



Case Reference. : **AB/LON/00AS/OLR/2018/0676**

Property : **Lower Maisonette & Parking
Space, 15 Midhurst Gardens,
Uxbridge UB10 9DL**

Applicant. : **Rochelle Baker**

Representative : **McMillan Williams Solicitors
and Mr. Wilson Dunsin FRICS
of Dunsin Surveyors**

Respondent. : **Elmdon Real Estate LLP**

Representative : **Cubism Law and Mr. Geraint
Evans**

Type of Application : **Lease extension**

Tribunal Members. : **Judge Tagliavini
Miss M Krisko FRICS**

**Date and venue of
hearing** : **10 Alfred Place, London WC1
7ER
18 September 2018**

Date of Decision : **14 November 2018**

DECISION

The tribunal's decision:

- A. The tribunal determines that the relativity rate is 87.99% and the premium payable for the grant of a lease extension is £22,160.

The application

1. This is an application made under the provisions of the Leasehold Reform, Housing and Urban Development Act 1993 ('the 193 Act') seeking the First-tier tribunal's determination of the premium payable for the grant of a new lease of the Lower Maisonette & Parking Space, 15 Midhurst Garden, Uxbridge UB10 9DL ('the subject property').

The background

2. The subject property is a purpose-built maisonette of 51 sq.m on the ground floor of a two-storey end of terrace building of two units and is subject to a lease dated 30th April 1982 which granted a term of 99 years from 25th December 1981 at a ground rent of £20 per annum. In a Notice dated 14th December 2017 the Applicant asserted the right to the grant of a new extended lease.

The issues

3. The parties' valuers had agreed all issues prior to the hearing in their Statement of Agreed Facts and Disputed Issues dated 24th July 2018 and included the following:
- Date of valuation – 14 December 2017
 - Lease term – 99 years from 25 December 1981
 - No intermediate landlord
 - Unexpired term of lease – 63.03 years
 - Deferment rate – 5%
 - Ground rent - £20 per annum
 - Capitalisation rate – 7%
 - Marriage value – 50%
 - Extended lease value - £280,000
 - Uplift between Extended Lease Value and Freehold vacant Possession – 1%
 - Freehold Vacant Possession Value - £282,828

As all other matters had been agreed the FTT focused solely on the valuers' evidence in respect of relativity only.

The hearing

4. Both parties were represented by their valuers who gave oral evidence to the FTT.

The Applicant's case

5. Mr. Dunsin spoke to his report dated 4th September 2018 in which, he asserted that the appropriate method to determine relativity in this application was to utilise Relativity graphs in the absence of any comparable sales of short lease values. In this application Mr. Dunsin told the tribunal he relied on a number of previous FTT decisions as well as Upper tribunal decisions to support his use of five non-Prime Central London (PCL) graphs that cover Greater London and England. These included the graphs of Beckett and Kay; Nesbitt and Co; Austin Gray; South East Leasehold and Andrew Pridell Ltd. Mr. Dunsin recognised that these graphs could not be considered perfect but contended that they were more suitable than relying of other graphs covering areas of prime central London as Uxbridge could not be considered as falling into this area or category of property.

The Respondent's case

6. Mr. Evans spoke to his report dated 4th September 2018 and in contrast to the Applicant's case, submitted that his reliance on the graphs of Gerald Eve and Savills from the RICS research document should be the approach preferred by the FTT in determining the issue of relativity. Mr. Evans agreed that there was no comparable sales evidence on which the parties could rely and therefore submitted that the use of graphs to determine this issue was appropriate. Mr. Evans submitted that the five graphs relied upon by Mr. Dunsin were flawed and their use perpetuated inaccuracies as well as being outdated, opinion based and unclear as to whether they included an allowance for a 'no-Act world.' Consequently, the FTT should prefer the averaging of PCL graphs as the law is exactly the same in all locations whether PCL or non-PCL, which provided a relativity of 80.45% and therefore a premium payable of £32,850.

The tribunal's decision

7. The FTT preferred the arguments of Mr. Dunsin and agreed that in the absence of comparable sales values for short leases, the most appropriate resource was the non-PCL graphs. The FTT does not accept that the subject property located in Uxbridge can properly be considered to be in PCL or that the use of these graphs is properly reflective of the relativity rate. The FTT accepts that there are shortcomings in these five non-PCL graphs but prefers this approach to that advocated by Mr. Evans.

8. Therefore, the FTT determines that the relativity rate is 87.99% and the premium payable for the grant of a lease extension is £22,160 in accordance with the valuation set out at Appendix V of Mr. Dunsin's report.

Signed: Judge LM Tagliavini

Dated: 14 November 2018