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Ref: LON/LVT/1391/01

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 Ian Fife Campbell Anstruther (The Landlord)

Respondent: Mr Robert Gavin Langmuir

RE: 9 Thurloe Street, London SW7

Date of Tenant's Notice: 5 July 1999

Date of Counter Notice: 16 November 1999

Application to Tribunal dated: 11 April 2001

Heard: 27 November 2001

Inspection: 28 November 2001      Unexpired Term: 53.8 years (agreed)

Valuation date: 5 July 1999      Ground Rent: £250 p.a. with reviews on 25  
March 2004, 2025, 2046 to  
.1% of the freehold value

Appearances: Mr R Lamb of Counsel  
Mr C S R Marr-Johnson, FRICS of Messrs Marr-Johnson & Stevens  
Chartered Surveyors  
for the tenant

Miss C Holland of Counsel  
Miss A Taylor of Messrs Bircham Dyson Bell, Solicitors  
Mr N C Peel, FRICS of Messrs Cluttons, Chartered Surveyors

for the landlord

Members of the Leasehold Valuation Tribunal

Mrs B M Hindley, LLB      (Chairman)  
Mr D Levene OBE MRICS  
Mr D J Wills, ACIB

Date of Tribunal's decision: 18 JAN 2002

1. Attached at Annex 1 is the statement of agreed facts
2. Attached at Annex 2 and Annex 3 respectively are the valuations of Mr Peel and Mr Marr-Johnson.
3. At the commencement of the hearing the issues were as set out below:-

	Landlord	Tenant
Freehold value (unimproved)	£2,034,000 (£670 psf)	£1,620,000 (£534 psf)
Existing lease value	£1,545,840 (76% differential)	£1,247,400 (77% differential)
Marriage value	50%	50%
Capitalisation rate	6%	6%
Enfranchisement price	£301,000	£232,000

4. Both valuers relied essentially on the same properties as comparables and those have been scheduled by the Tribunal at Annex 4, to include the additional information provided only by Mr Peel relating to the fact that No.3 Thurloe Street is presently on the market at £2,850,000. Also shown on the schedule is the adjustment to the valuation date by reference to Savills' Prime Central London Houses Index referred to further below.
5. However, the two valuers drew different conclusions from the available evidence because, inter alia, they used different Savills' indices for their necessary time adjustments. Mr Peel preferred to adopt the Prime Central London South West Index whilst Mr Marr-Johnson used Prime Central London Houses. At one point in the hearing Mr Marr-Johnson proposed that an average of the two indices could be used but this was rejected by Ms Holland
6. Further Mr Peel considered that the position of No.11 Thurloe Street, with its proximity to Exhibition Road and a chinese restaurant, together with its being immediately overshadowed by buildings on its western and northern boundaries, justified an uplift of 25% to the adjusted (to the valuation date) price per square foot.
7. Mr Marr-Johnson considered a 10% uplift appropriate for these same factors. In his proof of evidence he off set this by 5% to reflect the many improvements at No 11. However, at the hearing, he chose not to pursue this argument because the treatment of improvements had been previously agreed between the parties and he declined an adjournment offered by the Tribunal to reconsider the issue.
8. Mr Marr-Johnson also saw a 15% differential between the subject property and No 3 Thurloe Street. Mr Peel considered there was none.

9. Mr Marr-Johnson's analysis of the sale of 23 Alexander Square produced a differential of 19% above his valuation of the subject property which, he considered, reflected 'the much better address, aspect and location of Alexander Square'. Mr Peel was of the opinion that each of these factors was off set by 'a very small rear garden backing onto a commercial building'.
10. The Tribunal chose to adopt the Prime Central London Houses Index because it covered only houses and it clearly included the specific location of the subject property. Further, they noted that the two 'transactions' relating to No 3 Thurloe Street showed an increase in value much more in line with the use of the Houses index.
11. From their inspection the Tribunal was of the opinion that Exhibition Road impacted on both No 11 and the subject property. They noted a significant smell of cooking in the immediate neighbourhood and that No 11 was particularly blighted at its rear by the adjacent rear walls of Nos 4 and 6 Exhibition Road and the flank wall to No 8 Exhibition Road.
12. Taking all these factors into consideration the Tribunal was persuaded that the appropriate differential with No.11 was 12.5% and accordingly they adopted a freehold unimproved freehold value of £1,730,500 (£570 per square feet). In coming to this conclusion the Tribunal had regard to the evidence relating to 3 Thurloe Street and 23 Alexander Square and was satisfied that their decision was consistent with the same.
13. In the absence of any relevant sales of similar length leases, both valuers relied on their own analyses of settlements (since they were not able to assert that the relativity had necessarily been agreed) to support their preferred relativity to freehold value. This resulted in Mr Marr-Johnson producing alternative relativities in connection with 15 Thurloe Place. (See Annex 5 for a schedule produced by the Tribunal from the evidence).
14. Mr Peel also produced a graph which included other settlements on the Anstruther Estate. However, it became clear at the hearing that the entries had not been plotted entirely accurately.
15. The Tribunal chose to adopt 76% and therefore valued the existing lease interest at £1,315,180.
16. Accordingly, with the marriage value and capitalisation rate agreed between the parties the Tribunal produced the following valuation:-

VALUATION DATE 5 JULY 1999

Value of freehold interest

Current Ground rent	£250		
Years Purchase 4.8yrs @ 6%	4.06	£1,015	
Reversion to review rent 0.1%			
freehold value £1730500	1731		
Years Purchase 49 yrs @ 6%	15.71		
	27194		
Defer 4.8 yrs @ 6%	0.76	20667	
Reversion to freehold value	1730500		
Defer 53.8 yrs @ 6%	0.0436	75450	97132

Marriage Value

Freehold value in possession		£1,730,500	
Value of existing interests			
Landlords existing interest	97132		
Tenants existing interest @ 76%	1315180	1412312	
Marriage Value		318188	
Landlords share @ 50%			159094
Enfranchisement price payable excl costs			£256,226
		say	£256,230

17. The Tribunal, therefore, determined that the sum to be paid for the freehold interest in 9 Thurloe Place, London SW7 is £256,230.

CHAIRMAN ..... *R. D. Hurdley* .....

DATE ..... 18 JAN 2002 .....

## STATEMENT OF AGREED FACTS 9 THURLOE STREET, LONDON SW7

### 1. PARTIES

1.1 **Freeholder** : The Thurloe Estate, Mr IFC Anstruther

**Freeholder's Representative** : Mr NC Peel, FRICS, of Cluttons

1.2 **Leaseholder** : Mr RG Langmuir

**Leaseholder's Representative** : Mr CSR Marr-Johnson, FRICS, of Marr-Johnson & Stevens

### 2. CIRCUMSTANCES OF THE APPLICATION

2.1 On the 5<sup>th</sup> July 1999 Notice was served by the leaseholder, Mr RG Langmuir, under the Leasehold Reform Act 1967, claiming the freehold of 9 Thurloe Street, London SW7. A copy of the Notice is attached - **Appendix 1**.

2.2 On the 6<sup>th</sup> November 1999 Notice was served by the landlord's solicitors admitting the claim. A copy of the Notice is attached - **Appendix 1**.

On the 11<sup>th</sup> April 1999 the landlord's solicitors made application to the Leasehold Valuation Tribunal.

2.3 The issue in dispute is the enfranchisement price being the addition of :

(a) the diminution in value of the landlord's interest and

(b) the landlord's share of marriage value

### 3. 9 THURLOE STREET, LONDON SW7

3.1 9 Thurloe Street is situated on the northern side of Thurloe Street, about sixteen metres from its junction with Exhibition Road to the west. The location can be seen on the extract from the ordnance survey plan in **Appendix 2**.

3.2 A photograph of the exterior of the property, taken from the street, is shown in **Appendix 3**.

3.3 9 Thurloe Street is a centre terrace house in good condition built in the mid nineteenth century of brick construction with stucco work to the front elevation, under a slated mansard roof. There is a small garden to the front of the house and a garden to the rear.

The whole plot measures about 5.7 m x 33m.

#### 4. **ACCOMMODATION**

The accommodation is arranged on basement, ground and three upper floors and is set out in **Appendix 4**.

The gross internal floor area of the property to be valued (excluding tenant's improvements) is 282.017 square metres - 3,036 square feet.

#### 5. **LEASE DETAILS**

5.1 **Term** : The property is held on a lease dated the 19<sup>th</sup> July 1983 for a term of 70 years from the 25<sup>th</sup> March 1983, expiring on the 25<sup>th</sup> March 2053. The unexpired term from the claim date is 53.8 years. A copy of the lease is attached - **Appendix 5**.

5.2 **Rent** : The rent payable is £250 per annum.

5.3 **Rent Reviews** : There are rent reviews on the 25<sup>th</sup> March 2004, 2025 and 2046.

The lease provides that the rent shall be calculated as 0.1% of the freehold value of the demised premises with vacant possession and in full repair as at the review date.

#### 6. **IMPROVEMENTS**

It is agreed that the tenant carried out various improvements to the house by licence dated 20<sup>th</sup> July 1993 from the Landlord, which fall to be taken into account by reducing the floor area of the property to be valued. It has therefore been agreed to exclude these from floor areas shown in **Appendix 4**.

#### 7. **YIELD**

The freeholder's interest is to be valued at 6%.

#### 8. **MARRIAGE VALUE**

The marriage value is to be apportioned at 50% to the freeholder and 50% to the leaseholder.

9. COMPENSATION

No compensation is payable to the landlord for the diminution in value of any interest that the landlord has in any property, other than the tenant's house, which results from the transfer of the freehold interest to the tenant.

10. AGREED COMPARABLE PROPERTIES

- 10.1 11 Thurloe Street : Sold freehold in April 2000 for £2,050,000. Gross internal floor area 3,228 sq.ft.
- 10.2 23 Alexander Square : Sold freehold in September 2000 for £2,400,000. Gross internal floor area. 2,945 sq.ft.
- 10.3 Photographs of the comparable properties are shown on Appendix 6.

*W. C. Bell*  
for the lessor  
15. 11. 01

*S. J. Tam-Johnson*  
for the lessee  
15. 11. 01

**ACCOMMODATION  
9 THURLOE STREET**

**BASEMENT**

Front hall with external staircase to front garden and storage vaults.  
Staff flat comprising bed sitting room, kitchen and bathroom.  
Playroom/Bedroom 5/Bathroom  
Access to rear garden  
Floor area 64.393 sq. metres (excluding area of tenant's improvements, which amount to 10.096 sq. metres).

**GROUND FLOOR**

Entrance hall  
Dining Room  
Kitchen  
Family Room  
Access to terrace and rear garden  
Floor area 62.585 sq. metres (excluding area of tenant's improvements, which amount to 10.096 sq. metres).

**FIRST FLOOR**

Living Room  
Study on half landing  
Store room  
Floor area 62.599 sq. metres

**SECOND FLOOR**

Master Bedroom with a dressing room and en suite bathroom  
Laundry Room on half landing  
Floor area 51.89 sq. metres

**THIRD FLOOR**

Three bedrooms  
Bathroom  
Floor area 40.550 sq. metres

**FLOOR AREAS**

Basement	64.393 sq. metres
Ground Floor	62.585 sq. metres
First Floor	62.599 sq. metres
Second Floor	51.89 sq. metres
Third Floor	<u>40.550</u> sq. metres
<b>Total</b>	<b>282.017 sq. metres : 3,036 square feet</b>



**4. CALCULATION OF PREMIUM**

**4.1 Valuation Summary**

**4.1.1 Lease Data**

Lease expiry, 25.03.2053

Rent review, 25.03.2004 (to 0.10% of the capital value).

**4.1.2 Facts**

Date of claim, 05.07.1999

Existing lease 53.8 years unexpired

Ground rent £250 per annum

Rent reviews 21 yearly

Years to first review, 4.7

Capitalisation rate, 6%

**4.1.3 Market value of freehold in possession - £2,034,000**

**Market value of existing lease - £1,545,840 (76.0% differential)**

#### 4.2 Diminution in value of landlord's interest

##### Term of Existing Lease

Loss of rental income			250		
YP	4.73 yrs @	6%	<u>4.01</u>	1,003	
Plus					
Estimated rental value	0.1% of freehold value		2,034		
YP	49 yrs @	6%	15.71		
PV £1 in	4.73 yrs @	6%	<u>0.76</u>	11.93	24,261
Plus					
Reversion to capital value			2,034,000		
Less : Leaseholder's improvements			<u>0</u>		
			2,034,000		
PV £1 in 53.8 yrs @		6%	<u>0.0436</u>	86,702	<u>£113,967</u>

#### 4.3. Landlord's share of marriage value

Para 2 (b) Landlord's share of marriage value :

##### Extended interests

1.	(a) Value of Freehold in possession	2,034,000	
	(b) Less, Leaseholder's improvements	0	
2.	Value of landlord's interest in tenant's house once new lease is granted	<u>0</u>	2,034,000
Less	Existing interests		
1.	(a) Value of tenant's interest under existing lease	1,545,840	
	(b) Less Leaseholder's improvements	0	
2.	Value of landlord's existing interest	<u>113,967</u>	<u>1,659,807</u>
	Difference (marriage value) =		374,193
	Landlord's share @ 50%		<u>£187,097</u>

#### 4.4 Valuation Summary

4.4.1	Diminution in landlord's interest -	£113,967
4.4.2	Landlord's share of marriage value -	£187,097
4.4.3	Compensation payable to landlord	<u>£ 0</u>
4.4.4	Premium payable by tenant	£301,064
	<b>But say</b>	<b>£301,000</b>

**G Langmuir Esq**  
**Leasehold Reform Acts 1967 & 1993**  
**9 Thurloe Street, London SW7**

**Freehold Valuation as at**

		Jul 1999	Mar 2053	
		claim	expiry	
Ground rent per annum:				£250
Years' purchase for:	53.7 years at	6%		<u>15.936</u>
				£3,984
Rent review to 0.1% CV at	Mar 2004	with increase of:	£1,370 pa	
	(years)	(rate)		
Years' purchase for:	53.7	6%	15.936	
less ditto for:	4.7	6%	<u>3.969</u>	<u>11.967</u>
				£16,395
Reversion to fully repaired but unimproved value, freehold with vacant possession			£1,620,000 *	
Present value of £1 after:	53.7 years at	6%	<u>0.04384</u>	<u>£71,026</u>
Open market value of landlords' interest				£91,404

**Marriage Calculation**

Freehold as above				£1,620,000
less freeholders' interest			£91,404	
and lessee's interest @	77%	78.3%	<u>£1,247,400</u>	
(ignoring the right to claim)	of freehold #	rent free		<u>£1,338,804</u>
Total marriage value				£281,196
Landlords' share @ 50%				<u>0.5</u>

£140,598

**Enfranchisement price exclusive of costs**

**£232,002**

**C S R Marr-Johnson**

**12th November 2001**

\* this freehold value of £1,620,000 equates to £533.66 psf based on 3,036 sq ft GIA.

	Savills PLC Houses	Index	% change	factor	reciprocal
<b>interpolated figure</b>	<b>Jul 1999</b>	<b>341.0</b>	<b>0.0%</b>	<b>1</b>	<b>1</b>
interpolated figure	Feb 2000	410.7	20.440%	1.204399	0.83029
	Mar 2000	423.3	24.13%	1.241349	0.80558
interpolated figure	Apr 2000	427.1	25.249%	1.252493	0.79841
	Sep 2000	437.3	28.240%	1.282405	0.77979

							ANNEX 4
LEASEHOLD VALUATION TRIBUNAL				LON/LVT/1391/01			
9 THURLOE STREET							
SCHEDULE OF SALE/SETTLEMENT EVIDENCE							
ADDRESS	DATE	PRICE	GIA <sup>sf</sup>	£psf	Adjustment	REMARKS	
					valn date		
11 Thurloe Street	April 2000	2050000	3228	635	507		
23 Alexander Square	September 2000	2400000	2945	815	635		
3 Thurloe Street	February 2000	2100000	2805	749	622	Settlement LRA case	
3 Thurloe Street	current	2850000	2922	975	684	Asking price	
3 Thurloe Street	current	2600000	2922	890	624	Asking price less margin for negotiation suggested by Mr Peel	

Annex 4.

			9 THURLOE STREET		ANNEX 5
			RELATIVITY EVIDENCE		
	SUBJECT	PROPERTY		UNEXPIRED TERM	53.8YRS
			LANDLORD	76%	
			TENANT	77%	
ADDRESS	unexpired term		LANDLORD		TENANT
19 Alexander Sq	53.5		75%		
25 Thurloe Sq	52.8		75%		
15 Thurloe Place	53.5		76%		76.50%
					or 77.8%
13 Pelham Cres	49.2				75%
20 Thurloe Place	57.2				85%

ANNEX 5: