

LH40



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference : LON/00BB/OLR/2017/0054

Property : 464B Barking Road, London E13
8HJ

Applicant : Harish Chauhan and Helen
Chauhan

Representative : Cavendish Legal Group and Mr T J
Henson BSc MRICS Chartered
Surveyor of Clarke Hillyer Ltd

Respondent : Babir Singh and Mohinder Singh
(Missing landlord)

Representative :

Type of application : Section 51 of the Leasehold Reform,
Housing and Urban Development
Act 1993

Tribunal members : Tribunal Judge Dutton
Mr L Jarero BSc FRICS

Date of determination
and venue : 21st February 2017 at
10 Alfred Place, London WC1E 7LR

Date of decision: 21st February 2017

DECISION

Summary of the tribunal's decision

The appropriate premium payable for the new lease is £14,700

Background

1. On 8th November 2016 the Applicants commenced proceedings in the County Court at Bow under claim number CO3B0513 pursuant to section 50(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for a determination of the price to be paid for an extended lease of the flat at 464b Barking Road, London E13 8HJ (the "Property").
2. By an Order dated 3rd January 2017, amongst other matters, the claim was transferred to this Tribunal for the purposes of determining the premium payable and to approve the form of the new lease.
3. In support of the application we were provided with a copy of a report from Mr Timothy John Henson BSc MRICS of Clarke Hillyer Limited Chartered Surveyors dated 30th January 2017. In that report he concluded that the premium payable for the extended lease should be £14,700.
4. We have considered this report in reaching our decision. The property is described a first floor converted flat in a building situated on the A124 with an area for private parking to the front. The accommodation comprises, at present, a three bedroomed flat with kitchen dining area and bathroom with WC. The gross internal floor area is 59.77 sq.m or 643 sq.feet. It is said that the creation of two additional bedrooms had been undertaken by tenants but it would seem without the consent of the landlord. Mr Henson has therefore assessed the value of the property as a one bed-roomed flat in an average condition.
5. The report goes on to list a number of comparable properties, which are subject to adjustments and which led him to the conclusion that the appropriate long lease value for the flat would be £275,000. Mr Henson adopted a relativity of 92.21% based on the average of the graphs outside Prime Central London. As to the capitalisation rate he opted for 7%, a rate of 5% for the deferment rate, an uplift of 1% for freehold unimproved value and applied marriage value to achieve the figure of £14,700.

The tribunal's determination

6. We have considered the comparable evidence put forward, which as said by Mr Henson does not provide a direct comparison. The comparables do however show a range, excluding the flat at 27 Carson Road which three bedroomed, of between £230,000 and £285,000. A

figure of £275,000 for the long lease value of this property we find is reasonable.

7. As to relativity we have no quibble with the percentage adopted by Mr Henson, based on the RICS graphs for Greater London and beyond, although we may have disregarded Beckett and Kay, which is opinion only and Austin Gray which is centred around Brighton. However, such difference has a minimal effect on the premium and we do not propose, in this case to disturb Mr Henson's assessment of relativity. The capitalisation rate of 7% is reasonable given the gently rising ground rent and the deferment rate of 5% observes the Court of Appeal decision in Sportelli. The uplift of 1% for the freehold is uncontentious.
8. Applying these valuation elements we accept the calculation of the premium as set out on the valuation attached to the report. Accordingly we determine that the premium payable for the new lease shall be £14,700.
9. The terms of the extended lease, the draft of which was included in the bundle before us, is approved.

Name: Judge Dutton

Date: 21st February 2017

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).