

59

(LVT 9)

Ref: LON/LVT/1075/99

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER
S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: The Trustees of the Eyre Estate.

Respondent: Mr & Mrs B J Hyman

RE: 30A ACACIA ROAD, ST JOHN'S WOOD, LONDON NW8. 6QR.

RV at date when Tenant's Notice was given: £2, 680

Date of Tenant's Notice: 24 June 1998

Application to the Tribunal dated: 27 January 1999

Heard: 21 September 1999

Appearances:

Mr G Buchanan BSc (Est Man) ARICS
(Conrad Ritblat, Chartered Surveyors)

for the Tenant

Mr J E C Briant BA ARICS & Miss E P Poyser (the Eyre Estate)

for the Landlord

Members of the Leasehold Valuation Tribunal
Mrs J McGrandle BSc (Est Man) ARICS, MRTPI (Chairman)
Mr P M J Casey ARICS
Dr A M Fox BSc, PhD, ACI Arb

Date of the Tribunal's decision: 26 October 1999

1.0 Introduction

1.1 This is an application made by the Trustees of the Eyre Estate ("the applicants") for the determination of the enfranchisement price as at 24 June 1998, the date of the notice of claim, for the freehold interest under S.9 (1C) of the Leasehold Reform Act, 1967 ("the 1967 Act") as amended by the Leasehold Reform, Housing and Urban Development Act, 1993 in respect of the house and premises at 30A, Acacia Road, NW8 ("the subject property").

1.2 The lessees, Mr and Mrs Hyman ("the respondents"), who acquired their interest in May, 1977, hold under a lease from the applicants dated 29 November, 1937 for a term of 99 years from 25 March 1936, expiring on 25 March 2035. The unexpired term at the date of valuation is therefore 36.75 years (36.78 years to be precise). At the valuation date the rent payable under the lease was £75 pa with no provision for review.

1.3 Following the hearing, the Tribunal inspected the subject property and made an external inspection of comparables referred to by the parties.

2.0 The Subject Property

2.1 This comprises a detached 3-storey (ground, first and mansard) double - fronted house built in 1937 on the rear part of the original garden to 53 Avenue Road. Attached to the side of the subject property is the original garage. Following licences granted in 1965, 1970 and 1996, extensions were built to the rear of the garage and to the front, side and rear of the property. Unimproved "A" floor area ie disregarding these extensions, is in the order of 2068 sq. ft. (some 2600 sq. ft. as improved).

3.0 Agreed Facts

3.1 Although there was no statement of agreed facts, both parties had agreed a list of improvements carried out by the respondents or their predecessors in title. The list fell broadly into two categories:

- 1) Those creating additional floor space and
- 2) Internal rearrangement of the existing accommodation

4.0 Issues

- 4.1**
- 1) Value of tenants' improvements
 - 2) Value of the unimproved freehold interest
 - 3) Value of the unimproved leasehold interest
 - 4) Yield

5.0 Hearing

Improved freehold interest

5.1 Mr Briant, for the applicants, in support of his figure of £2,200,000, put forward the sale of 41, Queens Grove for £2,250,000 in March, 1998. Mr Buchanan, for the

respondents, in support of his figure of £2,150,000, also relied on the sale of 41 Queens Grove but in addition cited the following:

29 Acacia Road	£1.7m. July, 1998
25 Queens Grove	£2.8m. April, 1998
55 Townsend Road	£1.4m. October, 1998

5.2 Both valuers had made adjustments to the sale prices of their comparables to equate them with the subject property, Mr Briant implicitly and Mr Buchanan explicitly.

Improved leasehold interest

5.3 As above, the difference between the two valuers was marginal, Mr Briant seeking a figure of £1,320,000 and Mr Buchanan a figure of £1,375,000.

5.4 Mr Briant, in support of his figure, relied on two sales:

42 Queens Grove	£1,750,000 April, 1999. UXT 40 yrs
37A Queens Grove	£985,000 September, 1997. UXT 38 yrs

5.5 Mr Buchanan likewise relied on these two sales and in addition quoted the sale of 3, Langford Place for £942,500 in January, 1997. UXT 36 yrs.

5.6 In each case the comparables were adjusted to equate them to the subject property.

5.7 Mr Briant produced a graph showing the relationship between freehold and leasehold values of settlements on the Eyre Estate/John Lyon's Estate which in the present instance was 60%. This, he stated, provided a useful check. Mr Buchanan did not attach much weight to this graph but pointed out that his own valuations produced a relativity of 64% which was not inconsistent with the graph.

Improvements

5.8 The improvements as agreed fell to be disregarded in accordance with S.9 (1C) of the 1967 Act. Although the two valuers approached the adjustment of the improved freehold value in the same way, they differed as to the quantum, Mr Briant deducting £100,000 for improvements to be disregarded and Mr Buchanan £150,000.

Unimproved freehold and leasehold interests

5.9 The impact of the improvements on the value of the existing (or improved) leasehold interest however was approached differently by each valuer. Mr Briant used his relativity graph and took as the value of the unimproved leasehold interest 60% of his unimproved freehold value. Mr Buchanan, on the other hand, carried forward the same improved/unimproved ratio as reflected in his freehold valuations.

5.10 To conclude, the figures were as follows:

	Applicants (Mr Briant)	Respondents (Mr Buchanan)
	£	£
Improved freehold value	2,200,000	2,150,000
Improvements	100,000	150,000
Unimproved freehold value	2,100,000	2,000,000
Improved leasehold value	1,320,000	1,375,000
Unimproved leasehold value	1,260,000	1,279,000

from which it can be seen that the difference between the parties was indeed marginal, 5% in the case of the value of the unimproved freehold interest and 1.5% in the case of the value of the unimproved leasehold interest.

5.11 Enfranchisement prices were accordingly as follows:

Applicants: £540,000
Respondents: £458,221

and the respective valuations are attached as Appendices 1 and 2.

Yield

5.12 Mr Briant asked the Tribunal to adopt a yield of 6% and referred them to a schedule listing enfranchisement settlements and LVT decisions in St Johns Wood. He also referred the Tribunal to Lands Tribunal decisions at 30 Marlborough Place, 85 Avenue Road and 11 Loudoun Road which in his view supported a yield of 6%. He stated that the subject property was in a prime area of St Johns Wood and that if the Tribunal were minded to depart from the figure of 6% it would be necessary for them to identify a negative factor affecting the property.

5.13 Mr Buchanan, while not disagreeing with Mr Briant that 6% was appropriate for prime St Johns Wood property, felt that the subject property fell outside the definition of "prime" for 3 reasons:

- 1) Within St Johns Wood, Acacia Road was "good" but not "the best"
- 2) The lease terms, with a low ground rent fixed for the next 37 years, made it a less attractive investment
- 3) The subject property was not of the first quality

5.14 Accordingly, he sought a rate of 6.5%.

6.0 Inspection

6.1 The Tribunal's inspection confirmed what was already evident from the OS extract, namely, that the subject property occupied a relatively cramped site and that the small back garden was disproportionate to the size and quality of the house. From the vantage point of the first floor rear balcony a massive single storey rear extension to No. 53 Avenue Road was apparent, extending to the full depth of that property's garden right up

to the site boundary. In passing, it was also noted that neither party had produced OS extracts amended to show this extension and in fact Mr Briant's extract did not even show the 1970 morning room extension at the subject property. Mounted on the flat roof of No. 53's rear extension were 5 satellite dishes. It was the Tribunal's view that this massive extension impaired significantly the enjoyment and outlook of the subject property, particularly from the balcony.

6.2 Internally, the morning room extension, apart from impinging on the garden, meant that the kitchen had poor natural light.

7.0 Decision

Unimproved freehold and leasehold interests

7.1 It was the Tribunal's view that both valuers had taken sensible and well-founded approaches, as evidenced by the closeness of their independent conclusions. The Tribunal reached the view that the improved freehold value was £2,175,000 and the improved leasehold value £1,350,000, figures mid-way between those of the two valuers.

7.2 Turning to improvements, although there was no agreement on floor areas, it would appear that the various extensions had added some 20% to the existing "A" area. This is valuable. The Tribunal felt that the re-arrangement of the internal floor space to create bathrooms etc was a matter of personal taste which would not necessarily add value, especially as this was at the expense of losing to bathrooms and dressing rooms both principal rooms on the first floor south-facing front elevation; this might not be everybody's choice. On the other hand, the small side and front extensions to the 2 ground floor reception rooms had significantly enhanced these rooms and the morning room, though dark, was useful space. Despite our conclusions on the internal alterations, we formed the view that Mr Buchanan's higher figure of £150,000 was a more appropriate assessment of the value of the improvements.

7.3 So far as the impact of these improvements on the leasehold value is concerned, we again favoured Mr Buchanan's approach of maintaining the same improved/unimproved ratio as in the freehold figures.

7.4 Accordingly, the Tribunal have reached the following valuations:

Unimproved freehold:	£2,025,000
Unimproved leasehold:	£1,257,000

Yield

7.5 We agree with both valuers that prime St Johns Wood should be 6%. While the subject property is in the generality of that prime area, Acacia Road is slightly less than prime. Further, the property itself is built on a site which was cramped even before the morning room was built. To this factor must be added the new extension to 53 Avenue Road which imparts an "urban feel" to the subject property.

7.6 Mr Buchanan also pointed out that there is a very low, fixed ground rent.

7.7 All in all, the Tribunal have adopted a yield of 6.25%.

8.0 Conclusion

8.1 The Tribunal's valuation determining an enfranchisement price of £493,500 is set out in Appendix 3.

CHAIRMAN..... *J. McGrandia*

DATE..... *26. 10. 99.*

THE LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993

30A Acacia Road

S 9(1c)

Valuation Date: 24/06/98

LEASE TERMS:

Lease commenced: 25/03/36

Lease to expire: 25/03/35

Unexpired Term: 36.78

Ground rent (pa) £75

	Improved	Unimproved	
FHVP	£2,200,000	£2,100,000	
Leasehold Value	£1,320,000	£1,260,000	60.00%
Tenant's Improvements		£100,000	

LANDLORDS INTEREST:**Term 1:**

Ground Rent: £75

YP 36.78 @ 6% 14.7114

£1,103

Reversion:

FHVP Less improvements: £2,100,000

PV £1 36.78 @ 6% 0.1173

£246,370

Lessors Interest

£247,473**MARRIAGE VALUE:**

FHVP: £2,100,000

Less

Landlords Interest: £247,473

Leasehold Interest: £1,260,000

Total Marriage Value: £592,527

Take 50% MV

£296,263

Freeholders interest:

£543,737**SAY £540,000**

30A ACACIA ROAD, LONDON NW8Valuation as at 24th June 1998

Under the provisions of the Leasehold Reform Act 1967 Section 9(1)c as amended by the Leasehold Reform Housing and Urban Development Act 1993

1. Value of Freeholders Interest			
<u>Term</u>			
	Ground Rent	£75 pa	
	YP 37 yrs @ 6½%	13.88	£1.041
<u>Reversion</u>			
	Unimproved Open market	£2.0m	
	Freehold value		
	PV £1 37 yrs @ 6½%	.0972	<u>£194.400</u>
			£195.441
<u>Marriage Value</u>			
	Open market Freehold Value	£2.0m	
Less	(i) Freeholders Interest	£195,441	
	(ii) Unimproved Open market	<u>£1,279,000</u>	
	Leasehold Value		
	Marriage Value	£525.559	
	Freeholders share at 50%		<u>£262.780</u>
	Enfranchisement Price		£458.221



