

Residential Property Tribunal Service (Wales)

Leasehold Valuation Tribunal (Wales)

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DECISION AND REASONS OF RESIDENTIAL PROPERTY TRIBUNAL Leasehold Reform, Housing and Urban Development Act 1993,s.48

Premises: 123 Laburnum Court, Woolaston Avenue, Cardiff, CF23 6EW (“the premises”)

RPT ref: LVT/0009/05/16

Hearing: 3rd November 2016

Decision: 2nd December 2016

Order: Permission to appeal is refused

Applicants: Neil McMullen

Respondents: Lordsbridge Limited

Tribunal: Mr JE Shepherd – Legal Chairman
Mr R Baynham FRICS
Mr K Watkins FRICS

1. The Respondent, Lordsbridge Limited have sought permission to appeal the decision of the Tribunal dated 2nd December 2016 where the premium payable for a lease extension was assessed at £5890. Permission to appeal will only be granted where:
 - (a) The Tribunal has wrongly interpreted or applied the law;
 - (b) The Tribunal has wrongly applied or misinterpreted or disregarded a principle of valuation or professional practice;
 - (c) The Tribunal has taken account of irrelevant considerations or failed to take account of relevant considerations or evidence or there was a substantial procedural defect;
 - (d) The point or points at issue is/are of potentially wide implication.
2. The application for permission is refused for the following reasons.

Ground 1

3. The Respondent challenges the tribunal's reliance on a relativity graph produced by the Applicant's surveyor, Mr Evans and raises general concerns about the use of graphs of relativity.
4. These arguments were raised during the hearing. The tribunal expressed concern during the hearing about the lack of comparable evidence. It was common ground that there were no direct comparables that could be relied upon. The Respondent's evidence was limited to transaction evidence at 113 Willow Court which was a one bedroom flat as distinct from the subject property which is a bedsit flat. In addition it was noted from Paragraph 4.4 of Mr. Cooper's Valuation Report that the lease for 113 Willow Court was for a term of 99 years from 29th September 1970 whereas the lease for the subject property is for a term of 99 years from 29th September 1979.
5. There was no real basis on which the Tribunal could arrive at an understanding of why settlement was reached in the case of 113 Willow Court neither were any calculations provided. The information about Ms Diaz was provided to the Tribunal by Mr Cooper at the hearing.
6. The tribunal did the best it could in the circumstances. It was entitled to prefer the evidence of Mr Evans over the evidence of Mr Cooper.

Ground 2

7. The Respondent challenges the Tribunal's decision to prefer the evidence of Mr Evans over the transaction evidence.
8. The Respondent is largely repeating arguments made during the hearing and these arguments have been considered by the Tribunal. The Tribunal remains concerned about the transaction evidence at 113 Willow Court as expressed

in the original decision. There was no basis on which the Tribunal could arrive at an understanding of why settlement was reached in that case neither were any calculations provided. The possibility of the *DeLaforce* effect did not sway the Tribunal either way. It was a factor that had been raised. The decision says no more than *there may have been a DeLaforce effect, we simply do not know*. In view of the lack of clarity in the Respondent's evidence at the tribunal the Tribunal was entitled to prefer the evidence of Mr Evans.

9. The Tribunal accepts that there was a typographical error in the judgment at paragraph 22. The figure 21.1 square metres should read 26.1 square metres. However this does not alter the Tribunal's view that 113 Willow Court was substantially bigger than the subject property. Even taking into account the gross internal floor area provided for 113 Willow Court in this appeal (32.914 Sq metres) it is approximately 25% bigger than the subject property. A proportionate deduction from the extended lease value of 113 Willow Court (£90000) leads to a value of £67500 which is close to the Tribunal's figure for the extended lease value of £68290 for the subject property.

Ground 3

10. The Respondent challenges the Tribunal's treatment of the case of 15 Fordwell.
11. In 15 Fordwell the key issue between the experts was the existing unimproved value of the lease. In the present case that was agreed between the experts. Also as identified at paragraph 10 (2) of the appeal grounds and discussed during the Tribunal for unusual reasons the Tribunal in 15 Fordwell was able to consider the sale of an identical property on precisely the same lease terms where there was no qualification to serve Notice for a Statutory Extended Lease. It was not properly explained to the Tribunal how this case provided us with any assistance as regards the task in hand. This was sufficient reason to reject the importance of this case.

Ground 4

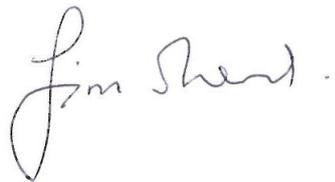
12. The Respondent states that the use of graphs in determining relativity should be the subject of reconsideration by the Upper Tribunal Lands Chamber.
13. This issue has already been considered and dealt with by the Upper Tribunal, most recently in the *Sloane Stanley* decision in 2016.

Summary

Permission to appeal is refused. For the reasons given the Tribunal is satisfied that it was open to it, acting reasonably, to have reached the decisions that it did upon the evidence before it.

The application to appeal may be renewed to the Upper Tribunal Lands Chamber within 14 days of the receipt of this decision.

Dated this 13th day of January 2017

A handwritten signature in black ink, appearing to read "Jim Sheehy". The signature is written in a cursive style with a large initial "J" and a trailing flourish.

Chairman