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

Case Reference : CHI/24UL/OLR/2015/0256

Property : 95 Ascot Court, Station Road, Aldershot GU11
1HQ

Applicant : Mr K I and Mrs H B Martin

Representative : Compton, solicitors

Respondent : Wallace Estates Limited

Representative : Stevensons Solicitors

Type of Application : Determination of premium or other terms of
acquisition remaining in dispute including
costs:
Leasehold Reform, Housing and Urban
Development Act 1993: Sections 48 and 60

Tribunal Member : Mr D Banfield FRICS

Date of Decision : 22 June 2016

DECISION

Summary of Decision

The Tribunal has determined for the reasons set out below that the premium payable by the Applicant for the extended lease of the property is to be the sum of **£4,380 and costs determined of £2,448.**

Background

1. This is an application to determine the premium and other terms of the acquisition.
2. Directions were made on 24 November 2015 following which a telephone case management hearing was held on 5 February 2016. At the hearing the parties considered that the premium was likely to be agreed but that the terms of the new lease were not. Areas of disagreement were a restriction, interest rate and separate deed of covenant with the management company. The Tribunal also understood that there was a section 60 application in respect of landlord's reasonable costs.
3. Directions were made the same day setting out a timetable for the exchange of written submissions on the matters not agreed. The parties were at liberty to make a reply to the other's submissions.
4. Despite the prediction at the case management hearing the lease has been agreed between the parties but the premium has not. Costs also remain at issue.
5. Valuation reports have been received on behalf of both parties and a breakdown of costs received from Stevensons Solicitors.
6. From the documents supplied it was apparent that the details of the ground rent as set out in the lease were at variance with the Land registry entry and the Tenant's Notice. Letters were sent to both parties' Solicitors requesting submissions on the matter and a reply received from Messrs Comptons. Unfortunately their reply simply referred the Tribunal to the lease. No response was received from Messrs Stevensons.
7. An inspection of the property has not been made.

The Premises

8. The property comprises a 1 bedroom third floor flat situated in Block B of this substantial estate.

Evidence and Decision

9. The Tribunal has two valuation reports before it; on behalf of the Respondent, Mr Geraint Evans FRICS dated 3 March 2016 and on behalf of the Applicant Mr James Compton LLB (hons) dated 4 March 2016. Both reports contain an expert's declaration.
10. Mr Evans' valuation produces a premium of £5,050 and Mr Compton's £4,200.
11. Mr Evans says the ground rent is £100 rising to £300.

12. Mr Compton says the ground rent is £90 rising to £270.
13. The constituent parts of the respective valuations are as follows;

	Mr Evans	Mr Compton
Valuation date	18 May 2015	22 May 2015
Unexpired term	80.6	80.6
Freehold value	141,360	126,720
Capitalization rate	6.25%	7%
Deferment rate	5%	5%
Marriage value	N/A	N/A

14. Mr Evans asks us to determine the capitalization rate, long lease value and freehold vacant possession value in a “no-Act world”
15. The Tribunal will however determine those areas of difference set out in the table at paragraphs 10 and 13.
16. At page 40 of the lease sub paragraph (h) sets out the details of ground rent which is £90 for the first 33 years, £180 for the next 33 years and £270 for the last 33 years.
17. However, both the Official copy of the Register of Title and the Tenants’ notice show the ground rent at £100, £200/£300.
18. The Tribunal intends to take the rents as referred to in the lease whilst acknowledging that these are not the amounts referred to in the Tenant’s Notice or Register of Title. However in view of the lack of submissions to determine the correct amounts the Tribunal must do the best it can with the information provided to it.
19. The matter of the validity of the Tenant’s Notice apparently containing errors has not been raised by the parties and the Tribunal do not in any event have jurisdiction to determine such a matter.
20. Mr Evans derives his freehold value from averaging four post valuation sales, adjusting the resultant £135,250 to reflect the difference between the current lease length and a long lease by an average of the RICS Research graphs (96.72%) to get to £139,960 and then uplifting by 1% to get to the virtual freehold value of £141,360.
21. The sales used are;
 - a. 115 sold July 2015 for £141,000
 - b. 120 sold June 2015 for £125,000
 - c. 123 sold October 2015 for £140,000
 - d. 138 sold December 2015 for £135,000
22. Mr Compton also refers to four sales:

- a. 7 sold 22 April 2015 for £125,000
 - b. 63 sold 20 April 2015 for £126,000
 - c. 138 sold December 2015 for £135,000 (referred to as “newly refurbished”)
 - d. 83 sold January 2015 for £127,227 with an extended lease.
23. In addition to the four comparables he relies on Mr Evans gives details of five other sales between January and April 2015 which he suggests shows a “steadily rising” market. He also considers that the delay in showing the sale on the register means that post valuation date evidence is more relevant. The difficulty I have however is that Mr Evans gives no indication of lease length and in his basket of comparable sales dates range from June to December 2015. Given the rising market Mr Evans suggests doubt must be placed on the relevance of the October and December comparables unless adjusted for time. Likewise it is clear that Mr Evans assumes that all sales must be of extended leases hence the need to make the adjustment referred to in paragraph 18 above. From the evidence provided by Mr Compton it is clear that No 83 which Mr Evans refers to as “lease unknown” does in fact have an extended lease.
24. Mr Compton refers to the comparables cited in paragraph 22 above and then “recommends” the FHVP to be £128,000 with a 1% adjustment to get to the long lease value of £126,720. He gives no explanation of how this sum is arrived at or why it should be lower than the only sale of an extended lease flat some 5 months before the valuation date.
25. Given the shortcomings in both valuations I intend to take an average of the two sales immediately post valuation date and referred to at paragraph 21a and b above without adjustment for lease length arriving at a long leasehold value for the subject property of £133,000. Adjusting by 1% I arrive at a **freehold value of £134,343.**
26. Mr Evans bases his contention for a capitalization rate of 6.25% on his experience and the cases of *Nicholson v Goff* [2007] 1EGLR 8 and *Apex Court Freehold Limited* (CHI/19UC/OCE/2014/0018)
27. Mr Compton in proposing a rate of 7.00% refers to the factors determining the rate to be adopted as the length of the lease term, security of recovery, size of ground rent and whether there is a review. He says that with a nominal rent and a fixed review 7.00% is the appropriate rate.
28. The Tribunal prefers Mr Evans’ evidence and adopts a rate of **6.25%.**
29. The Tribunal’s valuation of the premium payable is **£4,380** as set out in the attached Appendix A.

Costs

30. Attached to Messrs Stevensons’ letter of 3 March 2016 is a schedule of solicitor’s costs of £1,800, disbursements of £18 and Valuer’s fees of £630 all inclusive of VAT and totaling £2,448. It is noted that a copy was sent to

Messrs Comptons and has been referred to in the Directions dated 5 February 2016. In the absence of any submissions on behalf of the Applicant the Tribunal determines that the costs are payable as claimed.

95 Ascot Court, Station Road, Aldershot

Appendix A

Calculations

Valuation date		18/05/2015
Unexpired term	Years	80.6
Capitalisation rate		6.25%
Deferment rate		5%
Freehold value		£134,343
Extended lease value		£ 133,000

Diminution of freehold

Loss of ground rent	1		£			
Years Purchase	14.6	years @	6.25%	9.3974	846	0
Loss of ground rent	2		£			
Years Purchase	33	years @	6.25%	13.8360		0
Present value of £1 in	14.6	years @	6.25%	0.412665		
					1,028	
Loss of ground rent	3		£			
Years Purchase	33	years @	6.25%	13.8360		0
Present value of £1 in	47.6	years @	6.25%	0.05581	209	
Sub-total						2,082
Reversion to Freehold						
Capital value			£	134,343		
Present value of £1 in	80.6		5%	0.0196	2,632	
Less						
Present value of £1 in	170.6		5%	0.0002	33	
Diminution in value						<u>2,600</u>
						<u>4,682</u>
Premium					Say	<u>£4,680</u>

D Banfield FRICS

22 June 2016

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.