

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0013/07/24

In the Matter of: 10 Brooklands Terrace, Swansea, SA1 6BS

In the matter of: An Application under the Leasehold Reform, Housing and Urban Development Act 1993

APPLICANTS: Sally Smith

RESPONDENTS: The Estate of Helen Dorothy Dunbar

TRIBUNAL: Tribunal Judge Kelly Byrne
Andrew Lewis, Surveyor Member

APPLICANTS REPRESENTATIVE: Robert Cowley, Chartered Surveyor

VENUE: Online platform

DECISION

On 14th February 2025, the Tribunal determined that the premium to be paid for a 90-year lease extension in respect of 10 Brooklands Terrace, Swansea, SA1 6BS (“the property”) under the Leasehold Reform and Urban Development Act 1993 (“the 1993 Act”) is £18,217 and this is the appropriate sum to be paid into Court under section 51(5) of the 1993 Act

Background

1. On 4th August 2022, Sally Smith (“the Applicant”) issued a Claim in the County Court at Swansea seeking a vesting order under section 50(1) of the 1993 Act, as she states that the landlord cannot be found.
2. On 16th December 2022 District Judge D Harris made an order that the case be transferred to the Leasehold Valuation Tribunal, and after the Tribunal has determined the price and terms on which the surrender of the Applicant’s lease of the Property and the grant of a new lease to the Applicant should take effect, the leasehold Property shall be vested in the Applicant on such terms and at such price as the Tribunal has determined.

The Lease

3. The Applicant is a Tenant of the property under a lease dated 9th January 1986 and made between (1) Helen Dorothy Dunbar and (2) Keith Llewellyn and Julia Clement for a period of 99 years from the date of the lease. With a ground rent of £10 for the lifetime of the lease.

Inspection

4. A site inspection was undertaken by the Tribunal on 26th November 2024.
5. The property can be described as a first and second floor maisonette in a three-storey established mid-terrace building situated in the Mount Pleasant area of Swansea close to all amenities, including the City Centre. The property was constructed in approximately 1900 in solid stone walls with spar dash render elevations under a pitched tile covered roof. The maisonette enjoys the benefit of gas central heating from a combi boiler.
6. Entrance into the maisonette is via a shared entrance foyer, with the staircase leading to the first floor. On the first floor there was a lounge, dining room, kitchen, bathroom, separate wc, and two bedrooms on the second floor. Outside there is a rear garden, with a patio and grassed area, with a rear access for a pedestrian and a garage/storage unit.
7. The property was in reasonable order and no items of disrepair were noted which materially affect the value of same. The Tribunal is unaware of any tenant's improvements.

Issues

8. The Tribunal is required to determine the terms of the new lease pursuant to section 51(3) of the Act and the appropriate sum to be paid into court pursuant to section 51(5) of the Act.
9. The Applicant is seeking one amendment to the terms of the new lease from the original, which is the deletion of paragraph 7 under the lease, which reads:

'IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration other than rent exceeds the sum of THIRTY THOUSAND POUNDS'

The Law

10. *The relevant law is section 51 of the Leasehold Reform, Housing and Urban Development Act 1993: -*

51(1) A vesting order under section 50(1) is an order providing the surrender of the tenant's lease of his flat and for the granting to him of a new lease of it on such terms as may be determined by a leasehold valuation tribunal...

51(3) Where a lease is to be granted to a tenant by virtue of a vesting order under section 50(1), then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a lease which...

51(5) The appropriate sum to be paid into court in accordance with subsection (3) is the aggregate of –

(a) Such amount as may be determined by a leasehold valuation tribunal to be the premium...

(b) Such other amount or amounts (if any) as may be determined by such a tribunal...

(c)

Valuation

11. The Applicant's valuation was prepared by Robert N. Cowley FRICS (Consultant) from Astleys Chartered Surveyors of Swansea, dated 13th August 2024. Mr Cowley concluded that the premium that should be paid for the lease extension, for 90 years after the expiry of the current lease, is **£14,700**.
12. The Applicant's surveyor's valuation relies on the following comparable evidence:

Number	Address	Property Type	Sale Price/Date of Sale
1	Flat 1, 10 Chaddesley Terrace, SA1 6HB	No information	£141,000 On leasehold NOV 2023
2	Ground Floor Flat, 12 Montpelier Terrace, SA1 6JW	No information	£105,000 SEPT 2021
3	Flat 1, 1 Chaddesley Villas, SA1 6HA	No information	£119,500 MAY 2021
4	12 Montpelier Terrace, SA1 6JW	A two bedroom flat	£100,000 AUGUST 2020
5	9 Brooklands Terrace	Adjoining property, 6 bedroom, three storey, mid terrace house	On the market for £160,000 MARCH 2024
6	Chaddesley Terrace	3 bedroom, first floor flat, being sold on a leasehold basis	On the market for offers in the region of £150,000 with 999 lease JULY 2024

13. No narrative was provided by the surveyor as to how these related to the subject. Mr Cowley arrived at a vacant possession capital value of the property of £145,000, which he describes within his valuation calculation as the "*Freehold interest after extension*".
14. In his valuation calculation of the Freeholder's Present Interest, the surveyor employed a capitalisation rate of 6.5% of the ground rent for the existing term of the lease, with a deferment rate 5% for present value of the freehold capital value of the maisonette, resulting in a value of £7,015. In the calculation of the Proposed Freeholder's Interest, the surveyor employed a deferment rate of 5% for the present value of the freehold capital value resulting in a value of £85.
15. Concerning the valuation of the Leaseholder's Present Interest, the surveyor employed the freehold capital value to which he applied a discount (relativity) of 84.5%. No explanation

was included within the surveyors report as how or why this discount(relativity) figure was adopted. The resultant value was stated as £122,525.

16. Thereafter, Mr Cowley undertook a marriage value calculation applying the *released value* equally between the parties, i.e. £7,700, which he added to the value of the Freeholder's Present Interest (£7,015) to arrive at his valuation of the premium £14,700.
17. Mr Cowley provided his complete valuation calculations, and these are included as Appendix 1 to this decision.

Hearing

18. The Tribunal convened on 26th November 2024, following the site visit, to consider the matter on the papers. Having considered the surveyors report by Mr Cowley, the Tribunal determined that they required further information in respect of the particulars of the comparable properties employed in the assessment of the freehold vacant possession capital value of the maisonette.
19. The Tribunal also wanted an explanation from Mr Cowley in respect of the relativity figure of 84.5%, which he had attributed in the valuation of the Leaseholder's Present Interest, as the relativity figure did not appear to correspondent to the Gerald Eve and Savills graphs on relativity. The Tribunal were also mindful of the Court of Appeal decision in **Mundy v Trustees of the Sloane Stanley Estate [2018] EWCA Civ 35** where they expressed a preference for real world sales evidence (if available) in comparison to the employment of graphs.
20. The Tribunal further required Mr Cowley to clarify his opinion of the value of the vacant possession freehold interest in the property, and the vacant possession value of the leasehold interest of the property.
21. Further directions were issued to deal with the above questions of the Tribunal.
22. The surveyor provided a response in his letter of 3rd December 2024 to the Tribunal. No substantial additional information was provided by Mr Cowley concerning the comparables, which was disappointing. In respect of the relativity employed in the valuation of the Present Leaseholder's Interest, Mr Cowley stated that he was unaware of any transactional evidence to assist the Tribunal, probably as flats with only 62½ years unexpired term leases were not mortgageable. Accordingly, he arrived at 84.5% by utilising the figure from the Leasehold Advisory Service table. Concerning the vacant possession of the capital value of the freehold interest, Mr Cowley stated that the figure should be considered as the vacant possession capital value of the leasehold interest.
23. The Tribunal convened on 20th December 2024, to consider the responses to the directions. The Tribunal concluded that they still had insufficient information in order to make a determination. The Tribunal issued further directions, requiring information from Mr Cowley regarding the relativity figure. A hearing was listed for 14th February 2025.
24. The Tribunal convened on 14th February; Mr Cowley attended on behalf of the Applicant. Prior to the day of the Hearing, Mr Cowley was asked to consider the following cases:

Daejan Investments Ltd v Nigel and another [2024] UKUT 26 (LC)

Trustees of Barry and Peggy High Foundation v Zucconi and Anor [2019] UKUT 242 (LC)

25. He was advised that the Tribunal, during the hearing would be asking for his views on the use of Gerald Eve and Savills graphs.
26. At the hearing, Mr Cowley clarified that he had incorrectly stated within his reply of 3rd December 2024 that the table he had employed was produced by Leasehold Advisory Service, when in fact it was a Savills' graph.
27. The Surveyor Member of the Tribunal questioned Mr Cowley on the relativity percentage that he had used and suggested that the correct interpretation following the above precedents was to take an average of the figures produced by the Gerald Eve and Savills graphs and employing their un-enfranchiseable relativity. Mr Cowley conceded that he had used the wrong percentage from the Savills graph and agreed with the approach of the Tribunal Surveyor.

Decision and Reasoning

28. Having considered the evidence and in particular the report of Mr Cowley, dated 13th August 2024 and his oral evidence, the Tribunal make the following determination:

Comparable Evidence

29. On considering the comparable evidence provided, albeit, in some cases with no property details; the Tribunal finds that the best comparable is number 6 (as set out in the above table), Chaddesley Terrace. This property is within close proximity of the application property and is of a similar description.
30. The Tribunal using their own valuation knowledge value, arrive at a vacant possession capital value of the freehold interest of £145,000. Applying the principles of **Contractreal Ltd v Smith (2017) UKUT 0178(LC)** and reaffirmed in **Elmbirch Properties Plc (2017) UKUT 0314 (LC)** the Tribunal will apply a 1% difference between the freehold and leasehold values, thereby providing a leasehold value of £143,550, which embraces within its calculation of the premium.

Relativity

31. Mr Cowley was unaware of any transactional evidence to assist in the preparation of his valuation and relied upon the Savills' graph. Without any reliable transactional evidence, the Tribunal will rely upon the average of the graphs produced by Gerald Eve (79%) and Savills (79.9%). These results in a relativity of 79.45% which will be incorporated within the calculation of the premium.

Capitalisation and Deferment Rates

32. The fixed term annual ground rent of £10 for 62½ years is not particularly appealing to an investor, and therefore the Tribunal will adopt within its calculation of the Freeholder's

Present Interest the rate Mr Cowley employed in his valuation, i.e. 6.5%, which is consistent with the decision in **Nicholson v Goff (2007) 1 EGLR 83**. However, Mr Cowley appeared to have miscalculated the figure to be adopted within the calculation (i.e. 14.16125) and the Tribunal has applied the correct figure (i.e. 15.08419). As to the deferment rate, the Tribunal will again adopt the rate employed by Mr Cowley within his calculation, as this is consistent with the decision of **Earl Cadogan v Sportelli (2006) LRA 50 2005**.

Development value

33. This point was not addressed within the surveyor's report. Nevertheless, the Tribunal concluded that the property is fully developed, and no adjustment is required.

Schedule 10 Reduction

34. This point was not addressed within the surveyor's report. Nevertheless, the Tribunal concluded that no adjustment is required to reflect this potential matter.

New terms within new lease

35. In respect of the new lease, as stated above, it mirrors the current lease, save for the following paragraph:

'IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration other than rent exceeds the sum of THIRTY THOUSAND POUNDS'

36. It is the view of the Tribunal that given the monetary value, set out within it, that it is no longer applicable in respect of the new lease and can be omitted.

Determination

37. Having regard to Schedule 13 of the 1993 Act, the Tribunal calculates the diminution of the Freeholder's Present Interest to be £6,937 to which it adds 50% of the marriage value £11,280, with the resultant figure being £18,217. The Tribunal's valuation is attached at Appendix 2.
38. The Tribunal determines that the premium to be paid for a 90-year lease extension in respect of the Property under the Leasehold Reform and Urban Development Act 1993 is £18,217 and that this is the appropriate sum to be paid into court under section 51(5) of the Act
39. That a new lease be granted in the terms as set out within the hearing bundle at pages 36-42.



Tribunal Judge K Byrne
Dated this 7th day of April

Appendix 1

Valuation date

Lease 99 years from 9th January 1986

Unexpired Term: 62.5 years

Relativity: 84.5%

Ground Rent: £10

Valuation

Ground Rent	£10	
YP for 62.5yrs @ 6.5%	14.16125	
	£141.61	£142

Reversion to CV

CV with long lease	£145,000	
PV £1 62.5years @ 5%	0.0474	
	£6,873	£6,873
		Total £7,015

Freehold Int. after extension £145,000

PV £1 152.5 years @ 5%

PV £1 100 years @ 5 % 0.0076045

PV £1 52.5 years @ 5 % 0.07721

Multiplier 0.00058714

£85.13 £85

Leasehold Int. prior to extn £122,525

Freehold Int. after to extn £7,015

Total £129,549

Leasehold Int. after extn £145,000

Freehold Int. after extn £ 85

£145,085

Both interest after extn £145,085

Both interest prior to extn £129,540

Difference	£15,545
Divide by 2	£7,772
Marriage value say	£7,700

Freehold Int.	£10,436	
Marriage value say	£ 7,700	
	<hr/>	
	£7,015	
		£14,715
	Say	£14,700

Appendix 2

Freeholder's Present Interest

Term

Ground Rent	£10	
YP 62.5 years @ 6.5%	<u>15.08419</u>	£150.84

Reversion

Vacant Possession Capital Value	£145,000	
PV of £1 62.5 years @ 5%	<u>0.047388</u>	<u>£6,871.26</u>
		£7,022.10

Freeholder's Proposed Interest

Vacant Possession Capital Value	£145,000	
PV of £1 152.5 years @ 5%	<u>0.000587</u>	<u>£85.11</u>

Diminution in value of freeholder's interest

£6,936.99

say £6,937

Leaseholder's Proposed Interest

Freeholder's Vacant Possession CV	£145,000	
less differential of 1%	<u>£1,450</u>	

Leaseholder's Proposed Vacant Possession Value (with new lease) £143,550

Leaseholder's Present Interest

Leaseholder's Proposed Vacant Possession Value (with new lease) £143,550

Relativity 79.45%

£114,050.48

say £114,050

Calculation of Marriage Value

Leaseholder's Proposed Vacant Possession Value (with new lease)	£143,550	
Freeholder's Proposed Interest	<u>£85</u>	

£143,635

less

Leaseholder's Present Interest £114,050

Freeholder's Present Interest	<u>£7,022</u>	
		<u>£121,072</u>
Marriage Value		£22,563
Marriage Value split equally between the parties		£11,281.51
	say	<u>£11,280</u>

Calculation of Enfranchisement Premium

Diminution in value of Freeholder's Present Interest		£6,937
Freeholder's Share of Marriage Value		<u>£11,280</u>
Enfranchisement Premium		<u>£18,217</u>