



**Residential
Property**
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

LON/00AM/OLR/2010/0789

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTION 48 LEASEHOLD REFORM, HOUSING
AND URBAN DEVELOPMENT ACT 1993.**

Applicant: **Amanda Lwin** **Lessee**
Represented By: **Mr Wilson Dunsin MRICS and
Ms A Lwin In Person**

Respondents: **(1) Mohamed Saeed Alibhai Dana;
Yusuf Ali Dana;
Shabbir Ismail Akujee; and
Arch Studios Limiyed** **Freeholder**

Represented By: **(2) Arch Studios Limited** **Headlessee**
None

Property: **Flat 566a Kingsland Road, Hackney, London E8 4AH**

Date of Application: **11 August 2010**

Date of Hearing: **5 April 2011**

Date of Decision: **12 April 2011**

Venue: **10 Alfred Place, London WC1E 7LR**

**Members of the
Tribunal:** **Mr John Hewitt** **Chairman**
Mr John Reed **FRICS**

Decision

1. The decision of the Tribunal is that:
 - 1.1 The premium payable by the Applicant for the new lease is the sum of £6,715.00. Our valuation showing how we arrived at this sum is attached to this Decision marked Appendix 1.
 - 1.2 The premium payable is apportioned as to:

£ 671.00	payable to the freeholder as the competent landlord; and
£6,044.00	payable to the headlessee as an intermediate landlord.
 - 1.3 The terms of the new lease shall be in accordance with the draft at page 109 of the trial bundle prepared by the solicitors to the freeholders which we were told was in an agreed form.

Background

2. The subject property is flat behind and above commercial premises in Kingsland Road, Hackney. The layout is rather unusual in that the entrance is gained via an external staircase behind the commercial premises to the first floor level on which there are two rooms. An internal stairway leads down to a lower floor on which there is a kitchen and bathroom/wc. A further stairway leads down to a further room. The property is single glazed with wooden frames but it has the benefit of central heating.
3. Although the flat is known as 566a Kingsland Road it is physically located behind and above premises at 558-560 Kingsland Road.
4. The property was let on the terms of a long lease dated 19 April 1988 for a term of 99 years from 25 December 1987, at a ground rent of £50.00 per annum for the first 21 years, £100.00 and £200.00 per annum for the next periods of 21 years, and £300.00 per annum for the final 36 years.
5. The superior title is a little complex and is summarised in the schedule attached to this Decision marked Appendix 2. At the hearing we were told by Mr Dunsin that the freehold interest was vested in the parties shown at the heading of this Decision. We infer from this and the valuation prepared by Mr Dunsin that the freehold interest to 558 Kingsland Road held by Mr Sanger has been acquired by Arch Studios Limited and that the 999 year lease has merged with the freehold upon both interests becoming vested in Arch Studios Limited.
6. Evidently a notice dated 21 December 2009 pursuant to section 42 of the Act was given by the Applicant. A counter-notice dated 24 February 2010 was given by the Respondents and admitted that on the relevant date the Applicant had the right to acquire a new lease. It appears that a second section 42 notice

dated 19 July 2010 was given and a second counter-notice dated 23 September 2010 was given by the Respondents which again admitted that on the relevant date the Applicant had the right to acquire a new lease. It was not clear to us why the second notice was given but we were told by Mr Dunsin that the Applicant's solicitors had assured him that the parties were agreed that the first notice was a valid notice.

7. The papers suggest that at all material times the parties have been represented as follows:

The Applicant:	Barnes & Partners, Solicitors Mr Wilson Dunsin , Valuer
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Mohamed Saeed Alibhai Dana; Yusuf Ali Dana; and Shabbir Ismail Akujee:	Bromptons, Solicitors Mr Mark Wilson, Valuer
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Arch Studios Limited	RadcliffesLeBrassuer, Solicitors
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8. In a letter dated 7 December 2010 Bromptons stated that the counter-notices were served following consultation with RadcliffesLeBrassuer and that their clients did not wish to formally appoint a surveyor but were content for the LVT to make a decision in the matter as regards the apportionment of the premium.
9. During the course of the hearing Bromptons sent through a fax dated 5 April 2011 stating that they did not propose to attend the hearing but asked that a "*calculation/report*" received from Mr Mark Wilson be placed before the Tribunal. In fact what attached appears to be an earlier version of a valuation prepared by Mr Dunsin. After the hearing and by letter dated 11 April 2011 Bromptons wrote to the Tribunal to state that the document sent with their fax dated 5 April 2011 was sent in error.
10. RadcliffesLeBrasseur had been notified of the directions and of the arrangements for the hearing but has not taken any part in these proceedings.

The hearing and our valuation

11. Prior to the hearing the Applicant's solicitors had provided the Tribunal with a trial bundle which contained Mr Dunsin's original valuation report to the Applicant, the Land Registry title documents of the various property interests (which have been used to compile Appendix 2), the existing lease, the draft new lease prepared by Bromptons and the first section 42 notice and counter-notice.

12. The Applicant was present at the hearing and Mr Dunsin presented the case on her behalf. At the commencement of the hearing Mr Dunsin produced his expert witness report dated 4 April 2011.
13. Mr Dunsin took us through his report in some detail and answered a number of questions put to him by the members of the Tribunal.
14. Although it appeared that the Land Registry official copies of the register showed the superior titles as set out in Appendix 2 from which there appears to be a severed reversion, Mr Dunsin told the Tribunal that Arch Studios Limited and Messrs Dana, Dana and Akujee now held the freehold interests between them and he had prepared his valuation on that basis. In the circumstances we considered it appropriate to follow the format which he had adopted for the valuation of the premium to be paid for the new lease and the apportionment of that as between the intermediate landlord and the freeholders.
15. The Tribunal agreed Mr Dunsin's capitalisation rate of 7% and 2.5% for the valuation of the head leasehold interest, but without an allowance for tax - which only becomes relevant where the tax liability of a potential purchaser is known. We also agreed the deferment rate of 5%, the freehold/extended leasehold relativity at 99%, the freehold/existing leasehold relativity at 95.73% and the freehold/head-leasehold reversion at 67.04%.
16. Mr Dunsin had prepared a schedule of his four comparables containing the address, the date of sale, a brief description and his adjustments of the sale prices for time, location, valuation and sale dates based on Land Registry House Price Index for the London Borough of Hackney, and a 1% uplift to an adjusted freehold value for each of the flats which all had unexpired terms of more than 100 years.
17. Mr Dunsin's four comparables were :
- | | | | |
|----------------------------------|--------|----------|----------|
| Flat 2, 96 Kingsland High Street | - sold | 20.08.09 | £155,000 |
| 17 Buttermere Walk | - sold | 12.10.10 | £250,000 |
| 65 Mayfield Close | - sold | 13.02.09 | £219,900 |
| 1 Burder Close | - sold | 10.07.09 | £190,000 |
- After adjustments Mr Dunsin had arrived at an average adjusted value for the freehold interest in the subject property of £211,500 at the valuation date of 21 December 2009.
18. The Tribunal considered it necessary to disregard Flat 2, 96 Kingsland Road as a comparable because it was a small one-bedroom conversion flat of approximately 30.7 sq m above shops and with the benefit of a parking space. This is quite different from the subject property which comprises 93 sq m laid

out over three floors and which has the potential to provide two separate bedrooms.

19. The other three comparables were all two-bedroom ex-local authority flats in purpose built blocks. The Tribunal accepted Mr Dunsin's adjustments of 10% for location, 1% uplift, an adjustment for the valuation date in accordance with the Land Registry House Price Index. Mr Dunsin only adjusted one of the comparables for size, an adjustment of 10%. We consider it appropriate to make a more focussed adjustment for size given that all the required data was available. Having done so this produced adjusted freehold values of £236,850, £235,951 and £223,873 respectively. These figures average out at £232,258 and we have rounded to £232,250.
20. The Tribunal also noted that the Land Registry official copy recorded that the Applicant had purchased the leasehold interest in the subject property in June 2007 for the price of £250,000. The Applicant told us at the hearing that terms were agreed subject to contract in December 2006. There were difficulties in arranging mortgage finance and in the event her parents made a loan to her to enable her exchange and complete the transaction in the summer of 2007.
21. During the hearing the Tribunal said that it would check the Land Registry House Price Index for Hackney for the period June 2007 to December 2009. It has done so. In June 2007 it stood at 455.6 and at December 2009 it stood at 459.5, i.e. a small increase. This data supported the Tribunal's opinion of the value of the freehold interest at £232,250, and the value of the existing leasehold interest at £229,927 at the valuation date.
22. In the light of the values determined by the Tribunal we calculate the total premium payable for the new lease at £6,715.00, which we apportion as to £6,044.00 payable to the headlessee and as to £671.00 payable to the freehold interest. Our valuation is attached as Appendix 1.

John Hewitt
Chairman
12 April 2011

Valuation in accordance with s.56 and Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993 as at 21 December 2009 - the date of the tenant's section 42 notice.

A. Diminution in the value of the landlord's freehold interest

(1) Value before extension of lease

Capitalised ground rent		£nil
Reversion to freehold with vacant possession, excluding value of tenants' improvements	£232,250	
PV £1 120.51 yrs @ 5%	<u>0.0028</u>	<u>£650</u>
		£650
<u>Less</u>		

(2) Value after extension of lease

Capitalised peppercorn ground rent		£nil
Reversion to freehold with vacant possession, excluding value of tenants' improvements	£232,250	
PV £1 167.01 yrs @ 5%	<u>0.0003</u>	<u>£67</u>

Diminution in value of landlord's freehold interest £583

B. Diminution in the value of the intermediate landlord's leasehold interest

(1) Value before extension of lease

Ground rent 21/12/2009 to 24/12/2029 YP 20.01 yrs @ 7% & 2.5%	£100 p a <u>9.1821</u>	£918
Ground rent 25/12/2029 to 24/12/2050 YP 21 yrs @ 7% & 2.5%	£200 p a <u>9.3644</u> £1,873	
PV £1 20.01 yrs @ 7%	<u>0.2582</u>	£484
Ground rent 25/12/2050 to 14/12/2086 YP 36 yrs @ 7% & 2.5%	£300 p a <u>11.4349</u> £3,430	
PV £1 41.01 yrs @ 7%	<u>0.0624</u>	£214
Reversion to leasehold interest with vacant possession, excluding value of tenants' improvements, with 43.5 years unexpired	£155,700	
PV £1 77.01 yrs @ 5%	<u>0.02335</u>	<u>£3,636</u>
		£5,252

	<u>Less</u>		
(2)	<u>Value after extension of lease</u>		
	Capitalised peppercorn ground rent		<u>£nil</u>
	Diminution in value of intermediate landlord's leasehold interest		£5,252
C.	Marriage Value		
	Value of freehold interest after extension of lease		£67
	Value of intermediate leasehold interest after extension of lease		£0
	Value of tenant's leasehold interest after extension of lease		<u>£229,927</u>
			<u>£229,994</u>
	<u>Less</u>		
	Value of freehold interest before extension of lease	£650	
	Value of intermediate leasehold interest before extension of lease	£5,252	
	Value of tenant's leasehold interest before extension of lease	<u>£222,333</u>	<u>£228,235</u>
		Marriage value	£1,759
		50% of marriage value	£880
D.	Any Other Loss		£nil
E.	Enfranchisement Price		
	Diminution in value of landlord's freehold interest		£583
	Diminution in value of intermediate landlord's leasehold interest		£5,252
	50% of marriage value		<u>£880</u>
			£6,715
F.	Apportionment of Enfranchisement Price		
	To the freehold landlord	$£6,715 \times £583 / £5,835 =$	£671
	To the intermediate leasehold landlord	$£6,715 \times £5,252 / £5,835 =$	<u>£6,044</u>
			£6,715

Appendix 2

Schedule of Title

Title No.	Property	Date of regn	Tenure	Proprietor	Date of regn	Leases Subject	Comments
NGL467321	558 Kingsland Road	03.11.1981	Freehold	Yom Tov Sanger	18.11.2004	NGL420503 and NGL470802	
NGL491615	560 & 562 Kingland Road	03.11.1981	Freehold	Mohamed Saedd Alkibhai Dana, Yousuf Ali Dana & Shabbier Ismail Akujee	16.07.1996	None	
NGL469407	564 Kingsland Road	03.11.1981	Freehold	Mohamed Saedd Alkibhai Dana, Yousuf Ali Dana & Shabbier Ismail Akujee	16.07.1996	NGL420503 and NGL538897	
NGL470802	First and second floor flats	25.10.1983	Leasehold - 999 years from 24.06.1980	Arch Studios Limited	06.07.2004	NGL420503, EGL219858 and EGL538897	
NGL420503	552 & first and top floor levels of 558-564 Kingsland Road	21.04.1982	Leasehold - 150 years from 24.06.1980	Arch Studios Limited	06.07.2004	EGL219858 and EGL274846	
EGL219858	First and second floor flat known as 566a Kingsland Road	22.06.1988	Leasehold - 99 years from 25.12.1987	Amanda Lwin	08.08.2007		