

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
LEASEHOLD VALUATION TRIBUNAL

Ref: LVT/0019/08/15

In the matter of s.48(1) of the Leasehold Reform Housing and Urban Development Act 1993

In the matter of 4 Milford House, Bishops Close, Whitchurch, Cardiff CF14 1NE

Tribunal: Andrew Sheftel (Chairman)
Hefin Lewis (Surveyor)

Applicants: Adrian Gordon Heale and Nicola Margaret Pasley
Represented by: John M Arbourne FRICS

Respondents: Marc Llewellyn Williams and June Theresa Williams

DECISION

The decision in summary

1. For the reasons set out below, the Tribunal determines that the premium payable by the Applicants for a new lease of the Property is **£25,576**.

Background

2. The Tribunal is concerned with an application dated 13 August 2015 brought under s.48(1) of the Leasehold Reform Housing and Urban Development Act (the "1993 Act").
3. The application was made pursuant to a notice dated 19 February 2015 under section 42 of the 1993 Act seeking to acquire a new lease of the Property. The landlord subsequently served a counter-notice accepting the Applicants' right to a new lease but disputing the premium payable.

4. Following directions from the Procedural Chair, each side submitted a valuation report which helped to narrow the issues. In particular, there was agreement between the parties as to: the value of the term; the deferment rate, the value of tenants' improvements (at £5,000) and the general methodology.
5. In fact, subject to one minor point, the only two areas of dispute before the tribunal were:
 - (1) the unimproved value of the Property; and
 - (2) the appropriate figure for relativity.
6. On the basis of the two reports, the landlord contended for a premium of £25,630, and the tenants for a premium of £21,370.
7. On 9 November 2015, the Tribunal inspected the Property and subsequently held an oral hearing at which the tenant was represented by Mr Arbourne and the landlord by Mr Williams, who is also a surveyor and who manages the estate.
8. One minor point of disagreement between the parties was as to the length of the unexpired term as at the relevant date. The Applicants had suggested a period of 46.6 years whereas the respondent had put a figure of 46.84 years. At the hearing, it was agreed that the correct figure was 46.6 years and the Tribunal will proceed on that basis as it is a question of fact.

The Property

9. The Property is let pursuant to a lease dated 8 May 1964 for a term of 99 years from 29 September 1962 and at a ground rent of £18 per annum.
10. The Property comprises a ground floor 3-bedroom flat in a two storey block comprising 4 flats of equal size (Milford House). It also has a separate garage and communal gardens. Milford House is part of a larger development of similar blocks, all containing 3-bedroom flats of essentially the same size and layout. The blocks are a mixture of two-storey (such as Milford House) and three-storey buildings. The development is located in the suburb of Whitchurch, within approximately 3 miles of Cardiff city centre.

Valuation

Value of the Property disregarding tenants' improvements

11. Each side sought to rely on a number comparables comprising recent sales of flats with extended leases. In view of the fact that the development contains a large number of virtually identical flats, the comparables provide greater assistance to the Tribunal than might generally be the case –

although it is generally not known what improvements may have been carried out to the other properties referred to.

12. Mr Arbourne referred to 6 sales of flats on the development with extended leases: 4 Narbeth House; 1 Whitland House; 1 Nevin House; 6 Newgale House; 6 Whitland House; and 2 Dale House. In Mr Arbourne's view, when taken together, they justified a valuation of £145,000 (reduced to £140,000 when the tenants' improvements were taken into account). The Respondents' report argued for a valuation of £150,000 disregarding improvements.
13. Mr Williams' report referred to three flats sold on the development over the past few years. In addition, he also referred to 2 Nevin House and 4 Neyland House, in respect of which we were told that sales have been agreed subject to contract. Although Mr Williams contended that exchange was imminent, there was no evidence that it had taken place in respect of either flat. In the circumstances, the Tribunal takes the view that it must inevitably be more cautious when dealing with comparables where contracts have yet to be exchanged.
14. Finally, at the hearing, Mr Williams also sought to rely on the sale of 3 Whitland House for a price of £167,000 which apparently took place on 26 August 2015. This had not been referred to in Mr Williams's report and ought to have been provided earlier. Mr Arbourne was offered to take such time as was necessary to consider and/or respond to the evidence as appropriate. On balance, the Tribunal takes the view that the information should be taken into account as it is a relevant fact – although notwithstanding the very high price achieved, given the large number of comparables already provided, it arguably does not add a great deal to the totality of the evidence.
15. In any event, the comparables put forward by Mr Williams (when adjusted to the relevant date using the Land Registry indices) certainly supported a contention of a price of £150,000.
16. As noted above, above, the size and layout of all the properties in the sales referred to was essentially identical and all were on the same development. Accordingly, the Tribunal is not able to distinguish on the basis of size or location. It also appeared to be the case that none of the comparables provided by either party were of second-floor flats, which might have had some impact on their value. Accordingly, aside from improvements to the various properties which the Tribunal is unaware of, there is little difference between the various comparables put forward by either party other than the proximity of each sale to the relevant date in the present matter. Therefore as a starting point, in the Tribunal's view, particular regard can be had to the comparable property at 4 Narbeth House, on the basis that this was in fact sold in exactly the same month as the relevant date. The sale price achieved was £137,500. Mr Williams argued that this sale was towards the lower end when the various comparables were taken together and

submitted that the reason for this was that the flat was sold following probate. However, in the Tribunal's view, the fact that a property was sold by the estate of the former tenant, does not of itself mean that the price obtained would necessarily be lower than had the circumstances been different.

17. Notwithstanding the existence of a comparable sold in the same month as the relevant date, regard must also be had to the other comparables given the similarity of the flats.
18. As regards the other comparables, as noted above, a distinction between them and the Property is that the sales took place at different dates to the relevant date. The point raised at the hearing was that this can, to a certain extent be mitigated by an adjustment to the purchase price. Mr Williams's report exhibited the Land Registry indices, and although neither party had had sought to adjust the sale prices of their comparables to the relevant date, both agreed that it would not be wrong to do so. Adjusting the Applicants' comparables according to the Land Registry indices gives a figure in excess of £150,000 and enhances the Respondents' argument that a valuation of £150,000 should be applied. Adjusting the Applicant's comparables according to the Land Registry indices produced an average of £148,000.
19. Looking at the position as a whole, in the Tribunal's view, the correct position is closer to that put forward by the landlord than the tenants. The Tribunal finds the appropriate figure to be £149,000. In view of the parties' agreement that the value of the tenants' improvements should be £5,000, the Tribunal determines the total unimproved value of the Property to be £144,000.

Relativity

20. Relativity has been a difficult question for Tribunals for a number of years and there is still no clear agreement as to how it should be calculated. In the course of his submissions and in his report, Mr Arbourne referred to *Arrowdell Ltd v Coniston Court (North) Hove Ltd* [2007] RVR 39. In that decision, the Lands Tribunal noted that in determining relativity, tribunals must do the best that they can with any evidence of transactions that can usefully be applied, even though such transactions take place in the real world rather than the no-Act world (para.39). Later in the decision, the Lands Tribunal also stated that graphs of relativity are capable of providing the most useful guidance (para.57).
21. In the present case, Mr Arbourne argued that there *is* relevant transaction evidence in the form of sales of flats with existing leases. It was argued that sales were being achieved despite the difficulty in obtaining mortgages in such circumstances, and that this reflects how the market views such transactions in Whitchurch.

22. The difficulty with this approach is that comparing sales of flats with existing leases and extended leases in terms of relativity does not of itself address the 'no-Act value' because the purchasers of the flats sold with existing leases have the right to extend their leases under the Act. Any difference in price must also reflect the potential to increase its value under the Act.
23. The Applicants maintained that comparable evidence should be given some weight rather than relying solely on relativity graphs. However, as noted above, the difference in prices between the sale of an extended lease and a flat with its existing lease does not of itself provide evidence of price in a 'no-Act world'. Indeed, this was accepted by Mr Arbourne who suggested a further discount of 5% be applied to reflect the value of the Act. The difficulty with this conclusion, which Mr Arbourne accepted, was that no evidence or explanation could be produced as to why the additional percentage reduction to reflect the value of the Act should be 5%, as opposed to say 10% or 20%. While the Tribunal is appreciative of Mr Arbourne's attempt to provide a more evidence-based calculation of relativity, without any evidence or explanation as to the basis for calculating the additional percentage reduction to reflect the no-Act world, the Tribunal is unable to adopt this approach.
24. In the course of the hearing, specific reference was made to the sale of 4 Amroth House, another flat on the development, which was sold with its existing lease. Mr Williams commented that the property had been previously undergone extensive conversion to make it suitable for disabled use. It was then sold to a purchaser who required a property in such condition; had no interest in extending the lease; and had no family to leave it to. Mr Arbourne submitted that this was representative of the position of a sale in a no-Act world because of the circumstances of the buyer who had no interest in extending the lease. While there may be some force in this suggestion, the Tribunal accepts Mr Williams' contention in response that little can be gleaned from this particular sale as it was such an unusual case and that moreover an important factor in the sale was the particular features of the flat following its internal conversions.
25. As a result, and notwithstanding Mr Williams's acknowledgement that the graphs are not perfect, the Tribunal prefers the figure of 75% proposed by the Respondent, as it does have support on the basis of the relativity graphs.

Conclusion

26. For the reasons set out above, the Tribunal determines the valuation as follows:

Term

| | | |
|--------------|---------|---------|
| Ground Rent | £18.00 | |
| Y.P 46.6 yrs | 14.5665 | £262.20 |

Extended Lease

| | | |
|-------------------------|-------------|-------------------|
| Unimproved Value | £144,000.00 | |
| PV of £1 in 46.6 yrs@5% | 0.10340 | <u>£14,889.17</u> |
| Existing Lease Value | | £15,151.37 |

Marriage Value

| | | |
|--|-------------|-------------------|
| Unimproved extended flat | £144,000.00 | |
| Relativity @75% | | |
| Unimproved non-act value @75% relativity | £108,000.00 | |
| Existing lease value | £15,151.37 | £123,151.37 |
| | | £20,848.64 |
| Marrage Value @50% | | <u>£10,424.32</u> |
| | | £25,575.68 |

**Say
£25,576**

Date: 17 December 2015



CHAIRMAN