



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

**Case Reference** : **BIR/37UD/OLR/2017/0088**

**Property** : **Flat 40B, The City, Beeston  
Nottingham NG9 2ED**

**Applicants** : **Mr D R Wells and Ms K K Wells**

**Representative** : **Ellis- Fermor & Negus**

**Respondent** : **Ms L B Parker**

**Representative** : **N/A**

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

**Tribunal Members** : **Judge M K Gandham  
Mr G S Freckelton FRICS**

**Date and venue of  
Hearing** : **Paper Determination made on  
19<sup>th</sup> February 2018**

**Date of Decision** : **7 March 2018**

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**DECISION**

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## **Decision**

1. The Tribunal determines that, taking account of the evidence adduced and the Tribunal's own general knowledge and experience, the premium to be paid for a 90 - year lease extension for the property known as Flat 40B The City, Beeston, Nottingham, NG9 2ED ('the Property') under the terms of the Leasehold Reform, Housing and Urban Development Act 1993 is **£6,550.00**.

## **Reasons for Decision**

### **Introduction**

2. By an Application received by the Tribunal on 10<sup>th</sup> October 2017, the Applicants, Mr David Russell Wells and Mrs Kum Kew Wells, applied to the First-tier Tribunal (Property Chamber) for the determination of the premium to be paid for a 90 - year lease extension of the Property under section 48 (1) of the Leasehold Reform, Housing and Urban Development Act 1993 ('the Act').
3. The Applicants had served a Notice on the Respondent, Ms Lucyna Barbara Parker, on 6<sup>th</sup> March 2017, proposing a premium of £6,550.00 for the grant of a lease extension. The Respondent served a Landlord's Reply to the Tenant's Notice of Claim on 5<sup>th</sup> May 2017, counter -proposing a premium of £11,500.
4. Directions were issued by the Tribunal on 26<sup>th</sup> October 2017. In accordance with those Directions, the Applicants' Representative, Ellis-Fermor & Negus Solicitors, submitted a bundle, which the Tribunal received on 22<sup>nd</sup> November 2017.
5. As the Tribunal had not received any correspondence from the Respondent, the Tribunal wrote to her on 6<sup>th</sup> December 2017, extending the deadline for the receipt of the Respondent's bundle to 13<sup>th</sup> December 2017, failing which the Respondent would be barred from taking any further part in the proceedings. No bundle was forthcoming and, on 21<sup>st</sup> December 2017, the Tribunal issued an Order barring the Respondent from taking any further part in the proceedings, under Rules 9(1) and (7) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013.

### **The Law**

6. The relevant law is Chapter II sections 39 to 62 and Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993.
7. Chapter II of the Act relates to the individual right of a tenant of a flat to acquire a new Lease of that flat. The law is contained in Sections 39 to 61B of the Act and Part 2 of Schedule 13 deals with the premium payable in respect of the grant of a new lease.

8. Section 42 sets out what must be contained in the tenant's notice. Section 45 sets out what must be contained in any counter-notice given in response by the Landlord.
9. Section 48 deals with applications where the terms of the new lease are in dispute or where there is a failure to enter into a new lease.
10. Section 56 deals with the obligation to grant a new lease and section 57 sets out the terms on which a new lease is to be granted.

### **Inspection**

11. The Tribunal inspected the Property on 19<sup>th</sup> February 2018 in the presence of Mr Wells, one of the Applicants. The Respondent did not attend.
12. The Property is a first floor maisonette located in a two-storey building comprising four maisonettes. The building was constructed in the early 1980s in brick and tile. There is a private drive to the side of the building and the Property has the benefit of a small garden and allocated parking area to the rear of the building.
13. The Property is accessed via a small entrance hall on the ground floor, with stairs leading to a landing on the first floor. The first floor comprises a lounge, from which a small kitchen is accessed, two bedrooms and a bathroom. The bathroom is small, comprising a sink unit, w.c. and shower. The Property has the benefit of double-glazing and central heating.
14. The Applicants (or predecessors in title) had refitted the kitchen and bathroom, replaced the boiler and fitted double glazed windows in place of the original timber casement windows and doors.
15. The Property is held under a lease dated 8<sup>th</sup> October 1982 for a period of 99 years from that date and made between (1) Geoffrey Parker and (2) Jesse Terence Bowerman and Beryl Emily Bowerman.

### **The Applicants' submissions**

16. The Applicants, in their bundle, had submitted a Statement of Truth detailing the background to the Application. They confirmed that they had originally approached the Respondent in Autumn 2015, with a view to obtaining an extension to the current lease. The Applicants, believing that the Respondent would agree to the extension, commissioned Spencer Birch Chartered Surveyors to carry out a valuation of the Property. A copy of that report (the 'Valuation Report') carried out by Mr Birch BSc FRICS, dated 23<sup>rd</sup> February 2016, was also included in their bundle.

17. The Valuation Report stated that the valuation had been prepared taking into account sales of flats in and around the Beeston area, although noted that there was a lack of sale of flats with short leases due to unavailability of mortgage finance. Mr Birch also stated, in the Valuation Report, that it had been prepared having regard to the statutory method required under the Act and having regard to recent decisions of the Leasehold Valuation Tribunal and First-Tier Tribunal (Property Chamber), in particular those in 'Kelton Court' and the 'Coolrace' cases. The Valuation Report valued the existing lease at £90,000 and the extended lease at £100,000.
18. The Applicants stated that, as the Respondent did not reply to their informal offer, they served a statutory notice on her in 2016 (proposing the premium detailed in the Valuation Report), to which she also failed to respond.
19. A new statutory notice was served on the Respondent in March 2017, as the previous notice had expired, detailing the same premium for the lease extension as the previous notice. This time a counter-notice was received from the Respondent - stating that the premium was not agreed - and the matter was referred to the Tribunal.
20. The Applicants submitted that, although the Valuation Report was prepared just over a year prior to the new notice, the valuation, and consequently the proposed premium, had not changed. To evidence this they referred to the sale of the ground floor maisonette in the building at the price of £96,000 in November 2016. The maisonette in question had already had the benefit of an extended lease. As such, they submitted that the figures detailed in the Valuation Report still appeared to be valid.

### **The Tribunal's Deliberations**

21. The Tribunal considered all of the evidence submitted and summarised above. The Tribunal is satisfied that the approach taken by Mr Birch in the Valuation Report was the proper approach under the Act.
22. The Property was in a fair state of repair and condition and, in the absence of any contrary evidence being presented by the Respondent and having regard to its own general knowledge and experience, the Tribunal considers the valuation figures proposed by Mr Birch in the Valuation Report to still be reasonable at the date of the new notice. In addition, the Tribunal consider the figures adopted for the capitalisation and deferment rate by Mr Birch, in the absence of any representations to the contrary, to fall within a band of reasonableness.
23. Having adjusted the dates given in the Valuation Report to reflect the date of the later notice, the Tribunal determines that the premium payable by the Applicant(s) for the acquisition of the lease extension is £6,550 (Six thousand five hundred and fifty pounds). The Tribunal's valuation is detailed in Appendix 1.

## Appendix

### Valuation

#### 40b The City, Beeston, Nottingham, NG9 2ED

##### Diminution in Value of Landlords Interest

1.	Ground Rent	40.00	
	YP 15.5 years @ 6%	<u>9.909</u>	396.00
	Ground Rent	60.00	
	YP 48 years @ 6%	15.65	
	PV 15.5 years @ 6%	0.399	375.00
2.	Reversion to VP value	100,000.00	
	PV 3! Def 64.5 years @6%	<u>0.023</u>	2,300.00
	Total		<u>3,071.00</u>

##### 3. Landlords share of Marriage Value

Value of tenants new interest	100,000.00	
Value of landlords new interest	<u>nil</u>	100,000.00
Value of tenants interest – existing lease	90,000.00	
Value of landlords interest – existing lease	3,071.00	
		<u>93,071.00</u>
Marriage Value		6,929.00
50% of Marriage Value		<u>3,465.00</u>
Premium for new lease		<u>6,536.00</u>
		<b><u>Say £6,550.00</u></b>