

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL

LEASEHOLD REFORM HOUSING AND URBAN DEVELOPMENT ACT 1993

REF: LON/00BA/OCE/2007/0346

Address: 14 Parkwood Road, London SW19

Applicants: Paula Thorvaldsen and Colin Brits

Respondent: Maurice O'Donnell

**Tribunal: Mrs JSL Goulden JP (Chairman)
Mr I B Holdsworth BSc MSc FRICS**

1 The Applicants, Ms P Thorvaldsen and Mr C Brits are the lessees of 14 Parkwood Road, Wimbledon London SW19 7AQ ("the property"). The Applicants seek to exercise their right, as nominee purchasers, to purchase the freehold from the landlords by way of collective enfranchisement in accordance with the Leasehold Reform Housing and Urban Development Act 1993 ("the Act"). The landlords cannot be found. In accordance with procedure in such cases, the Applicants obtained a vesting order from the Wandsworth County Court dated 3 August 2007 (Claim No: 7WT10523).

2. Ms Thorvaldsen is the lessee of Flat 14A at the property, a ground/ basement flat. Ms Thorvaldsen and Mr Brits are the lessees of Flat 14B at the property, a first/second floor flat. The lease of the ground /basement flat is dated 29 May 1991 and made between Gordon Keith Gillen (1) and Maurice Christopher O'Donnell(2) for a term of 99 years from 25 December 1990 at a rent of £50 per annum rising to £150 per annum at 33 year reviews. The lease of the first/second floor flat is dated 1 February 1991 and made between Maurice O'Donnell(1) and Maurice O'Donnell and Gerard O'Donnell (2) for a term of 99 years from 25 December 1990 at a rent of £50 per annum rising to £150 per annum through reviews fixed at 2023 and 2056.

3. The Tribunal has considered the valuation of Mr M A Bowring BSc MRICS MBEng MIRPM, Chartered Surveyor, of Messrs. Ringleys which is dated 22 January 2008. In that valuation, he was of the opinion that, assuming a new long lease, the value of Flat 14A was £250,000 and Flat 14B was £370,000. He capitalised the ground rent income at a yield of 7.75% and applied a deferment rate of 6%. He said that as both the leases had more than 80 years unexpired at the date of the County Court Vesting Order and Section 13 Notice, no marriage value is payable. It was his view that the amount to be paid to the freeholder was £9,400. His valuation is attached to this decision as Appendix B.

4. The Tribunal is of the opinion that in Mr Bowring's valuation, the ground rent income was incorrectly calculated. In addition, the date of the valuation was incorrect – under S27(1)(b) of the Act, the valuation date should have been the date of the S13 Notice and not, as suggested, the date of the vesting order. The date of the application should have been the date of the application to the court, namely 24 May 2007.

5. In the view of the Tribunal the deferment rate should be set at 5% to reflect the recent Court of Appeal decision in *Cadogan v Sportelli*. The decision in that case stated that the starting point for the deferment rate remains at 5% unless and until *"there are particular features that fall outside the matters that are reflected in the vacant possession value of the house or flat or in the deferment rate itself and can be shown to make a departure from the rate appropriate"*. In this case, the Tribunal has not been persuaded that there has been such a departure.

6. The Tribunal is satisfied that, in the circumstances, it is not necessary to inspect the property.

7. The Tribunal determines the premium to be paid at £13,050 and its valuation is attached to this decision as Appendix A.

8. With regard to the terms of Transfer, the Tribunal has considered the draft provided. The consideration to be paid into court should be £13,050 as per the Tribunal's valuation. Paragraph 10 of the Transfer should show that the Transferor transfers with limited title guarantee, and not as shown. With regard to the additional provisions, the Transfer should state "This Transfer is executed for the purposes of Chapter 1 Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993 and is in a form approved on the 1 February 2008 by the Leasehold Valuation Tribunal of the London Rent Assessment Panel pursuant to Section 24 Schedule 5 paragraph 2 of the said Act in proceedings numbered 7WT10523 between the Transferees as Applicants and the Transferor as Respondent in which it was ordered that the property be vested in the Transferees and a District Judge of the Wandsworth County Court be designated to execute this Transfer and deliver to the Transferees a certified copy of the said Order being attached to this Transfer".

9. With regard to the attestation, the Transfer should be marked as "Signed as a deed by the signature of a District Judge of the Wandsworth County Court nominated to execute the deed on behalf of Maurice O'Donnell".

CHAIRMAN.....

DATE.....14 February 2008.....

Appendix A**Property: 14A and 14B Parkwood Road London SW19 7AQ**

LVT Reference: LON/BA/OCE/2007/346 BG

Lease and Valuation Data**14A Parkwood Road London SW19 7AQ**

Lease Term: 99 Years from 25 December 1990
 Lease Expiry date: December 24, 2089
 Length of Term: 99 Years from 25 December 1990
 Unexpired term as at valuation date: 82.26

14B Parkwood Road London SW19 7AQ

Lease Term: 99 Years from 25 December 1990
 Lease Expiry date: December 24, 2089
 Length of Term: 99 Years from 25 December 1990
 Unexpired term as at valuation date: 82.26

Participating flats: 14A and 14B

Rent receivable by landlord:

Payable from 25/12/90 for 33 years	£	100		
Payable from 25/12/23 for 33 years			£	200
Payable from 25/12/56 for 33 years				£ 300

Values

Flat 14A:	£	250,000	
Flat 14B:	£	370,000	
FHVP	£	620,000	
LHVP	£	620,000	Relativity 100.0%

Capitalisation rate	7.75%
Deferement rate	5.0%

Value of Freeholders present interest

Term 1

Ground rent payable £ 100
YP @ 16 yrs @ 7.75% 8.9946 £ 899

Term 2

Ground rent payable £200
YP @33 yrs @ 7.75% 11.804401
PV of £1 in 16 years @7.75% 0.302917 £ 715

Term 3

Ground rent payable £ 300
YP @33 yrs @ 7.75% 11.8044
PV of £1 in 49 years @7.75% 0.025796 £ 91

Reversion

Freehold in vacant Possession £ 620,000
Deferred 82.26 years @ 5% 0.0183011 £ 11,347

Total £ 13,053

Calculation of Marriage Value

para.4 of Schedule 13 , 1993 Act amended by ss135 and 1236 of CLARA 2002

Total Nil

Price payable to Freeholder

Value of freehold £ 13,053.
Plus share of marriage value Nil

Total £ 13,053

Say £ 13,050

Notes:

1. The price for Enfranchisement is calculated in accordance with the Leasehold Reform, Housing Urban and Development Act 1993 as amended.
2. Date of Section 13 Notice is December 20th 2006
3. Marriage Value excluded in accordance with the provisions of the Commonhold Leashold Reform Act 2002

VALUATION UNDER THE 1993 ACT (as amended)

Valuation Date:	19 September 2007
No. Flats in Building	2 Flats
No. Flats participating	2

Note: affects the marriage value calculation as the value of the property will be improved by the assumed increase in market value of the flats of the participating leaseholders only;

Capitalisation Rate	7.75%
Deferment Rate	6.00%
Sinking Fund	2.50%
Tax	40%

Lease Type A	INPUT FIELDS	CALCULATED CHECK FIELDS
Lease start date	25/12/1990	1990
Term (in years)		99
Lease expiry date	24/12/2089	2089
Review pattern (frequency in years)		33 (if fixed ground rent ENTER length of lease)

assuming statutory rights (+ 90 years) assuming share of freehold

No. years unexpired at valuation date	82.26 years	No. Flats Lease Type A	Total Ground Rent
Initial ground rent	£50.00 pa	5 Flats	£250.00
Ground rent 2nd period	£100.00 pa	5 Flats	£500.00
Ground rent on 3rd period	£150.00 pa	5 Flats	£750.00
Ground rent on 4th period	£0.00 pa	5 Flats	£0.00
Ground rent on 5th period	£0.00 pa	5 Flats	£0.00
Ground rent on 6th period	£0.00 pa	5 Flats	£0.00

Total pattern of rent reviews	Year of Rent Review falls due	No. years rent at this level
	1990	16
	2023	33
	2056	33
	2089	0
No further reviews	2122	0
No further reviews	2155	0
No further reviews Test cell No. years unexpired at valuation date		82 Years

Unexpired term on leases	Freehold VP values	
	82.26 years Short Lease Values	172.26 years Extended lease values
Schedule of Flat Values		
Flat 1	£250,000	£250,000
Flat 2	£370,000	£370,000
	£620,000	£620,000
		£620,000

FREEHOLDERS INTEREST IN THE PREMISES AS DETERMINED IN ACCORDANCE WITH PARA 3

TERM						
Lease type A	Ground rent for (i) All Flats Lease type A	16 years		£250 pa		
Years purchase	on PASSING GROUND RENT	16 years	7.75%	x	8.99462033	£2,249
Lease type A	Ground rent for (i) All Flats Lease type A	33 years		£500 pa		
Years purchase	RENT 2ND PERIOD	33 years	7.75%	x	11.80440191	
PV £1 deferred		16 years	7.75%	X	0.302917	£1,788
Lease type A	Ground rent for (i) All Flats Lease type A	33 years		£750 pa		
Years purchase	RENT 3RD PERIOD	33 years	7.75%	x	11.80440191	
PV £1 deferred		49 years	7.75%	X	0.025796	£228

UNEXPIRED TERM	LOSS OF GROUND RENTAL INCOME	£4,265
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REVERSION

DIMINUTION IN THE VALUE OF THE FREEHOLDERS INTEREST

LOSS OF CURRENT REVERSION OF CAPITAL VALUE

Lease Type A Reversion to Capital (Sum of values - assuming Freehold shareholders)		£620,000
Value		
	PV £1 in at 82.26 years	
	6.00% x	0.008284
REVERSIONARY LOSS TO FREEHOLDER	PRESENT REVERSION	£5,136

TOTAL DIMINUTION IN VALUE

TERM	Loss of ground rental income	£4,265
REVERSION	Present reversion	£5,136

DIMINUTION IN VALUE TO FREEHOLD INTEREST

£9,401

LANDLORD'S SHARE OF MARRIAGE VALUE AS DETERMINED IN ACCORDANCE WITH PARA 4

New 999 year leases at a peppercorn rents with vacant possession **NB: Do not enter values where leases are over 80 years**

SUM OF VALUES OF PROPOSED INTERESTS

Reversion to future Capital Value to Freeholder	NIL as dispossessed	
Head Lessee's new interest	NIL as dispossessed	
Lease Type A Improved value <u>all Notional 999 year lease</u>	£620,000	
<u>leases</u> Lease type A value		
		£620,000

LESS EXISTING INTERESTS

Value of Headlessee's ground rent	£0	
Value of Freeholder's interest	£9,401	
Lease Type A Existing lease value <u>all leases</u> Lease Type A	£620,000	
		£629,401

MARRIAGE VALUE

(Difference between sum of values of the proposed interests & sum of values of existing interests)

NOTES: for leases WITH MORE THAN 80 years unexpired marriage value is set in statute at NIL POUNDS

Marriage Value **£0**

PREMIUM DUE TO EACH PARTY

Premium due to Freeholder

Diminution in value of freehold interest	£9,401
Proportion of Landlord's share of Marriage Value	£0
	£9,401
TOTAL PREMIUM	£9,401

OTHER COMPENSATABLE HEADS

Development Rights: Undemised parts of the property

- Roof spaces
- Car parking
- Garden Land

No development value identified
No development value identified
No development value identified

We have not been advised of any undemised parts of the property with potential

£9,401

We are therefore of the opinion that the premium payable in accordance with the requirements of the Leasehold Reform, Housing and Urban Development Act 1993 at the valuation date is

£9,400

Nine thousand four hundred pounds

Handwritten signature and date: 22/1/08

Appendix B