore & Gemma Louise Marks, Flat 20

Heather Dawn Lambert, Flat 21

Anne Verity Rice, Flat 24

Jeffery Richard Wright & Roseanna Wright, Flat 26

Lesley Mary Turner, Flat 30

Michael John Holt & Gillian Ann Holt nee Castle, Flat 34

Christopher John Roberts & Jean Margaret Roberts, Flat 41

Margaretha Rijpkema, Flat 46