



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

Case reference : **LON/00AH/OLR/2021/0927**

**HMCTS code
(paper, video,
audio)** : **V: CVPREMOTE**

Property : **48 St James' Court, St James Road,
Croydon CR0 2SF**

Applicants : **Aleksander Sumihin and Marina
Sumihina**

Representative : **Mr Stockdale, solicitor of Hetts
Solicitors**

Respondent : **Brickfield Properties Ltd**

Representative : **Mr Robin Sharp BSc FRICS**

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

**Tribunal
member(s)** : **Judge Tagliavini
Ms H Bowers BSc MSc MRICS**

**Venue & date of
hearing** : **10 Alfred Place, London WC1E 7LR
7 June 2022**

Date of decision : **15 June 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. The documents that the Tribunal were referred to are in a bundle of 271 pages, the contents of which have considered.

The tribunal's summary decision

(1) The tribunal determines the premium payable for the grant of a new lease is £54,215.

Background

1. This is an application made by the applicant leaseholders 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 48 St James' Court, St James' Road, Croydon CR0 2SF ('the property'). The subject property comprises a first-floor two-bedroom flat with living room, kitchen and bathroom/w.c. located in an inter-war development of three walk-up four storey purpose-built blocks of 57 flats.
2. By a notice of claim dated 1 March 2021 served pursuant to section 42 of the Act, the applicants exercised their right to the grant of a new lease in respect of the subject property. At the time, the applicants held the existing lease granted on 9 March 1977 for a term of 99 years from 24 December 1974 at an annual ground rent of £30 and increasing. A head lease dated 2 March 2009 has been inserted and is for a term of 99 years plus 4 days from 29 March 1976 which on the grant of a new lease will be surrendered for nil consideration. The applicants proposed to pay a premium of £16,750.00 for the new lease.
3. On 12 May 2021, the respondent freeholder served a counter-notice admitting the validity of the claim and counter-proposed a premium of £89,930.00 for the grant of a new lease.
4. On 2 November 2021, the applicants applied to the tribunal for a determination of the premium and the terms of the new lease.

The issue

Matters agreed

5. The following matters were agreed:
 - (a) The terms of the new lease;
 - (b) The valuation date – 1 March 2021;
 - (c) Unexpired lease term at the valuation date – 52.82 years;

- (d) Capitalisation rate to be applied to the ground rent income – 6%;
- (e) Deferment rate to be applied to the reversionary value -5%;
- (f) Annual ground rent provisions for the leaseholder – for the first 33 years @ £30 and for the second 33 years @ £60 and £90 for the remainder of the term;
- (g) Freehold vacant possession value - £282,828;
- (h) Extended lease value - £280,000.

Matters not agreed

- 6. The following matters were not agreed:
 - (a) Leasehold vacant possession value;
 - (b) Relativity;
 - (c) The premium payable

The hearing

- 7. The hearing in this matter took place on 7 June 2022. The applicants were represented by Mr Stockdale, solicitor. The respondent was represented by Mr Robin Sharp BSc FRICS.
- 8. 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.
- 9. The applicant relied upon the expert report and valuation of Mr A C Orah BSc (Hons) MRICS MFPWS dated 4 June 2022 and the respondent relied upon the expert report and valuation of Mr Robin Sharp BSc FRICS dated 5 June 2022.

The applicants' case

- 10. On the issue of relativity Mr Orah stated that there were no market transactions occurring in the 'real world' at around the valuation date at the block in which the subject property was located. However, there had been several sales of two-bedroom flats in the locality and one in the subject block in 2022 and providing 5 comparable sales which Mr

Orah adjusted from the date of sale to the valuation date using Land Registry House Price Index for Flats/Maisonette sales in Croydon.

11. Mr Orah took an average of the 5 comparable sales of Nos 47 and 35 St James' Court, 53 Eastney Road, 13 Englefield Close and Flat2 , 35 Lodge Road. Mr Orah compared these sales with the agreed unimproved freehold vacant possession value of £282,828 to produce a relativity figure of 89.24% for the lease term remaining for the subject property of 52.82 years (agreed). Mr Orah then took the average unexpired term of the 5 comparable properties on which he relied and using the Savills (2015) Enfranchisement graph made an adjustment to reflect the difference between the unexpired lease term of the subject property and the average unexpired term of the comparables of 93.42 years, thereby realising a difference of 13.45% and a 'real world' relativity of 75.79% by reference to the Savills (2015) graph.
12. Mr Orah applied his adjusted 'real-world' relativity of 75.79% to the agreed FHVP of £282,828 to produce a figure of £214,355 which he then adjusted to reflect the 1993 Act rights and made a deduction of £15,005 using the Savills enfranchisable and unenfranchisable graphs and reached a no-act world relativity of 70.48%
13. Mr Orah then queried the reliability of this figure of 70.48% and stated he instead relied upon the Greater London Graph which provided a relativity figure of 75% and produced an unimproved LHVP value, excluding the value of Act rights of £212,989.
14. Mr Orah concluded the premium payable for the grant of a new lease was £44,710.

The respondent's case

15. Mr Sharp also referred to 5 sales of comparable properties at St James' Court in the period 2016 - 2019 in his determination of the LHVP value. Mr Sharp adjusted the sales figures for the comparable properties for (i) effect of Act (ii) time by reference to LR Croydon Index (iii) reduction in lease term (0.65% pa) (iv) condition and (v) floor level. This methodology produced an average of these sale of £171,833 or £181,618 if Flat 27 were excluded as this had sold at a significantly lower figure. Mr Sharp then took the agreed freehold value of £282,828 to produce a figure for relativity of 60.76% or 64.21% if the outlier of Flat 27 was excluded.
16. Mr Sharp compared this figure to the 72.91% indicated by Gerald Eve and Savills 2016 graph. Using the average of these two figures (64.21% and 72.91%) Mr Sharp relied upon a relativity of 68.56%. Applying this figure, Mr Sharp calculated a premium payable of £54,215.

The tribunal's determinations and reasons

17. The tribunal preferred the approach of Mr Sharp to that of Mr Orah as it found Mr Orah's approach to be inconsistent and contradictory. In particular we had concerns that some of his comparables to derive his short lease value included evidence of long lease values. Although the tribunal is concerned that the transactions relied upon by Mr Sharp are dated, it is of the opinion that nevertheless, they have value. The tribunal accepts Mr Sharp's approach of comparing the relativity value of these sales with the 2016 Gerald Eve and Savills Graph an appropriate method of testing the value for relativity.

The premium

20. The tribunal determines that the appropriate premium is £54,215 as set out in the valuation of Mr Robin Sharp MRICs in his report dated 5 June 2022.

Name: Judge Tagliavini

Date: 15 June 2022

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).