

RESIDENTIAL PROPERTY TRIBUNAL SERVICE**LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT
ASSESSMENT PANEL****CASE NUMBER: LON/00AY/OCE/2007/0126****IN THE MATTER OF SECTION 24 OF THE LEASEHOLD REFORM HOUSING
AND URBAN DEVELOPMENT ACT 1993**

Premises : 339 & 341 Lyham Road London SW2 5NT

Parties : Lyham Road Nos 339-341 Limited Applicant
Frances Wendy Agnew and Respondent
Margaret Isobel Barno

**Representatives : Mr T O'Keeffe Buy Your Freehold Limited
for the Applicant**
**: Mr R A Armstrong FRICS of Westburys Chartered
Valuation Surveyors and Estate Agents
for the Respondent**

**Tribunal Members : Mr A A Dutton
Miss M Krisko BSc (Est Man) BA FRICS
Mr J P Power MSC FRICS FCI Arb**

Hearing Date : 24th July 2007

Date of Decision : 8th August 2007

REASONS/DECISION

A. BACKGROUND

1. On the 3rd November 2006 the nominee purchaser, Lyham Road Nos 339-341 Limited, the Applicant in this case, served an initial notice pursuant to Section 13 of the Act seeking the enfranchisement of the freehold and offering a purchase price of £5,672 for the specified premises and an additional sum of £100 for appurtenant property. A landlord's Counter Notice dated 12th January 2007 was filed in which the rights to enfranchise were admitted but the purchase price was not accepted and the sum of £24,400 was put forward, although the amenity land price of £100 appeared to be agreed. The matter came before us for hearing on the 24th July 2007 when certain matters had been agreed between the parties as follows:-

- The Valuation date is the 7th November 2006.
- The unexpired terms of the leases at the Valuation date are 76.89 years.
- The uplift to freehold reversion is agreed at 1%

and at the hearing further matters were agreed;

- The legal costs in the sum of £1,000.00 plus VAT.
- It appeared that the valuation fees of £600.00 plus VAT had also been agreed,
- the terms of the Transfer

This left in the dispute, the following:-

- The capitalisation rate for which the Applicant argued 8% and the Respondent 7.5%
- Deferral rate for which the Applicant argued 6% and the Respondent 5%
- The extended lease value with a share of the freehold for which the Applicant contended the sum of £206,910 for Flat 339 and £199,595 for Flat 341. The Respondent contended a valuation of £255,000 for both flats.
- The final area of dispute was the question of relativity for which the Applicant contended 96%, but to include the 1% uplift from long lease to freehold and the Respondent 92% which did not include the uplift for the freehold reversion.

B. EVIDENCE

2. Both representatives submitted reports on the morning of the hearing.

3. Mr. O'Keeffe, on behalf of the Applicant took us through his report. On the question of capitalisation rates he relied upon a number of Leasehold Valuation Tribunal decisions and a Lands Tribunal case of Nicholson and Bundy v. Wilkes (NRA/29/2006) which assisted him in assessing the appropriate capitalisation rate to apply. Bearing in mind the fixed ground rents of £100 in total and the costs of collection of same he adopted a capitalisation rate of 8%.
4. As to the deferment/reversionary rate he referred to Schedule 6 of the Act and also to the Lands Tribunal Case of Sportelli which he told us was undergoing appeal at the time of the hearing and which was in his view a poor decision. He concluded that this case could be differentiated from the Sportelli case, because in particular there is a greater risk of obsolescence. He also bore in mind a couple of settlements that he had reached, details of which were attached to his report and concluded that the appropriate rate should be 6%.
5. On the question of relativity he confirmed that he included within the figure of 96% the uplift of 1% from long lease to share of freehold. He also made a further allowance of 1% for the No Act World discount and to reach the 96% figure made a further deduction of an unusual sum of 2.71% to reflect the difference in value, although his written evidence indicated that there was no local evidence of any difference between the present lease length and a long lease. To check his percentage figure he also relied on certain LVT determinations set out in his report and graph evidence from Beckett and Kay and, in particular, the LEASE recording of LVT decisions and the Moss Kaye graph. He was of the view that relativity was affected by location.
6. On the question of market values, he had included in his report a number of transactions, the most recent of which was dated the 24th October 2005. He told us his report, although dated the 16th July 2007, had in fact been prepared in April of 2006. He had introduced into his report details of some local estate agents marketing data which in his view supported the value of the ground floor flat at £205,000 before deductions and the first floor flat at £195,000. He made deductions for improvements to the ground floor flat totalling £4,500 representing central heating, double glazing and rewiring. For the first floor flat he made an allowance of £3,500, again for central heating, double glazing and a new door. This led him to believe that the unimproved existing lease values were as follows; for the ground floor flat, £198,634 and for the upper flat £191,611. The improvement figures were based on his own assessment and on the understanding that he believed that there was no central heating when the leases were granted.

7. For the Respondents, Mr Armstrong, as with Mr O'Keeffe, had submitted a report and in addition some colour photographs of the various properties referred to therein. Mr Armstrong confirmed that he had been experienced in dealing with properties in the area for some time and that he thought that the property was probably built around 1908. It was, he said, an area mainly comprising purpose built maisonettes.
8. He firstly dealt with capitalisation rates and has adopted a figure of 7.5% in line with the analysis of Leasehold Valuation Tribunal decisions which were set out in his report. It was, he thought, a small element of the valuation process and did not seek to introduce any further evidence.
9. As to the deferment rate, he relied upon Lands Tribunal case of Sportelli where a rate of 5% had been adopted. He did not believe there were any good reasons for departing from the principals in the Sportelli case and that certainly there was no obsolescence which needed to be considered.
10. On the value of the maisonettes with the share of the freehold he listed some six properties which had been the subject of transactions at around the valuation date. He had not, however, internally inspected the properties and was not in truth able to confirm to us whether they were one, two or three bedroom maisonettes or their state of repair. He was however able to give us the length of term remaining, the sale dates and the sale price. He did however suggest that one property at 379 Lyham Road which had sold for £217,000 was in a poor state of repair. He had no knowledge of any improvements, but had taken a view that the average figure of £256,000 was about right. There was some market evidence with regard to properties in Brixton Hill currently on the market or under offer, with prices ranging from £250,000 to £335,000. Taking an average of £293,500 and applying the Land Registry's House Price Index brought the figure back to £263,000 as at the valuation date. Taking the matters in the round however he concluded that a figure of £255,000.00 was appropriate for both maisonettes at the valuation date held on extended leases.
11. As to the value of the maisonettes on the current lease term, he had not been able to identify any comparable market evidence and therefore relied upon relativity. Utilising the Beckett and Kay graphs, he had taken the middle figure between the relativities of 87% and 97% giving him a figure of 92% for relativity purposes.
12. Accordingly, following the evidence, for the Applicant, Mr O'Keeffe concluded that the price payable for the freehold was £9,025.00 and Mr Armstrong that it should be £27,112.00.

C. THE LAW

13. We have applied the provisions of the Act to the valuation process, in particular Schedule 6.

D. DECISION

14. It was decided following a review of the evidence that an inspection of the property would not be of assistance. We were told by Mr O'Keeffe that we would only be able to gain access to one of the maisonettes in any event. We were assisted with the photographic evidence of the exterior of the property and both experts had confirmed the extent of the accommodation and the measurements, although there was some difference between them as to the gross internal area. That however did not appear to be an issue that they pursued as their valuations had not been based solely upon the size of the properties.
15. It is unfortunate that closer agreement could not be reached between the Valuers. In truth these are relatively standard properties in, what appears to be commonly accepted, a road containing a number of properties of a similar nature. There appears to be nothing special about the accommodation which would result in one Valuer assessing the sum payable for the freehold of £9,025 and the other a figure of £27,112.
16. We were not greatly assisted with the evidence produced by both Valuers in respect of the value of the flats, either on an extended lease basis or with current lease values. Mr Armstrong, who clearly is experienced in the local market, had been unable to find any evidence of leasehold properties in the locality selling with 77 years unexpired which we find somewhat surprising, and of his comparables was not able to confirm the accommodation in the six that he cited with any certainty.
17. Mr O'Keeffe in his report relied upon transactions which were at least a year old at the time of the valuation date and appeared to have made no real attempt to update those to assist us in determining the values attributable to the existing lease and extended lease at November 2006. We have therefore had to do the best we can with the information that is before us.
18. We will deal firstly with the various yield rates, and in that regard we give our findings in respect of the capitalisation rate. None of the recent Lands Tribunal cases of Arib and Sportelli have had any impact on the assessment of capitalisation rates. This has to be decided on the evidence before us. It seems to us that where we are faced with leases that have a fixed ground rent and there are only two properties involved that the costs of collection could be out of

proportion to the sums due and hardly constitute a great investment. Whilst we accept that it may be secure, it is in reality of very modest value. In those circumstances, we conclude that the capitalisation rate suggested by Mr O'Keeffe is appropriate. It is only a small element above that suggested by Mr Armstrong and he himself accepted that this was not a major element of the valuing process.

19. Insofar as the deferment rates are concerned, we did not accept Mr O'Keeffe's argument that these properties were more likely to suffer from obsolescence. There did not appear to be any special circumstances which caused us to depart from the principals of the case of Sportelli. Whilst it may be subject to criticism, it seems to us that until such time as it has been reviewed by the Court of Appeal, we are bound to follow the decision in the light of the comments made by the Lands Tribunal and we find therefore that a deferment rate of 5% is appropriate to be applied in this case.
20. We then turn to the question of relativity. We are aware of the case of Arrowdell Limited v. Coniston (North) Hove Limited which was referred to in passing by Mr Armstrong. The tribunal in that case found that evidential worth should be given to graphs in the absence of any other compelling evidence. In that tribunal case, they were of the view that relativities could vary between the type of property and the area, but the predominate factor would be the length of term. Accordingly, in the absence of compelling market evidence we must consider the graph data which both Valuers had included within their report and submissions. Both relied on the Beckett and Kay graph which incorporates a number of other graphs, some which are relevant and some which are not. For example, the W A Ellis 2001 houses would not be of great assistance to us, nor the Cluttons, St John's Wood houses. The upper graphs prepared from data provided by Moss Kaye and from all LVT determinations would appear to indicate a percentage figure in the middle to high nineties. Mr Armstrong had merely taken the lowest and highest and come to a figure in between. Unfortunately, the copies of the graphs provided to us were not in colour and Mr Armstrong's version was the 2006 graph, whereas Mr O'Keeffe had produced the 2007 version.
21. We are satisfied that leases of this length of term are readily saleable and are somewhat surprised that Mr Armstrong was not able to obtain any evidence of leases of around 77 years in open market. The relativity between an extended lease and a lease of this length must be fairly small. We do not believe that Mr Armstrong's figure of 92% reflects the position. Mr O'Keeffe in adopting a figure of 96% to include the 1% uplift seems to us to be nearer the mark and that is the figure that we adopt for the purposes of the assessment of the premium payable.

In this case the LEASE and Moss Kaye graphs are likely to include properties such as these maisonettes.

22. We now turn to the question of the values of the existing and extended leases. We note from the evidence before us that in October of 2003, the ground floor maisonette was acquired for £158,500.00. Mr O'Keeffe argues for a figure of £195,000 for the first floor maisonette and £205,000 for the ground floor property. Mr Armstrong says a figure of £255,000 for both is appropriate. We consider that figure to be on the high side. In his comparables, 379 Lyham Road with a long lease that completed at the beginning of January 2007 sold for £217,000.00. We were told that this was in an unimproved state. However, it is close to the valuation date and gives us the unimproved extended lease value that we need. Allowing for the fact that some of the lack of improvement might constitute lack of repair, we have concluded that an appropriate figure for the extended lease value would be £220,000. If one then applies the 96% relativity to that, figure of £211,200 is appropriate for the existing lease value. Applying these elements to the valuation process we conclude that the price payable for the freehold of £14,590. The details are set out on the attached schedule.


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Andrew Dutton (Chairman)

Date

8th August 2007

Leasehold Valuation Tribunal valuation for 339-341 LYHAM ROAD, LONDON,
SW2 5NT Case LON/00AY/OCE/2007/0126

Valuation date (agreed)	7th November 2006.
Remaining term (agreed)	76.89 years
Capitalisation rate	8%
Reversionary rate	5%
Extended lease value (including share of freehold)	£220,000 each
Existing lease value	£211,200 each
Relativity	96%

1. Value of the freehold interest

Ground rent £50 p.a. x 2 £100 p.a. YP 76.89 years @ 8% 12.46634219		£1,247
Reversion to freehold with vacant possession, excluding value of tenants' improvements	£440,000	
PV 76.89 years 5% 0.0234831 £11,580		£10,333

2. Marriage Value

Value of leasehold interest after enfranchisement, excluding value of tenants' improvements	£440,000	
Less		
(a) Value of freehold interest before enfranchisement	£ 11,580	
(b) Value of leasehold interest before enfranchisement, excluding value of tenants' improvements (96%)	<u>£422,400</u>	
		<u>£433,980</u>
		£ 6,020
Marriage value 50%		<u>£ 3,010</u>
3. Any other loss		Nil
4. Price to be paid for the landlord's interest		<u>£14,590</u>