



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

Case reference	:	LON/00BF/OLR/2021/0832 V:CVPREMOTE
Property	:	33 Reynolds Close Carshalton SM5 2AY
Applicant	:	Annette Frances Beard
Representative	:	Stephen Chandler FRICS, IRRV(Hons)Castle Wildish, Chartered Surveyors
Respondent	:	St Ermin's Property Company Limited
Representative	:	David Robson MA (Oxon),MSc, MRICS, Robsons
Type of application	:	Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993
Tribunal members	:	Mrs E Flint FRICS Mr M Taylor MRICS
Date of determination and venue	:	Remote video hearing 21 April 2022
Date of decision	:	13th May 2022

DECISION

Covid-19 pandemic: description of hearing.. This has been a remote video hearing which has not been objected to by the parties. The form of remote hearing was V:CVPREMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same.

Summary of the tribunal's decision

- (1) The appropriate premium payable for the new lease is **£124,150**

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 33 Reynolds Close Carshalton SM5 2AY (the “property”).
2. By a notice of a claim dated 5TH February 2021, 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 1 May 1951 for a term of 99 years less one day from 24 June 1943 at an annual ground rent of £5.25 per annum. The applicant proposed to pay a premium of £97,300 for the new lease.
3. On 9 April 2021, the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £160,000 for the grant of a new lease.
4. On 4 October 2021, the applicant applied to the tribunal for a determination of the premium.

The hearing

5. The hearing took place on 21 April 2022, as a video hearing, all parties and participants attended the hearing by Video link. The applicant was represented by Mr Stephen Chandler FRICS IRRV (Hons) of Castle Wildish Chartered Surveyors, The respondent was represented by Mr David Robson MA(Oxon) MSc MRICS of Robsons.
6. 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.
7. The applicant relied upon the expert report and valuation of Stephen Chandler dated 12 March 2022 and the respondent on the report of David Robson dated 30 March 2022.
8. Both experts described the property and location within their reports. Reynolds Close is located between Carshalton village, Croydon and Mitcham and within walking distance of both a bus route and railway station. The Property is on the ground floor a two storey block of four semi-detached maisonettes, built in the late 1930’s. The block is of traditional construction comprising a pitched and tiled roof, brick and rendered external walls, timber floors and double glazed windows. The property comprises three rooms, kitchen and bathroom/wc and is

centrally heated. It has the benefit of two parking spaces to the front and a rear garden.

9. The experts agreed that there were no tenant's improvements to be taken into account for the purposes of the valuation.

10. The following matters were agreed:

The unexpired term at the valuation date of 5 February 2021 was 21.38 years;

Capitalisation and Deferment rate both 5%

1% adjustment for tenure

11. The matters outstanding were:

Freehold vacant possession value

Existing lease value

The premium.

12. Mr Chandler stated that his valuation was based on the condition of the property at the valuation date. Prior to it being marketed for sale the kitchen and bathroom had been refitted, the property rewired and replumbed, the central heating system replaced, the flat redecorated and new floor coverings laid at a total cost of £20,070 to which he had added an element for profit as family members had undertaken some of the work. He was of the opinion that the flat was not in disrepair but was not in a condition to maximise its value without these works being undertaken.

13. The property was originally under offer at £290,000 on the basis that the existing lease would be extended. However, the lease extension was not completed quickly and the prospective purchasers withdrew. The current sale price of £305,000 was agreed in December 2021, approximately one year after the valuation date. He had adopted £290,000 less £25,000 for necessary updating to arrive at an extended lease value of £265,000.

14. He referred to the sales of four properties in Reynolds Close to support his opinion of value.

18	90.7 years unexpired	sold July 2021	£270,000
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31 88.4 years unexpired sold February 2021 £310,000.
The property had been extended and upgraded.

14 90.1 years unexpired sold January 2021 £280,000

54 105.6 years unexpired sold December 2019 £265,000

15. He had used the Nationwide Index to adjust for time: he considered it the most reliable index as it was postcode related. The later sale price was about 5% higher than the original sale price: the Nationwide index showed growth of 5.11% between February and December 2021. He agreed that the Land Registry index showed a different level of growth.
16. Under cross examination Mr Chandler insisted that at the valuation date the property was not in disrepair but was “tired”. He was of the opinion that the lease term “maintain” did not mean keep in good condition. The property’s current condition was improved. He considered the cost of the works, including profit, was equal to value.
17. The main area of disagreement was the relativity to be used to value the short lease as there were no relevant comparable sales. Mr Chandler said that he had regard to a number of graphs of relativity including the Moss Kaye (49.09%), Savills Enfranchiseable (49.6%), Austin Grey (44.43%), Andrew Pridell (54.48%), the Gerald Eve graph which he noted was based on central London and the Savills 2016 report. He had adopted a relativity of 49.6% which he considered was appropriate for the type and location of the property and the unexpired lease term. He had valued the existing lease at £131,440.
18. Based on the above he had arrived at a value for the premium of £115,150. It appears that Mr Chandler made a small error in adopting a figure of 0.3693 for deferral of 21.38 years which should in fact be 0.3523. This would reduce the calculated premium to £114,000.
19. Under cross examination he agreed that he had not made any adjustment to the sale prices of the comparables for lease length as the unexpired terms were all in excess of 80 years. He had not relied upon the sale of No.31 because the flat had been extended and had a conservatory.
20. He explained that he had used the Savills Enfranchiseable graph because he could recall the market prior to the Act when sales of short leases took place. He was of the opinion that most landlords were willing to extend short leases. He confirmed that he had used the 2016 Gerald Eve graph.
21. Mr Chandler confirmed that his client had acquired the short unimproved leasehold interest in January 2015, she had paid a premium of £131,000.

22. Mr Robson referred to his report. He had dealt with a number of lease extensions in Reynolds Close and had adjusted the sale prices of those comparables which had up to 99 years unexpired using the 2016 Savills and Gerald Eve Indices.

23. He relied upon the following sales of first floor flats:

18	88.9 years unexpired loft room via ladder and a garage with restricted access	sold July 2021	£270,000
2	146.7 years unexpired Garage and loft storage	sold July 2021	£298,000
66	93.8 years unexpired No parking, refurbished bathroom	sold May 2021	£272,500
14	90 years unexpired Garage and loft storage	sold January 2021	£280,000
68	90.3 years unexpired No parking, loft storage	sold November 2020	£270,000

24. Mr Robson used the Land Registry data for flats in the London Borough of Sutton to adjust the sale prices for time and the Savills 2016 graph to adjust for lease length, and adjustments of 5% for a standard garage, 2.5% for a single parking space or garage with limited access and a further 1% for a second parking space, 2.5% for loft storage and 2.5% where the flat is refurbished to a high standard. The calculations resulted in an adjusted average sale price of £292,441 at the relevant date.

25. He also considered the offer made of £290,00 on 2021 for a 111 year lease, applying a 2% uplift based on the decision in *Cadogan v Erkman* for leases between 110 and 115 years he said gave a freehold value of £295,918. A reduction of 2.5% to reflect the new bathroom would reduce the value to £288,520. However, he stated that standing back the average price of the comparables looks a little high when compared to the price offered in the market. Assuming that if the long lease had been in place the sale would have completed in December 2021 and adjusting for time the freehold value was £281,923, say £281,900 and an extended lease value £276,262.

26. Mr Robson said that he had been unable to find reliable sales evidence of short leases. He had found two sales where there was an unexpired term of approximately 57 years. He had not been able to verify the details and one of the flats had been extended. He was of the opinion that neither transaction was useful.

27. He had therefore relied on the Savills unenfranchiseable figures for a lease of 21.38 years which indicated a relativity of 41.01% and the Gerald Eve figures suggest 38.73%, giving an average of 39.87%. Applying this to the freehold vacant possession value equates to an existing lease value of £112,394 without Act Rights.
28. In cross examination Mr Robson agreed that the property would have required some updating but did not accept that cost was equal to value, nor that all expenditure adds value. He said that he would adjust the sale price by 2.5% to reflect condition, reminding the Tribunal that the experts had agreed that there were no tenant's improvements to be taken into account in the valuation.
29. Based on the above he had valued the premium for the lease extension at £131,000. He had followed the method adopted by the Upper Tribunal in their recent decisions in arriving at this figure.
30. Neither expert had brought to the hearing information regarding prices paid between 28 January 2015 (when the short lease was purchased) and the valuation date. Therefore, the Tribunal asked them to provide this information as it appeared to be the only reliable sales evidence of an unimproved short lease, albeit some time prior to the valuation date. The Tribunal was of the opinion that updating the sales information on the subject flat would be a useful check on the various Indices used by the experts.
31. Mr Chandler responded that the Nationwide Index showed an 18.65% increase over the relevant period as compared with the Land Registry Index of 22.5%.
32. Mr Robson advised that the Land Registry data showed a 22.78% increase. Applying this to the sale price would indicate a lease value with Act rights of £160,842 for a 27.40-year lease at the Relevant Date. In reaching a lease value without Act rights he relied on the Savills data, which for 27.40 years indicates 58.48% for the enfranchiseable relativity and 48.48% for the unenfranchiseable relativity. He added that taking the resulting value of Act rights at 17.1% derives a lease value without Act rights of £133,338 for a 27.40-year lease at the Relevant Date. He stressed that in his experience there had been a suppression in the value of short leasehold interests during that period.

The Tribunal's Determination

33. The tribunal determines that the premium to be paid for the lease extension is £124,150 (pounds).

Reasons for the tribunal's determination

33. The Tribunal in reaching its decision considered all of the valuation evidence put forward by both parties.
34. The Tribunal accepts that the best evidence for the value of the extended lease value is the price agreed in April 2021, only two months after the valuation date. We accept that the flat required some updating but do not accept that cost equals value nor that all the costs incurred would have been reflected in the value of the flat. We are of the opinion that a reduction of £10,000 from the agreed price of £290,000 would be appropriate.
35. We determine the extended lease value at £280,000. The Tribunal further determines that it would be appropriate make an adjustment of 1% to arrive at the freehold value of this flat in outer London at the lower end of the market, giving a freehold value at £282,800.
36. The experts differ in their approach to the valuation of the existing leasehold interest. Mr Chandler has used a number of indices and adopted a relativity of 49.6% to arrive at a value of £131,440. Mr Robson has relied on the 2016 Savills and Gerald Eve indices and adopted a relativity of 39.87% to arrive at a value of £99,395.
37. The Tribunal was not convinced that the value of the short leasehold interest would have reduced from £131,000 in January 2015 to £99,395 by the valuation date, some 6 years later. The evidence is that market values for flats in this locality had increased by between 18.65% and 22.78% depending on the index adopted, an average of 20.7%.
38. The Savills 2016 Index indicates for the six year reduction in the unexpired term an enfranchiseable relativity difference of 7.7% and 7.6% for the unenfranchisable relativity.
39. Using this method as a check the purchase price of £131,000 updated to the valuation date is £157,200, reduced by 7.7% to reflect an unexpired term of 21.38 years indicates a capital value of £145,960. Deducting 10% Act rights gives the short lease value at the valuation date of £131,365., or 46.4% of the freehold value. This compares with the value adopted by Mr Chandler of £131,440.
40. The purchase of the short lease in 2015 would have been in the time frame when Savills would have been considering sales evidence for the 2016 index. The index, is of course based on evidence in central London. The only market evidence available appears to indicate that in this location, for this type of property the market may not be as sophisticated as that in central London.
41. Mr Robson, in his later submissions regarding the value of the short lease appears to have made an error in stating that the Savills Index

shows Act rights of 17.1% for the 27.4 year lease. The table shows a difference of 10%.

The premium

42. A copy of the valuation calculation is annexed to this decision.

Name: E Flint

Date: 13th May 2022

Appendix: Valuation setting out the tribunal's calculations

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).

CASE REFERENCE LON/00BF/OLR/2021/0832

**First-tier Tribunal
Property Chamber (Residential Property)**

**Valuation under Schedule 13 of the Leasehold Reform Housing and
Urban Development Act 1993**

Premium payable for an extended leasehold Interest in [Property]

Valuation date: 5th February 2021

Unexpired lease term 21.38 yrs
Ground rent £5,25
Capitalisation rate 5%
Deferment rate 5%
Short lease value £131,440

Existing
Current Term

Ground rent	£ 5.25		
YP 21.38 yrs @5%	12.95	£	68

Reversion

Value (Unimproved) extended lease	£280,000		
To FH value plus 1%	£282,800		
PV of £1 21.38 yrs @5%	0.3523	£ 99,630	<u>£99,698</u>

Proposed (Landlord)

Term	£NIL		
Reversion	£282,800		
PV £1 111.38 yrs @5%	0.0044	£ 1,244	<u>£98,394</u>

Marriage Value

Proposed			
Landlord	£ 1,244		
Lessee	£280,000	£281,244	

Current

	£ 98,394		
	£131,365		
		<u>£229,759</u>	
		<u>£51,485</u>	
		@ 50%	<u>£25,743</u>

£124,137

But Say £124,150