

2944



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

**Case Reference** : **LON/00AT/OLR/2014/0780**

**Property** : **Flat 3, 4A Goodge Place and Flat 3 ,  
5 Goodge Place London W1T 4SD**

**Applicants** : **Mr A C Allen**

**Representative** : **Mr J Mellor Dip Surveying  
Practice**

**Respondent** : **Focuspoint Ltd**

**Representative** : **Mr S Allison of Counsel**

**Type of Application** : **S.48 Leasehold Reform Housing  
and Urban Development Act 1993**

**Tribunal Members** : **Mrs F J Silverman Dip Fr LLM  
Mr L Jarero BSc FRICS**

**Date and venue of  
Hearing** : **9 September 2014.  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **10 September 2014**

---

## DECISION

---

### **Decision of the tribunal**

The tribunal determines that the price payable by the Applicant tenant of Flat 3, 4A Goodge Place London W1T 4SD to acquire an extended lease shall be £ 22,847 .

The tribunal determines that the price payable by the Applicant tenant of Flat 3, 5 Goodge Place London W1T 4SD to acquire an extended lease shall be £24,778.

### **Reasons**

1. The Applicant seeks a determination pursuant to s.48 Leasehold Reform Housing and Urban Development Act 1993.
2. The hearing of this matter took place before a Tribunal sitting in London on 9 September 2014 at which Mr J Mellor represented the Applicant tenant and Mr S Allison of Counsel represented the Respondent landlord.
3. On behalf of the Applicant the Tribunal heard evidence from Mr J Mellor Dip Surveying Practice and for the Respondent evidence was given by Mr W Dunsin FRICS.
4. The parties supplied the Tribunal with a schedule of agreed facts . The only matters which remained to be determined by the Tribunal were the value of the unimproved freehold, the value of the existing leasehold interest and consequently, the amount of the premium to be paid by the tenant for each extended lease.
5. The Tribunal inspected the exterior of the subject properties, together with seven of the eight comparables proposed by the parties' respective surveyors (see below) on the morning of 10 September 2014. The subject properties each comprise the top floor flat in a early Victorian terrace a few yards from the busy thoroughfare of Goodge Street. Neither building has a lift and neither flat enjoys any garden, parking space or roof terrace. Goodge Place is a through road with a cobbled surface and although quieter than Goodge Street itself is still affected by traffic noise from the busier streets nearby. The ground floor of both buildings is occupied by commercial premises and there is a motor cycle park outside the ground floor entrances to the flats. Goodge Street

underground station and all local amenities are close by. The properties are within walking distance of the major shopping areas of the West End, Covent Garden and the theatre district with many restaurants in the locality. Flat 3 at 4A Goodge Place has a floor area of 299 sq ft and Flat 3 at 5 Goodge Place measures 325 sq ft. Both are one bedroomed flats and both are said to be in good condition.

6. With the exception of Flat 1 at 28 Goodge Street which is a studio flat measuring 315 sq ft all the comparable properties are one bedroomed flats ranging between 355 sq ft and 506 sq ft in size (ie slightly larger than the subject properties). Flat 1 at 28 Goodge Street was included as a comparable because its size is very similar to the subject properties and its floor layout demonstrated that a conversion to a one bedroomed flat could be achieved without difficulty. Only three properties were offered as comparables by the Respondent : Flat 1 , 28 Goodge Street. Flat D 114 Cleveland Street and Flat 2, 74 Newman Street. Mr Dunsin said he was aware of other properties but had not included them.
7. The parties agreed that 90 Paramount Court in University Street which has a lift and is in a purpose built block of flats situated on the east side of Tottenham Court Road was the least appropriate of the comparables and agreed that the Tribunal need not consider that property. The properties which the Tribunal did view externally were: Flat 1, 28 Goodge Street; Flat 2, 74 Newman Street; 61 Cleveland Street; 114d Cleveland Street; Flat 2, Great Titchfield Street; Flat 4, 1A Little Titchfield Street and Flat 3, 54-56 Langham Street .
8. All of these flats offered as comparables are within close proximity of the subject properties situated on the west side of Tottenham Court Road in the area currently known as Fitzrovia. All are on the upper floors of the building in which they are situated , none has a lift and all have commercial premises on the ground floor. All are in older terraced buildings, the majority of which were not purpose built as apartments. Only 61 Cleveland Street possessed any outside space in the form of a communal roof terrace.
9. The properties at Flat 2, 74 Newman Street and 114d Great Titchfield Street were described by the parties as newly refurbished and from the exterior appeared to be in good condition. Excepting Flat 3, 54-56 Langham Street which appeared to be in a purpose built block and was described as 'dated' the remainder of the viewed comparables were described by the parties as being in 'reasonable' condition.
10. Flat 1, 28 Goodge Street is on an extremely busy street but the remainder of the comparables were all situated on quieter through roads with a regular flow of traffic and disturbance from traffic noise from surrounding streets. The subject properties are possibly in the least busy of the streets visited by the Tribunal but have the disadvantage of a motor cycle park and street food vendors outside the

entrance doors to the buildings. The Tribunal considered that the locations of the subject properties and of the various comparables were in themselves comparable and that no one location had any significant benefit or detriment over any of the others viewed.

11. In relation to the unimproved freehold value the parties agreed that this should be assessed on a square footage basis. The Applicant did not consider that the specific location of the subject properties was a relevant factor. The Respondent argued that the subject properties should attract a 15% uplift because of their location in a mews environment and having a cobbled street. Having viewed both the subject properties and the agreed comparables the Tribunal does not consider that the location of the subject properties is superior to that of any of the comparables and does not consider that any adjustment for location is merited. .
12. The parties also agreed that the Savills plc flats index should be used for the time adjustment of comparable evidence . Mr Mellor adjusted his comparables to take account of time, condition, floor level and lease length (the latter using the Savills' enfranchisement index) to reach an average of £1,257 per square foot. The Tribunal prefers to use a 1% adjustment for floor level rather than the graduated scale used by Mr Mellor. Despite the decision in *Cadogan v Faizepour* Mr Dunsin had not made any adjustments for floor level, had factored in a 15% uplift for location (discussed in paragraph 11) which he was unable to support by any evidence, and had used the land registry house prices index for his time adjustments adding 5% to the adjusted leasehold figures to reach a freehold value of £1,600 per square foot. When questioned, Mr Dunsin could not provide evidence other than his own opinion to justify his addition of 5%. The Tribunal did however use the land registry house prices index to make its own time adjustments because this is updated more regularly than is the Savills index. The Tribunal chose not to use either of the Titchfield (Great and Little) properties in its calculations because both had short leases which had to be adjusted by larger percentages which could introduce errors into the final calculation.
13. As far as the value of the tenant's existing interest is concerned, the Respondent had used Savills' 1992 graph insisting that this was the only graph which reflected a pre-Act world. He was aware of other graphs but had chosen not to use them. His relativity figure obtained from the 1992 graph alone was 86%. Mr Mellor for the Applicant had used the conventional and accepted practice of selecting a number of relevant graphs and taking an average from them to achieve a relativity of 90%. The Tribunal acknowledges that relativity is not an exact science but nevertheless prefers to adopt the conventional multi-graph approach taken by Mr Mellor and accepts his rate of 90% as being the appropriate figure in the present case.

14. The Tribunal's calculations are shown on the attached Appendix 1 and its valuation on Appendix 2.

**The Law**

15. Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 (The Act) provides that the premium to be paid by the tenant for the grant of a new lease shall be the aggregate of the diminution in the value of the landlord's interest in the tenant's flat, the landlord's share of the marriage value, and the amount of any compensation payable for other loss.
16. The value of the landlord's interests before and after the grant of the new lease is the amount which at the valuation date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the assumption that the tenant has no rights under the Act to acquire any interest in any premises containing the tenant's flat or to acquire any new lease.
17. Para 4 of the Schedule, as amended, provides that the landlord's share of the marriage value is to be 50%, and that where the unexpired term of the lease exceeds eighty years at the valuation date the marriage shall be taken to be nil.
18. Para 5 provides for the payment of compensation for loss arising out of the grant of a new lease.
19. Schedule 13 also provides for the valuation of any intermediate leasehold interests, and for the apportionment of the marriage value.

Judge F J Silverman  
.....  
As Chairman

.....10 September 2014 .....

Calculations for flats 3 @ 4a Goodge Place and 3 @ 5 Goodge Place

Appendix 1

Property	Price pfs	Time	Lease length (Savill's 2002 index)	Floor	Conditio
2/4 Newman Street	£1,359	£1,518	£1,547	£1,516.26	£1,365
114d Cleveland Street	£1,296	£1,363	£1,389	£1,375.01	£1,238
61 Cleveland Street	£1,247	£1,264	£1,290	£1,290	£1,290
3 @ 54/56 Langham Street	£1,283	£1,209	£1,221	£1,221	£1,221
1/28 Goodge Street	£1,307	£1,322	£1,347	£1,320.33	£1,320
					<u>£6,434</u>
				Average rate per sq ft	£1,287
Flat 3 @ 4a Goodge Place	299sq ft	Freehold value with VP		£384,730	
Flat 3 @ 5 Goodge Place	325 sq ft	Freehold value with VP		£418,185	

## Appendix 2

### First Tier Tribunal Chamber (Residential Property)

Ref: LON/00AT/OLR/2014/0780

Flat 3, 4a Goodge Place and Flat 3, 5 Goodge Place London W1T 4SD

Valuation date 20 December 2013

Each flat is held on a lease of 99 years from 1 January 1990

Unexpired term agreed between the parties 75.03 years

Capitalised value of the ground rents as agreed between the parties £1,300 per flat

Deferment rate 5%

Value of flats with freehold vacant possession

Flat 3, 4a Goodge Place £384,730

Flat 3, 5 Goodge Place £418,185

Relativity 90%

Existing value of flats

Flat 3, 4a Goodge Place £346,257

Flat 3, 5 Goodge Place £376,367

#### **Flat 3, 4a Goodge Place**

Value of freehold interest

Capitalised ground rent £1,300

Reversion to freehold value £384,730

Deferred 75.03 yrs @ 5% 0.02571 £9,891

£11,191

Value after enfranchisement £384,730

Deferred 165.03 yrs @ 5% 0.0003185 £123

5%

Value of freeholder's interest £11,068

#### **Marriage value**

Value after enfranchisement

Freeholder £123

Lease holder £380,883

£381,006

Value before enfranchisement

Freeholder	£11,191	
Lease holder	£346,257	
	<hr/>	
	£357,448	
Marriage value	£23,558	
Divide equally between F/H & tenant		£11,779
	<b>Price to be paid for Enfranchisement</b>	<hr/>
		<b>£22,847</b>

**Flat 3, 5 Gooch Place**

Value of freehold interest		
Capitalised ground rent		£1,300
Reversion to freehold value	£418,185	
Deferred 75.03 yrs @ 5%	0.02571	<hr/>
		£10,752
		£12,052
Value after enfranchisement	£418,185	
Deferred 165.03 yrs @ 5%	0.0003185	£133
	Value of freeholder's interest	£11,919

**Marriage value**

Value after enfranchisement		
Freeholder	£133	
Lease holder	£414,003	
	£414,136	
Value before enfranchisement		
Freeholder	£12,052	
Lease holder	£376,367	
	<hr/>	
	£388,419	
Marriage value	£25,717	
Divide equally between F/H & tenant		£12,859
	<b>Price to be paid for Enfranchisement</b>	<hr/>
		<b>£24,778</b>