

**Leasehold Valuation Tribunal For The London Rent Assessment Panel**

LON/00AG/OCE/2008/0176

**Leasehold Reform, Housing and Urban Development Act 1993 (as amended) Section 26**

**Property:** 73 Patshull Road, London NW5 2LE

**Applicants:** Mary Patricia Hayes, Andrew Brown, and Adam Constantine Andrews

**Represented by:** TWM Solicitors

**Respondent:** Audie Mercier

**Represented by:** No appearance – Missing Landlord

**Paper Determination:** 9<sup>th</sup> September 2008

**The Tribunal:**

**Mr L. W. G. Robson LLB(Hons) MCI Arb. (Chairman)**  
**Mr W. J. Reed FRICS**

**Preliminary Matters**

1. This case relates to an application made under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 (as amended) for a determination of the price to be paid for a freehold house where the landlord is missing. The application was made in the Central London County Court on 20<sup>th</sup> February 2007. The case was transferred to this Tribunal for the determination of the sum to be paid by the Applicants for the freehold interest pursuant to an Order of District Judge Lightman dated 5<sup>th</sup> June 2008 vesting the freehold interest in the property in the Applicants.
2. Preliminary Directions were sent to the Applicants' solicitors on 10 June 2008. These required the solicitors to prepare three copies of a bundle of documents for the Tribunal, to include a Valuation Report with a schedule of comparable market and settlement evidence.
3. Regrettably the bundles provided in response to those Directions did not include a properly prepared Valuation Report, nor a schedule of market and settlement evidence, and, following a consideration of the papers by a Leasehold Valuation Tribunal on 31 July, the solicitors were again asked to provide expert valuation evidence in accordance with the Tribunal's earlier Directions

### Evidence

4. In response to the further request the solicitors commissioned an expert report and valuation from Mr Robert D.S. Heald FRICS of Wallakers, Chartered Surveyors dated 2nd September 2008. A copy of his summary final valuation is attached hereto as Appendix A.
5. The property was described by Mr Heald as a three storey semi-detached house arranged as three self-contained flats. Details of the accommodation and of the lease for each flat were included in Mr Heald's valuation, as follows –

Ground Floor Flat      Bedroom 1, Reception Room, Kitchen, Bedroom 2, bath/WC, Access to Garden.  
Lease for 99 years from 24 June 1978 at £30 p a for the first 33 years, £60 p a for the next 33 years and £90 p a for the remainder of the term.

First Floor Flat      Reception Room, Kitchen, Bath/WC, Bedroom, NB to ½ Landing Bedroom, Separate WC Not Self Contained.  
Lease for 99 years from 24 June 1988 at £50 p a for the first 33 years, £100 p a for the second 33 years and £150 p a for the remainder of the term.

Second Floor Flat      Kitchen, Reception Room, Bedroom/Study, Bath/WC, Bedroom.  
Lease for 99 years from 24 June 1972 at a fixed ground rent of £25 p a.

6. Mr Heald valued the leasehold interests in the flats after collective enfranchisement, excluding the value of the tenants' improvements, as follows –

Ground Floor Flat      £300,000, (excluding new kitchen, bathroom etc.)

First Floor Flat      £245,000, (excluding new kitchen, bathroom, self-containment, etc.)


Second Floor Flat      £275,000, (excluding new kitchen, bathroom, etc.)

7. In support of his valuations Mr Heald attached to his Report copies of pages downloaded from the rightmove.co.uk website showing brief details of a number of flats in Patshull Road and the adjoining roads, with the asking prices, and the sale prices for the flats which had been sold, between 1 October 2006 and 2 August 2007. He also provided copies of two Leasehold Valuation Tribunal decisions – one at Earlsfield in November 2005 and one at Tolworth in March 2004 – in support of the relativities which he had adopted between the values of the existing and enfranchised leasehold interests in his valuation.

### **The Tribunal's Decision**

8. The Tribunal considered the evidence and valuation, and concluded that Mr Heald's valuation was not of great assistance. He had calculated the enfranchisement price at £62,500 as at 20<sup>th</sup> February 2007, based on a valuation of £23,624 for the ground floor flat, £8609 for the first floor flat and £30,303 for the second floor flat. He had used a Capitalisation Rate of 6%, a Deferment Rate of 5%, Relativities of 84 and 89% for the ground and second floor flats, and Marriage Values of 50%, except for the first floor flat where the unexpired term of the lease had exceeded 80 years at the valuation date.
9. The difficulties the Tribunal noted with the valuation were that there was very limited evidence of sale figures in the evidence, and no details of the unexpired terms of the leases for any of the comparables. The schedule of comparables largely consisted of asking prices, which ranged from £349,950 to £535,000 for two-bedroom flats, and from £259,995 to £289,950 for one-bedroom flats (including four one-bedroomed flats in Patshull Road) in the period around the valuation date. Mr Heald had chosen starting figures of £300,000 for the extended lease value of the ground floor flat, £245,000 for the first floor flat, and £275,000 for the second floor flat, but with no explanation beyond his own opinion. There were also arithmetical errors in his valuation.
10. Even allowing for the effect on value of the tenants' improvements, including the self-containment of the first floor flat, Mr Heald's valuations of the leasehold interests after enfranchisement were clearly well below the range of asking prices for two-bedroom flats provided by his comparables. His highest valuation, of £300,000 for the ground floor flat, was £50,000 below the lowest comparable asking price.
11. The Tribunal was also mindful of its duty to the missing landlord, and, doing the best it could with the evidence provided by Mr Heald, it determined that the value of the enfranchised leasehold interests at the valuation date in the ground, first and second floor flats was £350,000, £295,000 and £325,000 respectively.
12. No allowance had been included in Mr Heald's valuation for 'Any Other Loss', and, having determined the value of the enfranchised leasehold interests at the valuation date and accepting Mr Heald's relativities of 98% for the ground floor flat with 70.33 years unexpired, and 84% for the second floor flat with 64.33 years unexpired, the Tribunal determined that the price to be paid by the nominee purchaser for the purposes of s.27(5) of the Act is £65,700. To this should be added any other sums lawfully due and owing to the landlord at the date of the Transfer. A copy of the Tribunal's determination of the price is attached as Appendix B.
13. Although it is unclear from the terms of the Order whether the County Court sought the Tribunal's assistance on the matter, the Tribunal considers that the form of Transfer

exhibited at pages 94 – 97 of the bundle is satisfactory, with the addition of the price to be paid in box 9, and the relevant certificate of value in box 1.

Signed:  .....

(Chairman)

Dated: 30th September 2008

**Appendix A** – Applicants' valuation.

**Appendix B** – Tribunal's determination

LEASEHOLD REFORM HOUSING AND URBAN DEVELOPMENT ACT 1993 AS  
AMENDED BY THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002

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73 PATSHULL ROAD, LONDON NW5 2LE  
VALUATION OF FREEHOLD INTEREST BY WAY OF COLLECTIVE  
ENFRANCHISEMENT

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Date of Valuation: 20<sup>th</sup> February 2007

Ground Floor Flat

Comprising: Bedroom 1, Reception Room, Kitchen, Bedroom 2, bath/WC, Access to Garden.

Lease Details

Lease Dated: 27<sup>th</sup> July 1978

Term: 99 years from 24<sup>th</sup> June 1978 (approximately 70½ years unexpired)

Ground Rent: First 33 years £30, second 33 years £60, remainder £90

Valuation

Extended Lease value less improvement (new kitchen, bathroom etc.) **£300,000**

**VALUE OF FREEHOLDERS PRESENT INTEREST**

Term 1

	30
X YP 4.33 YEARS @ 6%	3.9633

119

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Term 2

	60
X YP 33 YEARS @ 6%	14.1202
X PV 4.33 YEARS @ 5%	0.8120

693

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**Term 3**

	90	
X YP 33 YEARS @ 6%	14.2302	
X PV 37.33 YEARS @ 5%	0.1610	
		206

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**Reversion**

	300,000	
X PV 70.33 YEARS @ 5%	0.00441	
		13230

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**Total: £14,248**

**Marriage Value**

Value of Freeholders Interest		300,000
Less existing Lease value at 89%	267,000	
Freehold Interest	14248	
		281,248

**MARRIAGE VALUE: £18,752**

**50% £9,376**

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**Total: £23,624**

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**First Floor Flat**

Comprising: Reception Room, Kitchen, Bath/WC, Bedroom, N.B To ½ Landing  
Bedroom, Separate WC Not Self Contained.

**Lease Details**

Lease Date: 2<sup>nd</sup> July 1988

Term: 99 years from 24<sup>th</sup> June 1988 (approximately 80½ years un-expired)

Ground Rent: First 33 years £50, second 33 years £100, remainder £150

Valuation

Extended Lease value less improvement (new kitchen, bathroom, self-containment etc.)  
£245,000

**VALUE OF FREEHOLDERS PRESENT INTEREST**

**Term 1**

	50	
X YP 14.35 YEARS @ 6%	9.655	
		483

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**Term 2**

	100	
X YP 33 YEARS @ 6%	14.2302	
X PV 14.33 YEARS @ 5%	0.5301	
		754

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**Term 3**

	150	
X YP 33 YEARS @ 6%	14.2302	
X PV 47.33 YEARS @ 5%	0.1240	
		265

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**Reversion**

	245,000	
X PV 80.33 YEARS @ 5%	0.002901	
		7107

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**Total: £8609**

N.B No marriage value as remainder of Lease is in excess of 80 years.

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Second Floor Flat

Comprising: Kitchen, Reception Room, Bedroom/Study, Bath/WC, Bedroom

Lease Details

Lease Date: 7<sup>th</sup> September 1972

Term: 99 years from 24<sup>th</sup> June 1972 (approximately 64½ years un-expired)

Ground Rent: £25 per annum fixed

Valuation

Extended Lease value less improvement (new kitchen, bathroom etc.) £275,000

**VALUE OF FREEHOLDERS PRESENT INTEREST**

Term 1

	25	
X YP 64.33 YEARS @ 6%	16.27	
		406

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Reversion

	275,000	
X PV 64.33 YEARS @ 5%	0.05891	
		16,200

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**Total: £16,606**

Marriage Value

Value of Freeholders Interest		275,000
Less existing Lease value at 84%	231,000	
Freehold Interest	16,606	
		247,606



**Subtotal:** 27,394

**MARRIAGE VALUE:**

50% £13,697

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**Total:** £30,303

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Total Freehold Values	Ground Floor	23,624
	First Floor	8,609
	Second Floor	30,303

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**TOTAL:** £62,536

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**SAY:** £62,500

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N.B There is no additional development value attached to the site which is therefore ignored in the valuation.

## Appendix B

### 73 Patshull Road, London NW5 2LE

**Determination of the price to be paid by the nominee purchaser in accordance with s.32 and Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993, as amended, for the purposes of s.27(5) of the Act, as at 20 February 2007 – the date of the lessees' application to the Central London County Court for a Vesting Order.**

#### Ground Floor Flat

##### **A. Value of the landlord's freehold interest (Sched.6 para 3)**

Ground rent 20/2/2007 to 23/6/2011 YP 4.33 yrs @ 6%	£30 p a <u>3.7117</u>	£111
Ground rent 24/6/2011 to 23/6/2044 YP 33 yrs @ 6%	£60 p a <u>14.2302</u> £854	
PV £1 4.33 yrs @ 6%	<u>0.777298</u>	£664
Ground rent 24/6/2044 to 23/6/2077 YP 33 yrs @ 6%	£90 p a <u>14.2302</u> £1281	
PV £1 37.33 yrs @ 6%	<u>0.1136303</u>	£146
Reversion to freehold with vacant possession, excluding value of tenants' improvements PV £1 70.33 yrs @ 5%	£350,000 <u>0.0323498</u>	<u>£11,322</u>
		<b>£12,243</b>

##### **B. Marriage Value**

Value of leasehold interest after enfranchisement, excluding value of tenants' improvements		£350,000
<u>Less</u>		
Value of freehold interest before enfranchisement, excluding value of tenants' improvements	£12,243	
Value of leasehold interest before enfranchisement, excluding value of tenants' improvements (89%)	<u>£311,500</u>	<u>£323,743</u>
Marriage value		£26,257
<b>50% of marriage value</b>		<b>£13,128</b>

**C. Enfranchisement Price**

Value of landlord's interest	£12,243
50% of marriage value	<u>£13,128</u>
	<b>£25,371</b>

**First Floor Flat**

**A. Value of landlord's freehold interest (Sched.6 para 3)**

Ground rent 20/2/2007 to 23/6/2021 YP 14.33 yrs @ 6%	£50 p a <u>9.4330</u>	£472
Ground rent 24/6/2021 to 23/6/2054 YP 33 yrs @ 6%	£100 p a <u>14.2302</u> £1,423	
PV £1 14.33 yrs @ 6%	<u>0.4340392</u>	£618
Ground Rent 24/6/2054 to 23/6/2087 YP 33 yrs @ 6%	£150 p a <u>14.2302</u> £2,135	
PV £1 47.33 yrs @ 6%	<u>0.0634506</u>	£135
Reversion to freehold with vacant possession, excluding value of tenants' improvements PV £1 80.33 yrs @ 5%	£295,000 <u>0.019860</u>	<u>£5,859</u>
		<b>£7,084</b>

**B. Marriage Value** **£nil**  
(Unexpired term exceeds 80 years)

**C. Enfranchisement Price** **£7,084**

**Second Floor Flat**

**A. Value of landlord's freehold interest (Sched.6 para 3)**

Ground rent 20/2/2077 to 23/6/2071 YP 64.33 yrs @ 6%	£25 p a <u>16.2740</u>	£407
Reversion to freehold with vacant possession, excluding value of tenants' improvements PV £1 64.33 yrs @ 5%	£325,000 <u>0.0433517</u>	<u>£14,089</u>
		<b>£14,496</b>

**B. Marriage Value (Sched 6. para 4)**

Value of leasehold interest after enfranchisement,  
excluding value of tenants' improvements £325,000

Less

Value of freehold interest before enfranchisement,  
excluding value of tenants' improvements £14,496

Value of leasehold interest before enfranchisement,  
excluding value of tenants' improvements (84%) £273,000 £287,496

Marriage value £37,504

**50% of marriage value £18,752**

**C. Enfranchisement Price**

Value of landlord's freehold interest £14,496

50% of marriage value £18,752

£33,248

**Any Other Loss (Sched 6 para 5) £Nil**

**Total Enfranchisement Price**

Ground Floor Flat £25,371

First Floor Flat £7084

Second Floor Flat £33,248

£65,703

**Say £65,700**