

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Mr G W Sharp and Mrs R M S Sharp

Respondent: The Honourable Charles Gerald John Cadogan
(Commonly called Viscount Chelsea) and Cadogan Estates Limited

Property: 34 Hans Place, London SW1 (for description see over)

Date of Tenants Notice: 3 February 1994

Date of Respondent's Counter Notice: 3 November 1994

Application to Tribunal dated: 9 January 1996

Heard: 15 and 16 October 1996
Inspection: Subject property 26 November 1996
Comparables 19 February 1997

Valuation Date: 3 February 1994
Unexpired term: 34.66 years

Ground Rent: £10.000 per annum with effect from September 1986. Reviewed every 10 years to 1.2% of the freehold value. Next review 29 September 1997.

Appearances: Mr & Mrs G W Sharp - tenants in person
Mr T Bammister (of Counsel)
Mr J Stephenson, Bircham & Co, Solicitors
Mr J Shingles, Messrs Strutt & Parker, Surveyors
Mr P Wagner AA Dipl RIBA
Mr C S R Marr-Johnson FRICS, Messrs Marr-Johnson & Stevens
For the Tenant

Mr A Radevsky (of Counsel)
Mr D J Greenish, Messrs Lee & Pembertons, Solicitors
Mr K D Gibbs, FRICS, Messrs Gerald Eve
Mr A McGillivray, Messrs W A Ellis
For the Landlord

Members of the Leasehold Valuation Tribunal:

Mrs B M Hindley JP LLB (Chairman)
Mr D E F Baldock FRICS
Mr P S Roberts DipArch RIBA

Date of Tribunal's decision 16 APR 1997



Description

Six storey, mid terrace, Georgian town house modernised by the tenants to provide the following accommodation:

<u>Floor</u>	<u>Room</u>
Lower Ground	Kitchen and incorporated conservatory Pantry Staff sitting room Staff bedroom Staff ensuite bathroom Vault
Ground	Hall Dining room Cloakroom
First	Drawing Room Library
Second	Double bedroom 1 Bathroom 1 (ensuite) Dressing room
Third	Double bedroom 2 Bathroom 2 (ensuite) Bedroom 3 Shower room Utility
Fourth	Bedroom 4 Bathroom 3 Bedroom 5
Fifth	Attic
Front	Front area with under pavement vault
Rear	A small paved patio off the conservatory Small internal patio with fountain between larder and staff bedroom

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1. Attached at Appendix 1 is a 'statement of differences' between the parties handed in at the start of the hearing. Attached at Appendix 2 and Appendix 3 are the valuations of respectively, Mr Shingles and Mr Gibbs.
 2. With only £50,000 between the two valuers as to the value of the freehold interest including the tenants' improvements the Tribunal, in the light of their extensive inspection of the surrounding area and the submitted comparables (scheduled by the Tribunal and attached at Appendix 4), chose to split the difference and to value the improved freehold interest at £1,825,000.
 3. It emerged during the course of the hearing that the tenants had paid £475,000, in June 1988, for the unimproved property with a lease of approximately 41 years and a ground rent of £10,000 per annum. It was not disputed that they had effected considerable works of modernisation and improvement and that Mr Wagner's brief had been to enhance the light, space and architecture of the house, whilst re-ordering the individual spaces to provide rooms in a more conventional juxtaposition that would feel natural. From their inspection the Tribunal was satisfied that a very marketable family home had been created and they were of the opinion that the improvements effected contributed significantly to this achievement. They, therefore, attributed a value of £650,000 to those improvements.
 4. As to the value of the leasehold interest the Tribunal did not find persuasive the extrapolation by Mr Shingles from the sale of 50 Chelsea Square, nor Mr Gibb's somewhat arbitrary deduction of £305,000 to reflect the significant ground rent, from Mr McGillivray's bald assertion of £750,000, as the value to be attributed to the

unimproved leasehold interest. They preferred to look at the price paid by the tenants in 1988 for a 41 year lease and then to reflect the shorter lease, the increase in market values and the imminence of the rent review, to achieve an unimproved leasehold value of £500,000.

5. Mr Sharp remarked that valuation procedure focused on applying yield to rental income and to deferred capital reversion. He alleged that in practice in the case of prime property the yield was 'driven by assertions as to yield prevailing in the property market itself for the purchase and sale or rental of prime residential properties'. In his opinion the income stream, as a cash flow, should be valued on valuation principles applying in investment markets generally and only the freehold reversion fell within the ambit of property valuation principles. However, he considered that if a composite rate were to be applied the length of the reversion and the high ground rent required a greater weighting than usual towards financial market rates and a higher yield. The Tribunal, whilst noting his reservations concerning the propriety of the methodology as well as the rates(s) to be applied, saw no good reason to depart from the accepted Tribunal practice, in prime central London residential areas, of applying a capitalisation rate of 6% to both the term and the reversion.
6. Whilst the terms of the lease provided, unequivocally, that the value of the improvements was to be taken into account in the 10 yearly recalculation of the ground rent, the Tribunal was of the opinion that under the terms of Section 9(1A)(d) it was to be disregarded in the valuation of the reversion.
7. The Tribunal was not persuaded that any departure from the 50% marriage value invariably applied was appropriate in this case.

8. Accordingly the Tribunal made the following valuation:

VALUATION IN ACCORDANCE WITH SECTION 9(1A) OF THE LEASEHOLD REFORM ACT 1967

Freeholder's Existing interest

Current ground rent	10,000	
YP for 3.66 years @ 6%	<u>3,1958</u>	31,958
Ground rent at review 1997 (based on improved value of 1,825,000)	21,900	
YP for 31 years @ 6%	13,9291	
Deferred 3.66 years @ 6%	0.8083	<u>11,2589</u>
		246,570
Reversion to unimproved value	1,175,000	
Deferred 34.66 years @ 6%	<u>0.1328</u>	<u>156,040</u>
		434,568

Marriage Value

VP value of unimproved freehold	1,175,000	
less		
Value of freeholder's existing interest	434,568	
Value of lessee's unimproved interest	<u>500,000</u>	<u>934,568</u>
Marriage value	240,432	
Freeholder's share at 50%		<u>120,216</u>
		554,784
<u>ENFRANCHISEMENT PRICE</u>	SAY	<u>554,750</u>

9. The Tribunal, therefore, determined that the sum to be paid for the freehold interest in 34 Hans Place, London SW1, is £554,750 (five hundred and fifty four thousand, seven hundred and fifty pounds).

CHAIRMAN *J. P. H. H. H. H. H.*

16 APR 1997

DATE

34 HANS PLACESTATEMENT OF DIFFERENCES

	<u>LANDLORD</u>	<u>TENANT</u>
Value of freehold (improved)	£1,850,000	£1,800,000
Value of freehold (unimproved)	£1,300,000	£1,000,000
Leasehold value (improved)		£1,237,500
		(Amended at hearing to £1,362,000)
Leasehold value (unimproved)	£445,000	£686,812
Marriage value	80%	50%
Deferment rate	6%	7%
Capitalisation rate	5% and 5.5%	7%
Investment yield re increased rent on review	7.5%	8%

There is also an issue as to whether or not improvements should be taken into account when calculating the effect on price of the rent review.

Property: 34 Hans Place, London SW1
 Date of Claim: 3rd February 1994
 Unexpired Term of Lease: 34.67 years
 Reference: LON/LVT/594

VALUATION IN ACCORDANCE WITH SECTION 9(1C) OF THE LEASEHOLD REFORM ACT 1967

<u>Valuation of lessor's interest exclusive of marriage value</u>	£	£	£
For remainder of term:-			
Ground rent current payable from 1987	10,000		
Years purchase for 3.67 years @ 7.0%	<u>3,1329</u>		
		31,329	
Ground rent at Rent Review 1997			
- based on unimproved value of £1,000,000			
	12,000		
Years purchase for 31 years @ 7.0%	12,5318		
Present value after 3.67 years @ 7.0%	<u>0.7807</u>		
	<u>9,7853</u>		
		117,403	
For reversion to:-	1,800,000		
Less value of improvements (44.5%)	<u>800,000</u>		
Value of freehold in possession	1,000,000		
Deferred 34.67 years @ 7.0%	<u>0.095848</u>		
		<u>95,848</u>	
			244,580
<u>Add lessor's share of marriage value</u>			
Value of freehold in possession (less deduction for improvements)		1,000,000	
<u>Less</u>			
Value of lessor's interest exclusive of marriage value (26.26%)	244,580		
Value of lessee's interest exclusive of marriage value (73.74%)	<u>686,812*</u>		
		<u>931,392</u>	
Gain on Marriage		68,607	
Share to lessor	50%		<u>34,303</u>
Enfranchisement price			278,883
		Say	<u>278,900</u>

*ie.	£1,237,500	Value of lessee's interest (68.75% of FH value)	
	£550,688	44.5% proportion of value of improvements as in Norfolk -v- Trinity College and 15 Upper Berkeley Street, W1	
	£686,812		

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CADOGAN ESTATES LIMITED

Property: 34 Hans Place, London SW 1
 Date of Claim: 3 February 1994
 Unexpired term of lease: 34.66 years

VALUATION IN ACCORDANCE WITH SECTION 9(1C) OF THE LEASEHOLD REFORM ACT 1967

	£	£	£	£
Lessor's interest excluding marriage value				
Term				
a) Ground rent currently payable from 1987		10,000		
Years Purchase for 3.66 years @ 5%		<u>3.27</u>		32,700
b) Ground rent at Rent Review 1997 & every 10 years to 1.2% of Freehold vacant possession value		22,200		
Years Purchase for 31 years @ 5.5%	14.72			
Deferred 3.66 years @ 5.5%	0.822	<u>12.1005</u>		268,631
Reversion				
Value of freehold in possession (improved)	1,850,000			
Less value of improvements	<u>550,000</u>			
Value of freehold in possession (unimproved)		1,300,000		
Deferred 34.66 years @ 6.0%		<u>0.133</u>		172,900
				474,231
Add lessor's share of marriage value				
Value of freehold in possession (unimproved)			1,300,000	
<u>Less</u>				
Value of lessor's interest exclusive of marriage value (unimproved)		474,231		
Value of lessee's interest exclusive of marriage value (unimproved)	750,000			
Less effect of high ground rent	<u>305,000</u>			
Gain on marriage		<u>445,000</u>		919,231
				<u>380,769</u>
Share of marriage value to lessor	80%			<u>304,615</u>
Enfranchisement price				£778,846
			say	£779,000

Gerald Eve
Chartered Surveyors

34 Hans Place

Address	Tenure	Ground Rent	Price	Date sold	GFA sq ft	Accommodation	Condition/comments
34 Hans Place	LH - 41 yrs	1.2% of FH now £10,000 review Sept 97 & 10 years on	475k	Jun-88	5332	6 floors 5 B, 4 R, 3 B/WC 1 shwr/WC, K/D, staff 1 B, 1 R, B/WC	with some disrepair no lift no garden
Tenants comparables							
24 Cadogan Square & 56 Clabon Mews	FH		2.35m	Dec-93	6715	5 fl 5 B, 3 R, 4 B/WC, K/D, staff 1 B, 1 R, B/WC, K, utly, 3 B, 1 R, K, B/WC	2 floors over in separate ownership; lift, period features, large roof terrace, separate mews house
2 Montpelier Square	FH		1.81m	Jan-95	4441	6 fl 6 B, 3 R, 4 B/WC, K/D, staff B, R, K, B/WC	largest Georgian Ho in square, immac refurb, lift, 2 roof terraces
25 Montpelier Square	FH		1.45m	Apr-95	3671	6 fl 5 B, 3 R, 4 B/WC, shwr/ WC, K, conservatory	lift, state of art condition, small roof terrace, corner house
50 Chelsea Square	LH - 31 yrs	nom	1.45m	Apr-95	3998	5 fl 4 B, 3 R, study, 3 B/WC, K/D, staff room, utility	bought back by Reversioner, ? incl 50k rent to vendor modernized Neo Georgian, garage at rear, small walled gdn.
16 Kensington Gate	LH - 68.75 yrs	£200 now 0.125% FHVP at 2007	1.0m	Sep-95	4559 (74067 without cellars)	5 fl 5 B, 3 R, 2 B/WC, shwr/WC, staff B, R, B/WC, K	in need of modernization, end of cul-de-sac, lift, off street parking for 3 cars, double garage

34 Hans Place

Address	Tenure	Ground Rent	Price	Date sold	GFA sq ft	Accommodation	Condition/comments
34 Hans Place	LH - 41 yrs	1.2% of FH now £10,000 review Sept 97 & 10 years on	475k	Jun-88	5332	6 floors 5 B, 4R, 3 B/WC 1 shwr/WC, K/D, staff 1 B, 1 R, B/WC	with some disrepair no lift no garden
Landlords comparables							
20 Thurloe Square	LH - 31.5 yrs	6000 reviews at 10 yrs	875k	Mar-94	4940	6 floors 5 B, 3 B/WC, 3 R, utility, staff 2 B, 1 R, K, B/WC	end terrace, unmodernized, gdn new lease available at 250k at GR £1250 pa
23 Thurloe Square	LH - 34 yrs	6300 reviews at 10 yrs	730k	Mar-92		6 floors no particulars	new lease available as above
43 Chester Square	LH - 24 yrs	750 pa fixed	582.5k	Nov-94	3429	6 floors 5 B, 2 R, 2 B/WC, B, WC, K, utility, lgf 1 B, 1 R, B, WC	requiring some modernization, opposite church
5 Wilton Place	LH - 42 yrs	1500 reviews 2007 & at 21 yrs	635k	Jan-94	3500 est	6 floors 6 B, 3 R, 3 B/WC, shwr rm/WC, K/D, lgf 1 B, 2 R, B/WC, utility	Period house close to Knightsbridge
25 Brompton Square	FH		1.35m	Jun-94	4486	6 floors 5 B, 3 R, 4 B/WC, lgf 1 B, B/WC, K, sauna, utility	required some refurbishment includes double garage, roof terrace

34 Hans Place

Address	Tenure	Ground Rent	Price	Date sold	GFA sq ft	Accommodation	Condition/comments
34 Hans Place	LH - 41 yrs	1.2% of FH now £10,000 review Sept 97 & 10 years on	475k	Jun-88	5332	6 floors 5 B, 4R, 3 B/WC 1 shwr/WC, K/D, staff B, B/WC, R	with some disrepair no lift no garden
Landlords comparables							
38 Thurloe Square	LH - 59 yrs	500 pa with reviews	1.65m	Jul-94	5000	6 floors 6 B, 3 R, 4 B/WC, K/D, billiard room, staff 1 B, 1 R, K, B/WC	in excellent repair, good aspect, refurbed 1986
16 Brompton Square	FH		1.58m	Jan-93	3900	6 floors 6 B, 3 R, 4 B/WC, K, lgf 1 B, B/WC, gym, sauna, utility	excellent condition, best side of square, double garage, conservatory
2 Montpelier Square	see above under Tenants comps						
38 Montpelier Square	FH		1.68m	Jun-95	3309	6 floors 5 B, 2 R, 2 B/WC, shwr rm/WC, K/D, lgf 1 B, 1 R, sauna, WC	good condition, substantially rebuilt & extended, roof terrace