



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

Case reference : **BG/LON/00AE/OLR/2020/0957**

Property : **80 Norton Road, Wembley, Middlesex
HA0 4RF**

**Applicants/
(Claimants in the
County Court)** : **Mr Kapurchand Ratilal Shah (1)
Mrs Jyostna Shah (2)**

Representative : **In Person**

Respondents : **Thomas Collins (Missing Landlord) (1)
Peter Collins (2)**

Type of application : **Sections 50 sand 51 of the Leasehold
Reform, Housing and Urban
Development Act (as amended) (“the
Act”) for a determination of the terms
and price for the grant of a new lease**

Tribunal member : **Mr Charles Norman FRICS
Valuer Chairman**

Date of decision : **9 January 2020**

Determination based on Written Representations

DECISION

- (1) This has been a remote determination on the papers which has not been objected to by the parties. The form of remote hearing was P: PAPERREMOTE. A face to face hearing was not held because it was not practicable, no-one requested the same, and all issues could be determined on paper. The documents that the Tribunal was referred to are in a bundle of 121 pages the contents of which the Tribunal has noted. The Decision made is set out at Paragraphs (2) and (3) below.

Decisions of the Tribunal

- (2) The Tribunal determines that the appropriate sum to be paid into Court for the lease extension of the property known as 80 Norton Road Wembley Middlesex HA0 4RF pursuant to Schedule 13 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act"), is **£24,475**.
- (3) The Tribunal further determines that the estimated amount of pecuniary rent payable by the Applicants/Claimants which remains unpaid is **£300**.

Reasons

Introduction

1. This matter relates to an application made under section 50 and 51 of the Leasehold Reform, Housing and Urban Development Act (as amended) ("the Act") for a determination of the terms and premium for the grant of a new lease of the property known as 80 Norton Road Wembley Middlesex HA0 4RF ("the property").
2. By proceedings brought under CPR Part 8 and issued on **10 August 2020 ("the valuation date")**, the Applicant applied for an order dispensing with the requirement to serve a section 42 initial notice upon the respondents and for other relief. By an Order made by Deputy District Judge Goodman sitting in the County Court at Willesden dated 4 September 2020, the application for dispensation was granted. The matter was transferred to the Tribunal for the determination of:
 - (a) The amount payable for the lease extension
 - (b) The amount of unpaid pecuniary rent to be paid by the applicants.
3. The Tribunal issued directions on 21 October 2020 requiring a bundle to be provided by 2 December 2020, which was provided. The applicant was given an opportunity to request a remote video hearing, but has not done so and the matter has therefore come before me for determination based on written representations, in accordance with rule 31 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ("the rules"). The Tribunal is not currently carrying out inspections except in special circumstances and I did not consider that an inspection was necessary or proportionate in this case.

Expert Evidence

4. An experts' valuation report dated 13 November 2020 was provided by Mr Mandeep Jhita BSc (Hons.) MRICS, a Director of Anderson, Wilde and Harris Ltd, Chartered Surveyors. Mr Jhita stated that he was actively involved in bank valuations for residential and commercial property. His report is correctly addressed to the Tribunal and contains the declarations required from expert witnesses by the RICS. In his opinion the appropriate premium for the lease extension was £11,600.
5. The substantive valuation sections of the report may be summarised as follows. Mr Jhita inspected the property on 13 November 2020. The property comprises a converted ground floor flat within a two-storey semi-detached house dating from circa 1930. The property is of solid brick construction under pitched tiled roofs. There are UPVC windows. The internal arrangement is two bedrooms, reception room, kitchen and bathroom. The floor area is 67.18 sq. m. (723 sq. ft.). There is a single parking space in the front. To the rear is a good sized garden to which the flat had sole access. Exterior and interior photographs were provided. The property is situated on a residential street. The nearest tube station is Alperton 0.6 miles distant. Mr Jhita stated that the reception room received only indirect natural light via the kitchen and also provided access to the bathroom/ WC. The internal arrangement was awkward.
6. Mr Jhita asserted that tenants' improvements had been carried out the effect of which fell to be disregarded, namely new UPVC windows installed 4 years ago and a new combination boiler installed 5 years ago. He allowed £5000 for these items.
7. The lease commenced on 1 January 1997 for a term of 99 years at an initial annual ground rent of £75 rising doubling every 33 years. At the valuation date, there were 75.39 years unexpired.
8. Mr Jhita adopted 6.5% for the capitalisation rate and 5% for the deferment rate relying for the latter on *Sportelli*.
9. As to what Mr Jhita described as "Long Leasehold Value Unimproved", he relied on five comparables, details of which were provided, although no agents' particulars or photographs were provided, nor land registry evidence of sales.
10. 75D Eagle Rd, Wembley was a two double bedroom maisonette situated off Ealing Road. It was first floor a newly refurbished to a rental standard, without any outside space. An offer had been accepted at £325,000, but exchange of contracts had not taken place. The size was 640 sq. ft. which equated to £508 per square foot. The unexpired term was 94 years, and the property was 0.2 miles from the subject property.

11. 13 Rokesby Place, Wembley was a newly refurbished two-bedroom flat within a purpose-built block. This was sold at £340,000 in August 2020. The accommodation included two double bedrooms with open plan living room, reception, and a balcony. It was much smaller than the subject property being 541 sq. ft. Mr Jhita considered this to set “a reasonable tone of value for the long leasehold value in the subject property in an unimproved condition”. The unexpired term was 88 years, and this property was 0.5 miles from the subject property.
12. 20A Norton Rd, Wembley was a one-bedroom flat of 566 sq. ft. in a converted building close to the subject property and unmodernised. A sale was agreed (but it appears not contracted) in August 2020 at £275,000 equating to £486 per square foot. Mr Jhita considered this to be an inferior property being smaller without garden or private parking.
13. 7 Park Rd, Wembley was a two bedroom ground floor conversion private rear garden in good condition. This was not the subject of a contracted sale and Mr Jhita had been unable to obtain an agreed sale price. 88 Ealing Rd, Wembley was a one-bedroom ground floor conversion which was not the subject of a contracted sale and again Mr Jhita had been unable to obtain an agreed sale price.
14. Mr Jhita also referred to his conversations with active local agents who advised that there was a generally good demand two-bedroom flats in the area with a low supply. The maximum value would be £375,000 for a flat in a immaculate condition and well laid out.
15. Mr Jhita’s conclusion was a valuation of £335,000 for the long lease value unimproved. This reflected £463 per sq. ft as against his comparables which ranged from £468 to £628 per sq. ft. This he explained by reference to the poor internal layout and relatively large size of the subject property although properties in this area would not be valued on a strict price per square foot. This conclusion also equated to £338,384 for the freehold vacant possession value, which included a 1% uplift.

Relativity of Existing Short Lease to Virtual Freehold Value

16. Mr Jhita was unable to identify any market transactions to assist. He arrived at a relativity of 95.21% based on taking an average Greater London graphs of relativity, having also referred to *Sloane Stanley Estate v Mundy* [2016] UKUT 0226 (LC).

Decision

17. I agree with the deferment and capitalisation rates put forward.

18. I agree with Mr Jhita that converted flats in Wembley are not normally sold on a price per square foot basis but nevertheless floor areas are a factor in valuation.
19. I was concerned as to the limited information provided in respect of the comparables and the fact that most were not contracted transactions. In two cases the sale prices were unknown. I am also uncertain as to how Mr Jhita has arrived at his conclusion of £335,000 based on the comparables, particularly in light of his remarks that 12 Rokesby Place “set a reasonable tone of value” when it had only 88 years unexpired. However, I have given that transaction weight together with the offers in respect of 75D Eagle Road and 20A Norton Road. Doing the best I can with this limited evidence, I find that the unimproved long leasehold value is £345,000.
20. I agree with the 1% adjustment for freehold as against long leasehold value.
21. I accept that there is no reliable market evidence to establish relativity and that graphs must be used. However, I do not accept the submission that the average of the Greater London graphs should apply to this case. Mr Jhita has not referred to the recent Decision of the Upper Tribunal *Deritend v Treskonova* [UKUT] 0164 (LC) UTLC which was promulgated on 1 July 2020. In *Deritend* the Upper Tribunal said:

39. The two PCL graphs are still rightly regarded as the most reliable and recent graphs of relativity. They provide objective evidence of relativity, based on a very large data set, and have been revised in light of close scrutiny by the Tribunal in *Mundy*. They should be considered as a starting point where no, or insufficient, transactional evidence has been submitted by the parties. They are not ideal, particularly for property outside PCL, but for the time being they provide the only treatment of relativity which can be regarded as reliable. Their use is always preferable to the use of an average of the RICS 2009 graphs.

56. In our judgment the FTT was wrong as a matter of valuation practice to rely on an average of the RICS 2009 graphs and to ignore the more recent graphs for PCL...

58. The guidance given by this Tribunal endorses the use of the Savills and Gerald Eve 2016 graphs where there is no transaction evidence, notwithstanding that the subject of the valuation is outside PCL. If persuasive evidence suggests that the resulting relativity is not appropriate for a particular location a tribunal would be entitled to adjust the figure suggested by the PCL graphs. The RICS 2009 graphs do not provide that persuasive evidence and, if it is to be found, it is likely to comprise evidence of transactions; if those are available it may be unnecessary to make use of graphs at all. In any event, no such persuasive evidence was presented to the FTT. (emphasis added)

22. The decision in *Deritend* is binding on this Tribunal and I am required to follow it. The effect of that decision is that where relativity graphs are used, outside Central London, this Tribunal should rely on the Savills 2016 unenfranchiseable graph and the Gerald Eve 2016 unenfranchiseable graph. The Tribunal must not rely on the RICS 2009 graphs.
23. The appropriate relativities from Savills and Gerald Eve are respectively 87.3% and 87.88%. These I round up to 88%, which I adopt. Both graphs have been published.
24. In relation to the claimed improvements, under clause 1 of the lease the definition of the demised premises includes the ground floor windows including glass. Clause 2 (iii) imposes a covenant on the tenant to renew repair cleanse maintain amend, support, and keep in good order and substantial repair and condition the demised premises. It follows that the tenant is under an obligation to keep the windows in good condition. It is trite law that repair may include renewal of part: *Lurcott v Wakely* [1911] KB 905 (Court of Appeal). Therefore, I do not accept that the UPVC replacement windows are improvements, but rather repairs. In respect to the replacement boiler, such items have a limited life of normally 10-15 years and I therefore regard that expenditure as a repair also.
25. For the above reasons I therefore find that the premium payable is £24,475 and my valuation is appended.

Unpaid Pecuniary Rent

26. I accept the evidence of Mr Shah as set out at Para 5 of his witness statement in the County Court that no ground rent demands had been received during the preceding 4 years. During that time, the ground rent payable was £75 per annum. I therefore find that the estimated unpaid pecuniary rent is £300.

Name: Mr Charles Norman FRICS
Valuer Chairman **Date:** 9 January 2020

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

APPENDIX

**IN THE MATTER OF 80 NORTON ROAD WEMBLEY MIDDLESEX HA0 4RF
VALUATION BY THE FIRST-TIER TRIBUNAL (PROPERTY CHAMBER)**

Date of Valuation					10-Aug-2020
Lease expiry date					31-Dec-2095
Unexpired Term /years					75.39
Unimproved long leasehold value				£	345,000
Virtual Freehold Value of Flat				£	348,485
Value of 75.39 year lease @ 88% of virtual freehold value				£	306,667
Ground rent capitalisation rate				6.50%	
Reversionary deferment Rate				5.00%	
Premium Payable				£	24,475
Diminution in Value of Freeholder's Interest					
Term 1					
Ground rent				£	75 per annum
9.39 Years' Purchase	@	6.50%	6.87	£	515
Term 2					
Ground rent				£	150 per annum
33 Years' Purchase	@	6.50%	13.46		
PV £1 in 9.39 years	@	6.50%	0.55		
			7.40	£	1,110
Term 3					
Ground rent				£	300 per annum
33 Years' Purchase	@	6.50%	13.46		
PV £1 in 42.39 years	@	7.00%	0.07		
			0.94	£	283
Reversion					
Value of virtual freehold				£	348,485
Present Value of £1 in 75.39 years' time @ 5%			0.0253		
				£	8,817
Freeholder's present interest					£ 10,725
Less					
Freeholder's Proposed Interest					
value of virtual freehold				£	348,485
Present Value of £1 in 165.39 years' time @ 5%			0.00031	£	108
Diminution in Value of Freeholder's Interest					
					£ 10,617
Calculation of Marriage Value					
Value of Proposed Interests					
Leaseholder				£	345,000
Freehold after sale				£	108
Total Value of Proposed Interests				£	345,108
Value of Present Interests					
Existing lease				£	306,667
Freeholder (see above)				£	10,725
Total Value of Present Interests				£	317,392
Hence Marriage Value, Difference Between Proposed and Present Interests				£	27,716
Divide Marriage Value equally between the Parties					£ 13,858
Premium Payable				£	24,475