



## **2. Background**

- 2.1 The Applicant, Mr John Maynard has applied for the grant of a new lease to this property in circumstances where the identity and whereabouts of the landlord are unknown.
- 2.2 The Applicant holds the property by virtue of a lease ("The Lease") dated the 28<sup>th</sup> day of March 1991 and made between (1) Robert Edward Bowden and Mandy Jane Gill and (2) Mark Anthony Weir whereby the property demised ("The Property") which comprises part of the building known as Flat 1, 6 Priory Place, Gloucester, GL1 1TT, which was demised to Mandy Jane Gill and Mark Anthony Weir ("The Intermediate Lessors") for a term commencing on the 28<sup>th</sup> day of March 1991 and ending on the 23<sup>rd</sup> day of March 2056 at an annual ground rent of 5 pence.
- 2.3 The Applicant is the proprietor of the existing lease which is registered under Land Registry Title No GR137722.
- 2.4 The term expiry date of the existing lease is the 23<sup>rd</sup> day of March 2056.
- 2.5 The building and the land situated at 6 Priory Place aforesaid together with other land and buildings are the subject of a lease dated the 1<sup>st</sup> day of April 1556 and made between (1) Thomas Payne and (2) Thomas Pyrrye and Johan Pyrrre ("The Head Lease") for a term of 500 years at an initial annual rent of 30 shillings together with additional rent.
- 2.6 The intermediate lessors are the proprietors of the head leasehold interest in the building and land situate at 6 Priory Place aforesaid which are registered at the Land Registry under Title No GR40649.
- 2.7 The Applicant Lessee in exercise of the rights conferred upon him by Chapter II of The Leasehold Reform Housing and Urban Development Act 1993 (as amended) ("The Act") has required the Lessor to grant him a new lease for the property for an extended term under the Act and in substitution for the term granted by the existing lease.
- 2.8 The Tribunal were provided with a copy of the said sub-lease relating to Flat 1, 6 Prior Place, Gloucester, GL1 1TT.
- 2.9 By an order of the Gloucester County Court dated the 13<sup>th</sup> day of May 2009 ("The Court Order") it was ordered that the property be vested in the Applicant as nominee purchaser upon such terms and at such price as might be determined by a Leasehold Valuation Tribunal and form of transfer or conveyance be approved by the Tribunal.
- 2.10 The Applicant was represented by Mr Edward James Rutlidge FRICS ("Mr Rutlidge") of the firm of Lawrence & Wightman of Birmingham. His value of the enfranchisement price is dated the 17<sup>th</sup> day of December 2009 and is based on a valuation date ("The Valuation Date") of the 15<sup>th</sup> day of September 2008 being the date of the application to the court and is in the sum of £6,814 (six thousand, eight hundred and fourteen pounds).

- 2.11 Mr Rutledge's valuation, referred to comparables set out in a table labeled Appendix A plus property details from local agents. Appendix B contained a graph based on the Leasehold Advisory Service publication of LVT decisions but overlaid with extracted LVT decisions for the Midland Area. Appendix C contained a copy of a decision of the Leasehold Valuation Tribunal relating to properties known as Flats 27, 29 and 31 of Griffin Court, West Drive, Pershore Road, Edgbaston, Birmingham, B5 7RS, which was determined on the 11<sup>th</sup> day of May 2009.

### **3. Inspection**

- 3.1 The Tribunal inspected the property in the presence of Mr Rutledge and found it to be a ground floor flat in a three storey mid-terraced Victorian property in the centre of Gloucester. The property has no demised parking. The accommodation comprised a shared entrance hall, an inner entrance hall, a front bedroom with fitted wardrobe and electric radiator, a bathroom with a corner wash basin and WC and Bath, a living room and a rear kitchen with a single drainer stainless steel sink unit with a door leading to a small rear garden/yard. The Tribunal were also told (but did not inspect), a basement storage area which is apparently damp and has a low headroom of 5ft 2 inches.
- 3.2 The property itself is of brick construction with rendered front elevation in Regency style beneath a tiled valley roof originally dating from approximately 1850. It is connected to all main services and approached at the front from a paved area marked "private, no parking".

### **4. The Hearing**

- 4.1 The hearing was held at The Gloucester Civic Offices, North Warehouse, the Docks, Gloucester, and Mr Rutledge represented the Applicant.
- Mr Rutledge gave his detailed evidence following that of his valuation.
  - Mr Rutledge began with the description of the flat. He was asked about the basement and said it had low headroom, was damp and did not have any windows that he could recall. In his opinion, it would not be worth converting.
  - With Regard to the ground rent of 5 pence whilst this sum is receivable it is of no value and has not been collected, and may have even ceased to be payable in 1911 Therefore no value should be attributed to it.
  - Mr Rutledge then went on to justify his opinion of £66,000 being the value of the extended leasehold interest excluding tenants improvements. This was based upon the comparables set out in Appendix A. Although the first four properties were slightly further out of the centre, Mr Rutledge considered these to be comparable, especially 44-46 Worcester Street which had actually been sold for £66,000. When asked about the obvious comparable at 8 Priory Place, Mr Rutledge stated that the asking price of £79,950 was extremely optimistic, and in his opinion would not be sold for anything like that figure.

- 4.2 Mr Rutledge expanded on his valuation commentary set out on Pages 5, 6 and 7 of his valuation and the reasons behind his conclusions.
- 4.3 Mr Rutledge confirmed that he could not find any comparables of properties with similar leases to the subject property by which he could adduce the relativity to be applied and therefore had to rely on relativities graphs. Mr Rutledge was asked if he was aware of the RICS Research 'Leasehold Reform: Graphs of Relativity' published in October 2009. Mr Rutledge said he was aware of the document, but did not think it provided any useful information in relation to this property.

Mr Rutledge then went on to explain his evidence in Appendix B. whereby he extracted the LVT decisions relating to the Midlands. There was some debate about whether Gloucester was actually situated in the West Midlands, to which Mr Rutledge replied that there was no real evidence from the South or South West and Gloucester was mostly influenced by the Midlands with the Halifax BS definition of the Midlands going down as far as Bristol.

Mr Rutledge explained that most graphs were made up of mostly London properties, and this was the case with the 'LEASE' graph which gave a low relativity of 78% for an unexpired lease term of 47.5 years, whilst the graph he had produced from Midlands LVT decisions gave a higher figure of 86%. Mr Rutledge backed this figure up referring to the case of Griffin Court included in his report under Appendix C where actual evidence had produced relativities of 87.5% and 87.65%. The Tribunal were not necessarily convinced of this evidence referring to the RICS research "*The likelihood is that decisions will be varied and inconsistent, while if local perceptions of relativities are built up as a result of decisions and settlements it is improbable that these will properly reflect no-act values.*" Mr Rutledge did not agree with that view.

The next point related to the application of a deferment rate to be applied to the extended lease value. Mr Rutledge applied a rate of 6% in accordance with the decision of Zuckerman -v- The Trustees of the Calthorpe Estate (LRA 97/2008) (Kelton Court case). Very briefly, the Lands Tribunal ruled that the particular property that formed part of the Calthorpe estate in Birmingham was an exceptional case and therefore a departure from the 5% stated in 'Sportelli' could be justified.

Mr Rutledge went through the Kelton Court case to show that the subject property should be treated in the same way

Deterioration and obsolescence – the striking difference in value as compared to PCL properties was, if anything even greater and justified a 0.25% increase.

Prospect of future growth – Mr Rutledge supplied the tribunal with a graph showing various comparative property prices in order to show the slower rate of growth between PCL and the west Midlands thus justifying the increase of 0.5%.

Greater management problems for flats – Mr Rutledge's view was that this was always going to be the case outside London adding a further 0.25%.

In essence, Mr Rutledge's case for a deferment rate of 6% as opposed to the 5% in Sportelli are as contained in the Kelton Court case.

- 4.4 Following the conclusion of the hearing the Tribunal then considered its decision.

## 5. Considerations leading to the Decision

- 5.1 The first issue for the Tribunal to consider was the open market value of the flat in question. The Tribunal agreed with the arguments put forward by Mr Rutlidge and therefore considered that the ground floor flat (Flat 1) of 6 Priory Place, Gloucester) had a value of £66,000 (sixty six thousand pounds).
- 5.2 On the issue of relativity there remains 47.5 years under the existing lease and the Tribunal felt that no compelling evidence had been produced concerning this matter and that the evidence relating to relativity in the West Midlands area was not the same as applicable to Gloucester.
- 5.3 The Tribunal used it's own knowledge and experience to conclude that 82% was the appropriate figure.
- 5.4 As far as the capitalisation of the nominal ground rent was concerned the Tribunal accepted a percentage figure of 6.5%. The Tribunal carefully considered Mr Rutlidge's evidence, but were mindful of the Lands Tribunal's view in Sportelli that there would need to be compelling evidence relating to a particular property for any deviation from 5%. Simply comparing the property to a previous decided case could not, in the Tribunal's opinion provide the necessary evidence to consider any such deviation and therefore the Tribunal considers the correct deferment rate to be 5%.
- 5.5 The Tribunal's valuation therefore is:-

Ground Rent Nominal YP 47.5 @ 6.5%	£0.05p per annum <u>14.6116</u>	
	Nominal 73 pence	
Extended Leasehold Value Present Value of £1 in 47.5 years @ 5%	£66,000 <u>0.09854</u>	£6,504
<u>Marriage Value</u>		
Extended Leasehold Value Less: Existing Leasehold Value (82%) Term & Reversion	£66,000 £54,120 <u>£ 6,504</u> £60.624	
Marriage Value	£ 5,376	
50%	£ 2,688	
Plus Term & Reversion	<u>£ 6,504</u>	
	£ 9,192 for this flat	

5.6 The Tribunal therefore decided that the price to be paid by the Applicant for a new lease expiring on the 22<sup>nd</sup> day of March 2146 will be £9,192 (nine thousand, one hundred and ninety two pounds) and in so doing approved the draft lease submitted with the application.

Signed  .....

Andrew Duncan McCallum Gregg  
A Chairman of the Panel  
Appointed by the Lord Chancellor

Dated the 26th day of January 2010

Revised 12<sup>th</sup> March 2010