

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: The Trustees of the Gunter Estate

Respondent: Mr A F Giorgi

RE: 24 Redcliffe Square, London SW10

Date of Tenant's Notice: 19 December 1995

Application to Tribunal dated: 20 June 1997

Price requested £1,500,000

Valuation Date: 31 December 1996

Unexpired term 4 years

Heard: 31 October 1997, 5 December 1997

15 and 16 January 1998 and 11 March 1998

Appearances:

Miss J Jackson QC of Counsel

Mrs A McNeil ) Frere Cholmeley Bischoff, Solicitors

Ms S Warwick-Gee)

Miss F Joyce FRICS (Chesterton's)

Mr G Hollamby (Chesterton's)

for the Landlord

Mr K Munro of Counsel

Mr D J Greenish, Lee & Pembertons, Solicitors

Mr R Sharp BSc FRICS IRRV

Mr A F Giorgi (tenant)

Mrs A P Giorgi (tenant's mother)

for the Tenant

Members of the Leasehold Valuation Tribunal:

Mrs B M Hindley JP LLB

(Chairman)

Mrs J McGrandle BSc (Est Man) ARICS, MRTPI

Mr P S Roberts, DipArch RIBA

Date of Tribunal's decision 15 July 1998.

## Leases & Assignments

Lease dated 28 July 1874 for a term of 99 years from 25 March 1865 expiring on 25 March 1964.

Underlease registered on 9 September 1874 for a term of 85 years from 25 March 1865.

In 1882 the 99 year lease was sold to Theodore Aston who assigned it to Neville Aston.

In 1948 Richard Julius Eger inherited the 99 year lease from Neville Aston.

Lease dated 20 April 1955 between the Gunter Estate and Mrs Doris Ernestine McDonald for a term of 32¼ years from 29 September 1954. This long lease was surrendered for a Lease dated 23 July 1971 between the Gunter Estate and Mrs Doris Ernestine McDonald for a term of 30¾ years from 25 March 1970, expiring on 25 December 2000 at a rent of £140 pa.

Assignment dated 25 March 1981 between Mrs Doris Ernestine McDonald and Ann Patricia Giorgi.

Assignment dated 23 December 1985 between Ann Patricia Giorgi and Angus Francesco Giorgi.

Basement flat, ground floor flat (flat 1), first floor flat (flat 2), second floor rear flat (flat 3), and third and fourth floor maisonette (flat 5), each subject to occupational underlease with rents totalling £325 per annum. Mr Giorgi occupies flat 4 (second floor front) and Mrs Giorgi occupies flat 5.

Common parts subject to an underlease dated 8 July 1976 for a term of 24¾ years less 3 days from 25 March 1976. The underlessee has been struck off the register and the underlease has been vested in the Crown as bona vacantia.

## Description

Terraced Victorian property built on basement, ground and four upper floors with a full width balcony to the front at first floor level.

The views from the front are southwards across communal (public) gardens and down Harcourt Terrace towards Hollywood Road. From the rear there are good views over the extensive private gardens of Coleherne Court. The subject property extends over the whole site area subject only to an internal light well and a small rear yard at basement level. At the time of inspection the property was arranged as set out below in self contained accommodation.

The gross internal floor area was agreed at 6800 sq ft.

- Lower Ground Floor: Two bedrooms, reception room, kitchen, bathroom/wc, shower/wc, two small patio areas
- Ground Floor: Two/three bedrooms, one/two reception rooms, kitchen, two bathroom/wcs, conservatory.
- First Floor: Two/three bedrooms, one/two reception rooms, kitchen, bathroom/wc, separate cloakroom, balcony.
- Second Floor (Front): Two bedrooms, reception room, kitchen, bathroom/wc.
- Second Floor (Rear): One bedroom, reception room, kitchen, bathroom/wc
- Third/Fourth Floors: Three/four bedrooms, one/two reception rooms, kitchen, bathroom/wc, shower/wc, two roof terraces

1. By a consent order dated 1 May 1997 at West London County Court it was ordered that Mr A F Giorgi was entitled to the freehold of 24 Redcliffe Square, London SW10, and that the valuation date was 31 December 1996.
2. The treatment of improvements had not been agreed by the parties' respective valuers either at the start of or by the conclusion of the hearing. The Tribunal was, therefore, presented with five alternative approaches to the calculation of the price to be paid based on the value to be ascribed to (A) a cleared site (Annex 1 a & b), (B) an unmodernised house built in 1874 (Annex 2 a & b), (C) existing user as flats and a maisonette, all unmodernised since 1955 (Annex 3), (D) existing user as flats and a maisonette with benefit of all improvement works (Annex 4) and (E) existing user ground and basement, remainder unmodernised (Annex 5).
3. Mrs Giorgi gave evidence that she had undertaken considerable historical research. In the course of this she had traced Mrs Shirley Douglas Mann, a daughter of Mrs McDonald (see lease chronology). Mrs Giorgi had spoken to Mrs Douglas Mann on the telephone and had met her. As a result two statements dated 2 December 1997 and 12 January 1998, and signed by Mrs Douglas Mann, were put in evidence at the respective hearings on 5 December 1997 and 15 January 1998. These, Mrs Giorgi said, had been written by her as a result of these conversations but Mrs Douglas Mann had signed the second and superseding statement, dated 12 January 1998, only after careful consideration of its contents.
4. In her statement of 2 December 1997 Mrs Douglas Mann said that the house had been given as a gift to her mother by Mr Eger, her mother's brother, 'in about 1953'. She believed that her uncle 'would have arranged for a lease extension before my mother went ahead and altered the house into separate flats'. She said that the house was arranged at that time 'like a big Edwardian house let out in rooms' with 'one huge bathroom at the back of the second floor which everyone shared'. She confirmed 'My mother and uncle arranged for Mr Urquhart to put in the drawings to the Council to turn the building into separate flats and this work was done by my mother and uncle.'
5. In her statement dated 12 January 1998 Mrs Douglas Mann said that her mother 'acquired the house from her brother, Richard Eger in about 1953' and that she converted the house into flats in 1955 after she obtained a new lease.
6. Miss Jackson, on behalf of the freeholders accepted, although the history of the devolution of the 1874 head lease was incomplete, that Mr Eger became the head lessee. However she did not accept that the 1874 head lease was ever vested in Mrs McDonald.
7. The Tribunal, on the basis of the evidence presented to them, was also not

satisfied that the head lease was ever vested in Mrs McDonald. That being so they did not consider the ancillary questions of the application of Section 3(3) or Section 9(1A)(d) of the Leasehold Reform Act 1967 to the 1874 lease.

8. The planning permission sought by Mrs McDonald and her brother (see paragraph 4 above) was issued on 17 August 1953. Miss Jackson pointed out that, on the electoral roll, the basement was recorded as a separate entity from 1950. She, therefore, argued that it was either built as a separate entity or was converted well before the grant of the 1955 lease. She also asserted, in her closing submission, that the reference on the planning permission to 'four self contained flats and a self contained maisonette, as shown on the drawing submitted' was to a third and fourth floor maisonette, a flat on each of the ground and first floors and two flats on the second floor. She considered that a document concerning drainage from Mr Urquhart, on behalf of Mrs McDonald, to the Royal Borough of Kensington, dated 14 September 1953, which had been endorsed in manuscript 'ground floor completed 1954' demonstrated that the ground floor conversion, also, had been completed before the grant of the lease on 20 April 1955.
9. Miss Jackson accepted that the conversion to flats of the first and second floors, and the maisonette on the third and fourth floors, should be disregarded as improvements subsequent to the 1955 lease. (See the valuation of Miss Joyce attached at Annex 5).
10. The Tribunal accepted Miss Jackson's submissions. They found additional persuasive evidence, from the rating list tabled at the hearing by the respondent, that as from 1 April 1955 the subject property was rated as three hereditaments rather than as one. However, because they also accepted, as argued by both valuers, that the value of the house lay in its redevelopment potential, they considered that separate basement and ground floor flats would have no material effect on this value.
11. Accordingly, the Tribunal considered only the valuations now attached at Annex 2 and Annex 5. In doing so they noted that both Miss Joyce and Mr Sharp (at Annex 2 a & b) were valuing the house as originally constructed. However, at Annex 5, Miss Joyce refined her Annex 2a valuation so as to value the property as ground and basement flats with rooms on the four upper floors.
12. Miss Joyce derived her freehold vacant possession figure of £1,485,000 from an analysis of sales and asking prices of four properties (attached at Annex 6). She estimated the completed development value at £2,380,000 (£350 per sq ft). However, her refined valuation (see Annex 5) reflected her opinion that the existing basement and ground floor flats had an enhanced value uplifting her valuation of £1,485,000 by £207,917 to £1,692,917. Mr Sharp adopted

a similar approach using 89 Harcourt Terrace in common with Miss Joyce but citing also transactions at 17 Gledhow Gardens and 74 Redcliffe Square. He however, adopted a differential rate per sq foot to discount for size. Making further adjustments for tenure, location, passage of time and configuration, he adopted a point between the three valuations to achieve a figure of £900,000. This figure he reduced to £596,270 by percentage reductions to reflect:-

- a. The lack of post 1874 improvements (15%).
  - b. The risk of assured tenancies arising in 2000 (15%).
  - c. The uncertainty surrounding the vesting in the Crown of the underlease (1%).
  - d. The uncertainty surrounding possible lease extensions (2.5%).
  - e. Interest charges and finance raising problems (5%).
13. The Tribunal found Nos 74 and 76 Redcliffe Square to be the most helpful comparable properties albeit that No 76 was only on the market (at £1.25m) although believed to have been sold subsequently at £1.15m, whilst No 74 was sold, apparently at £830,000, in May or June 1997. They noted that both, located on the west side of the square overlooking the church, were on five floors rather than six, and that the sale of No 74 excluded the basement. They also noted that whilst the plot dimensions of these properties and the subject appeared as not dissimilar, the subject property's much larger floor area arose not only from its additional storey, but also from its rear wall being set back at third floor level rather than at first floor level. The Tribunal accepted that the subject property, somewhat grander in style, was in a prime position in the square, benefitting from south facing reception rooms and particularly attractive views at the rear. They also obtained some assistance from the sale of 194 Old Brompton Road at £1.46m in May 1997. The existing use here was offices but there was residential potential. Making the best use they could of the available evidence the Tribunal arrived at a freehold vacant possession value for the subject property of £1.25 m.
14. From the full vacant possession value Miss Joyce argued that no deductions should be made to take account, inter alia, of the potential difficulties of obtaining full vacant possession. Mr Sharp, on the other hand, made very specific contingent deductions. The Tribunal considered that the fact that a section 42 notice under the Leasehold Reform, Housing and Urban Development Act 1993 had been served by the tenant of the ground floor flat and that two other tenants (second floor rear and Mrs Giorgi) could have similar rights and, at least, could stay as assured tenants, could not be disregarded and, indeed, would be a material factor to any properly advised, intending, purchaser. Furthermore, the Tribunal considered it inadvisable totally to dismiss the possibility of claims by the corporate tenants of the basement and first floor flats. Accordingly, the Tribunal discounted the freehold vacant possession value by 10% to take account of these perceived

risks.

15. Miss Joyce valued the respondent's existing leasehold interest in the whole house at £184,750 (see Annex 2a). She based this on an analysis of sales of flats in the locality with leases expiring in December 2000 and by discounting the value achieved by 30%. However, subsequently she valued the leasehold interest at £114,393 (see Annex 5) to include a small element of profit rental in respect of the basement and ground floor flats. Mr Sharp valued the existing leasehold interest at £196,000 (see Annex 2b) and said that this had, previously, been agreed with Mr Hollamby of Chestertons. However, he said that he agreed that the new figure of £184,750 was 'in the right area'. He provided no breakdown of either of his figures.
16. The Tribunal found itself unable to reconcile any of these amounts with the interest to be valued - the existing unimproved leasehold value for an unexpired term of 4 years. Having examined the sub leases, and had the benefit of inspecting all of the flats in their present improved condition, the Tribunal was satisfied that the rents reserved under the sub leases were merely enhanced ground rents and did not reflect any element of improvement. In their view the lessee had no more to offer than a capitalisation of the profit rents accruing from the current underleases for the unexpired term, plus the occupational value of his own, unimproved, accommodation on the front part of the second floor for the same unexpired term. The Tribunal attributed a value of £30,000 to these rooms, having examined both rents and similar short lease transactions (but of self contained, and larger but unmodernised flats) offered by both parties. The calculation of the profit rent is set out in the Tribunal's valuation using the same yield rate (not differential rates as proposed by Miss Joyce) as the Tribunal applied to the calculation of the freehold interest.
17. Miss Joyce argued for a yield rate of 6% initially. Miss Jackson, in her closing submission, requested 6% or 7%. Mr Sharp argued for 9%. The Tribunal considered that 7% properly reflected the location, size and character of the property.

18. Accordingly, taking all other matters into account the Tribunal produced the following valuation:-

24 Redcliffe Square, London SW10

o Unmodernised house valuation

Calculation of premium due to freeholder under Section 9(1)(c) of the LRA 1967

	£	£	£	£
<u>Valuation of f/h existing interest</u>				
Annual rent payable	140			
YP for 4 yrs @ 7.0%	3.3872	474		
Reversion to VP value	1,250,000			
Discount by 10% to reflect risk *	(125,000)			
Discounted VP value	1,125,000			
PV of £1 in 4 yrs @ 7.0%	0.7628952	858,257		
Diminution in value of f/h interest		858,731		858,731
<u>Calculation of marriage value</u>				
Value of Proposed Interests				
Freeholders'		Nil		
Lessee's		1,125,000	1,125,000	
Less				
Value of Existing Interests				
Freeholders'		858,731		
Lessee's		30,627	889,358	
Total marriage value			235,642	
50% to landlords				117,821
Total premium payable by lessee				976,552
			Say	<u>977,000</u>

o Basement and GF flats as modernised at 20.4.55

Remainder of house in rooms

\* Risk of tenants holding over

Valuation of lessee's interest

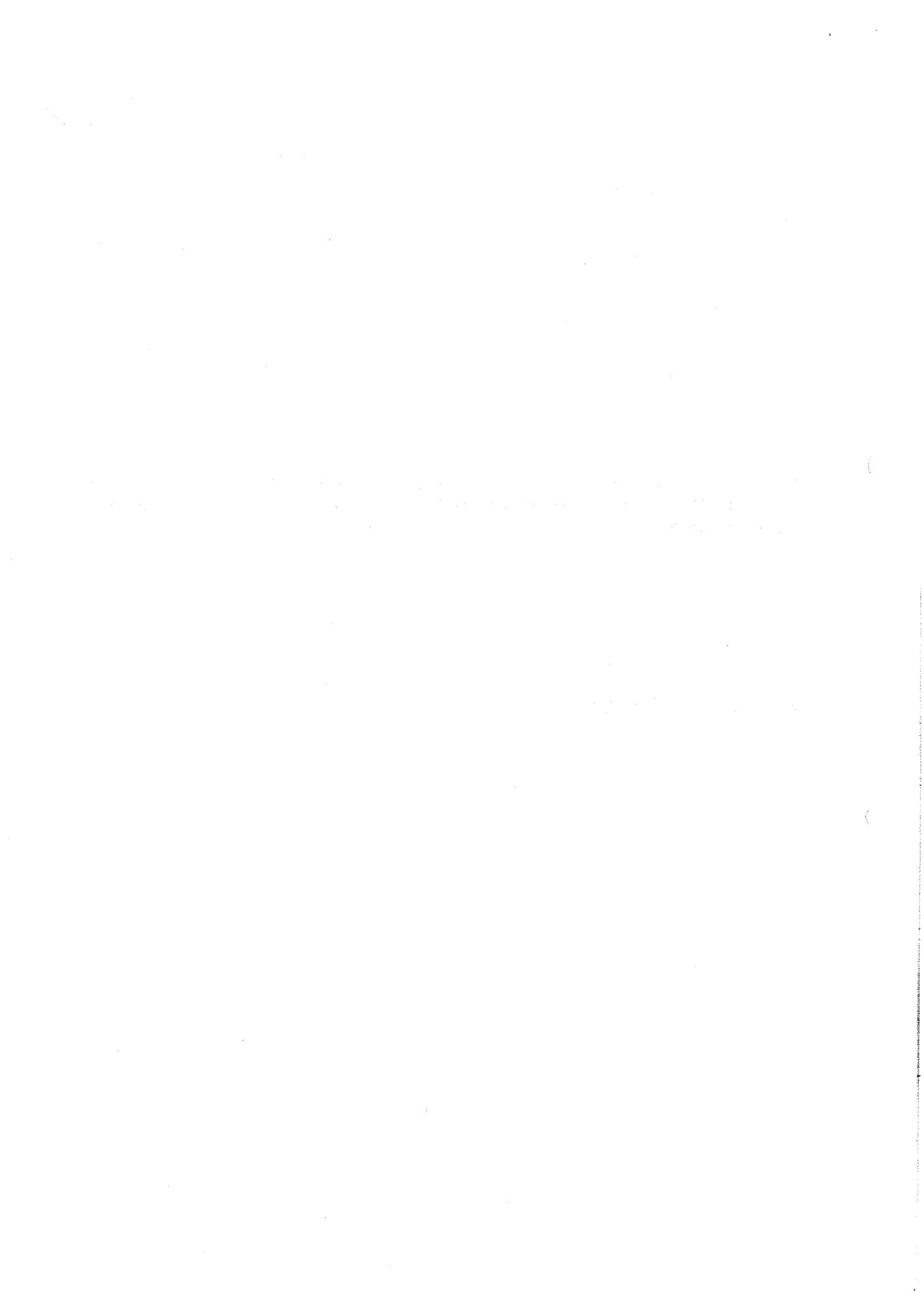
	£	£
Profit rent (£325 pa <u>less</u> £140 pa)	185	
YP for 4 years @ 7%	3.3872	627
Occupational value of rooms ø for 4 yrs UXT - say -		30,000
 TOTAL		 30,627

ø Rooms on 1/2 of second floor

19. The Tribunal, therefore, determined the premium payable under the Act in respect of 24 Redcliffe Square, London SW10 to be £977,000 (nine hundred and seventy seven thousand pounds).

CHAIRMAN.....*B. D. Hendley*.....

DATE..... 15 July 1998.....



24 Redcliffe Square, SW10

## Site Value Valuation

Calculation of Premium due to Freeholder under 9(1C) Leasehold Reform Act 1967

	£	£	£	£
<u>Value of Freeholders' Existing Interest</u>				
Annual rent payable	140			
Years Purchase	4 Yrs @ 6.0%	<u>3.46511</u>	485	
Reversion to VP value	1,170,000			
Present Value	4 Yrs @ 6%	<u>0.792094</u>	926,750	
<u>Diminution in Value of Freeholders' Interest</u>			926,750	926,750
<u>Calculation of Marriage Value</u>				
Value of Proposed Interests				
Freeholders'		Nil		
Lessee's		<u>1,170,000</u>	1,170,000	
LESS				
Value of Existing Interests				
Freeholders'		926,750		
Lessee's		<u>50,000</u>		
Total Marriage Value			<u>976,750</u>	
50% to Landlords			193,250	<u>96,625</u>
Total Premium Payable				1,023,375
			SAY	<b>£1,023,400</b>
Compensation for other loss				<u>NIL</u>
Therefore, Total Premium Payable by Lessee =				<b>£1,023,400</b>



Basis 3      The cleared site approach, improvements from 1874, including the building disregarded.

Freeholder's interest.

Ground Rent	£140	
YP <u>4yrs@9%</u>	3.24	
		Say £450

Freehold Vacant	£181,000	
Deferred 4 <u>yrs@9%</u>	0.708	
		£128150

£128,600

Marriage Value

Freehold VP value	£181,000
Less Freeholder's interest	£128,600
Lessee's interest	£196,000

No additional payment to Freeholder.

ENFRANCHISEMENT PRICE	£128,600
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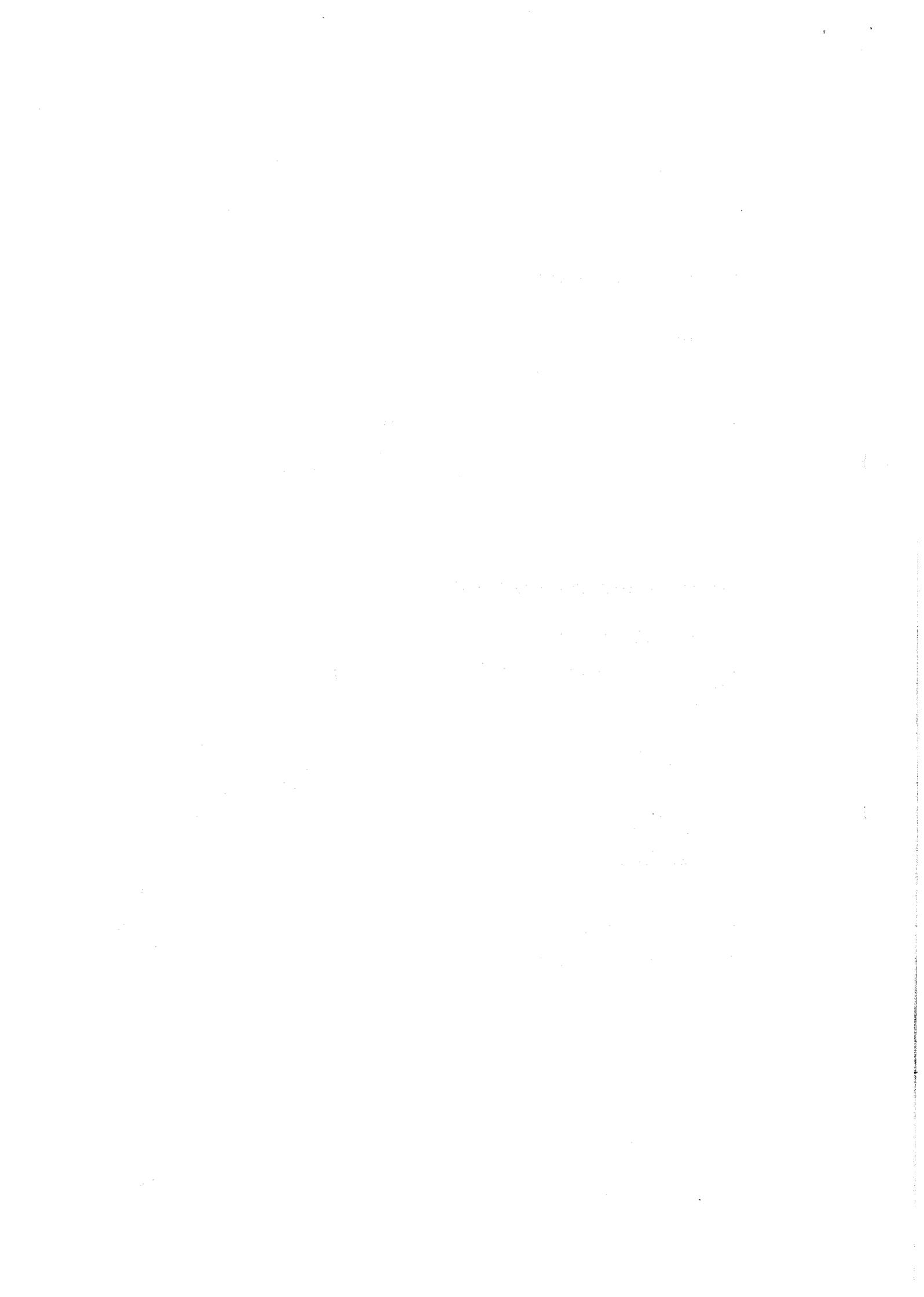


## 24 Redcliffe Square, SW10

## Unmodernised House Valuation

Calculation of Premium due to Freeholder under 9(1C) Leasehold Reform Act 1967

	£	£	£	£
<b><u>Value of Freeholders' Existing Interest</u></b>				
Annual rent payable	140			
Years Purchase	4 Yrs @ 6.0%	<u>3.46511</u>	485	
Reversion to VP value	1,485,000			
Present Value	4 Yrs @ 6%	<u>0.792094</u>	1,176,259	
<b><u>Diminution in Value of Freeholders' Interest</u></b>		1,176,744		1,176,744
<b><u>Calculation of Marriage Value</u></b>				
Value of Proposed Interests				
Freeholders'		Nil		
Lessee's		<u>1,485,000</u>	1,485,000	
LESS				
Value of Existing Interests				
Freeholders'		1,176,744		
Lessee's		<u>184,750</u>		
Total Marriage Value			<u>1,361,494</u>	
50% to Landlords			123,506	<u>61,753</u>
Total Premium Payable				1,238,497
			SAY	<b>£1,238,500</b>
Compensation for other loss				<u>NIL</u>
Therefore, Total Premium Payable by Lessee =				<b>£1,238,500</b>



## 4.0 MY OPINIONS OF ENFRANCHISEMENT PRICE

Basis 1 The unmodernised house, disregarding post 1874 improvements

Freeholders interest

Ground Rent	£140
YP <u>4yrs@9%</u>	3.24

Say £450

Freehold VP	£596,270
Deferred 4yrs @9%	0.708

<sup>610</sup>  
£422,160

<sup>422 610</sup>  
say ~~£422,160~~

Marriage Value

Freehold VP value	£596,270
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Less Freeholder's interest	£422,160 <sup>610</sup>
Lessee's interest	£196,000

-----<sup>610</sup>  
£618,160

No additional payment to Freeholder

ENFRANCHISEMENT PRICE

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£422,160<sup>610</sup>







## 24 Redcliffe Square, SW10

## Existing Use Valuation

Calculation of Premium due to Freeholder under 9(1C) Leasehold Reform Act 1967

	£	£	£	£
<u>Value of Freeholders' Existing Interest</u>				
Annual rent payable		140		
Years Purchase	4 Yrs @ 6.0%	<u>3.46511</u>	485	
Reversion to VP value		2,050,300		
Present Value	4 Yrs @ 6%	<u>0.792094</u>	1,624,030	
<u>Diminution in Value of Freeholders' Interest</u>			1,624,515	1,624,515
<u>Calculation of Marriage Value</u>				
Value of Proposed Interests				
Freeholders'		Nil		
Lessee's		<u>2,050,300</u>	2,050,300	
LESS				
Value of Existing Interests				
Freeholders'		1,624,515		
Lessee's		<u>40,440</u>		
Total Marriage Value			<u>1,664,955</u>	
50% to Landlords			385,345	<u>192,673</u>
Total Premium Payable				1,817,188
			SAY	£1,817,200
Compensation for other loss				<u>NIL</u>
Therefore, Total Premium Payable by Lessee =				£1,817,200



HYBRID VALUATION

Ground and basement flats as existing  
1, 2, 3 and 4 floors unmodernised

(1) FVP:-

a)	house existing use value from 10.2.7	£2,050,300
	ground and basement flats	£754,150

= 36.78% of FVP of whole

b)	unmodernised house from 11.3.6	£1,485,000
	Uplift from b) to a)	= £565,300
	36.78% of uplift	= £207,917

Adjust p 31 to (£1,485,000 + £207,917)

1,692,917  
~~£1,340,949~~

(2)	Present value 4 yrs @ 6% 0.792094 =	£1,340,949
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(3) Lessee's Interest:-

Unmodernised 1st-4th floors only  
from para 11.1.4

£163,175

less 30%

£114,223

profit rental = 38.46% x £440 = £169 say

£170

£114,393	£114,393
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(4) Marriage value:-

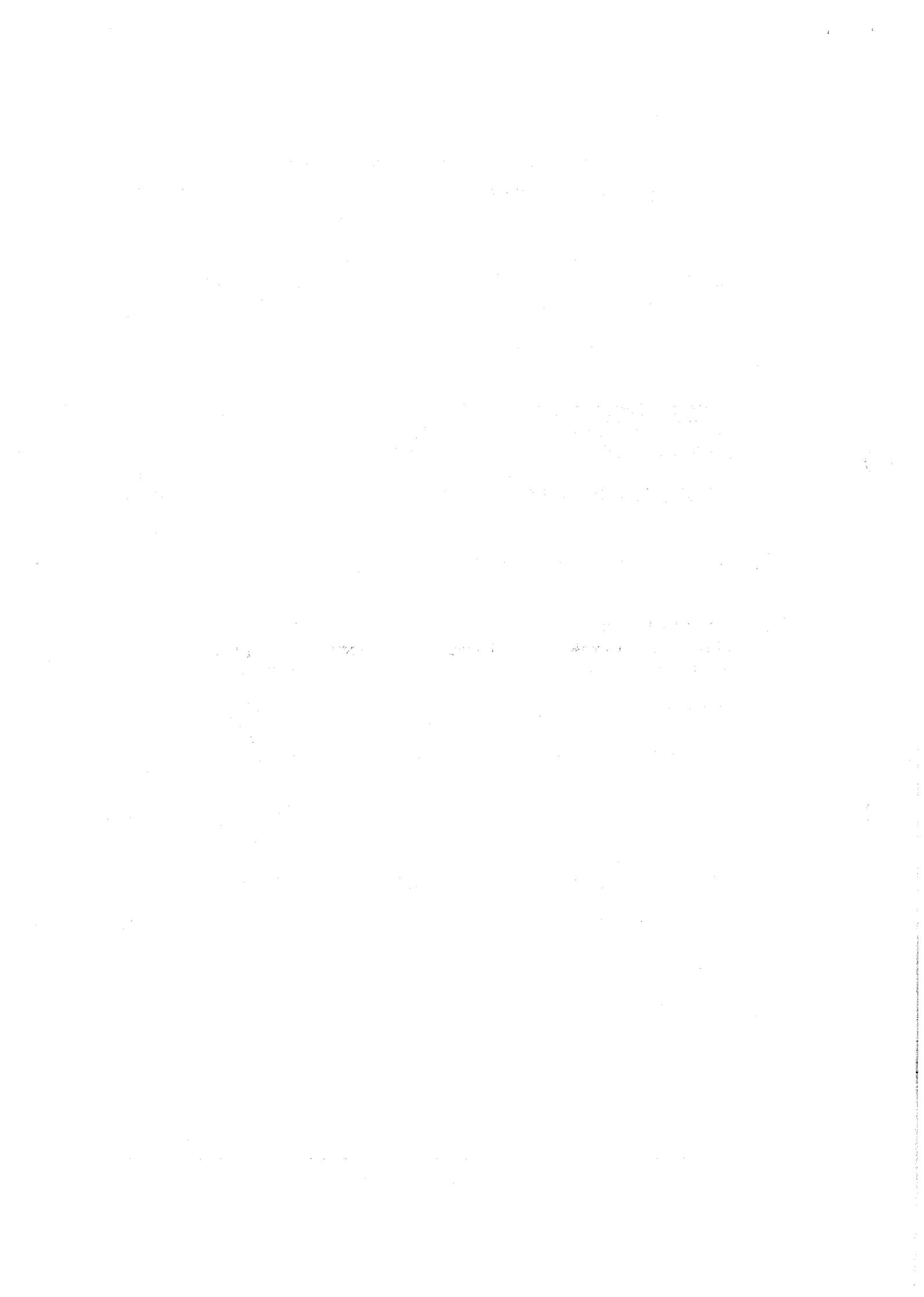
£1,692,917 - (£1,340,949 + £114,393) =

£237,575

50% of £237,575 =

£118,788

Premium £1,340,949 + £118,788 = £1,459,737



## 11.3 ANALYSIS

11.3.1 I have analysed the evidence of the foregoing comparables and made what I consider to be appropriate adjustments to take account of passage of time and other differences. The results are given in tabular form below:-

Address	194 Old Brompton Road	89 Harcourt Terrace	13 Redcliffe Gardens	76 Redcliffe Square
Date of Sale	May 1997	Jan. 1996	on market	on market
Tenure	Freehold	L/E 2085	Freehold	Freehold
Price/Premium	£1.725M assumed	£705,000	<del>£800,000</del> <sup>£825</sup> ,000 (asking)	£1.25M (asking)
Appr G.I.A. (ft <sup>2</sup> )	7,600	3,900	3,350	<del>3,728</del> Not Known
£/ft <sup>2</sup>	£227	£181	£263	£335
Adjust for date	- 10%	+ 15%	- 15%	- 15%
Adjust for location	+ 7.5%	+ 10%	+ 30%	+ 15%
Adjust for term	-	+ 3%	-	-
Other adjusts.	price paid £1.46M increased to reflect pc and vp	+ 25% (for guest house consent)	-	-
Adjusted £ psf	£221	£278	£302	£335
Planning	Offices	Guest House	House	Flats
User covenant post sale	Residential (F/H Covenant)	Residential	-	-
Other comments	Property let as office suites subject to headlease expiring 6/97	Property converted to flats. Now on market at £457.25 per ft <sup>2</sup>	Sale price unknown. All figures from asking price	Sale price possibly <del>£1.15m.</del> unknown. All figures from asking price. * GIA is estimated