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Residential  
Property  
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**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**  
**LEASEHOLD VALUATION TRIBUNAL for the**  
**LONDON RENT ASSESSMENT PANEL**  
**LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

**LON/00AE/OCE/2010/0106**

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**Premises:** 1 Mortimer Road  
London NW10 5QR

**Applicant:** Mr TJ O'Keefe

**Represented by:** Ilet & Clark solicitors

**Respondent:** Mr MN Islam

**Tribunal:** Mr NK Nicol  
Mr WR Shaw FRICS

**Date of Decision:** 15/09/10

## **REASONS FOR DETERMINATION**

1. The Applicant is the leasehold owner of the two flats, A on the ground floor and B on the first floor, at the subject property at 1 Mortimer Road, London NW10 5QR. The Respondent is the registered freehold owner of the property but, despite the efforts of enquiry agents on behalf of the Applicant, cannot currently be traced. On 5<sup>th</sup> November 2009 the Applicant applied to the county court for a vesting order. The order was made by DJ Hudson at Worksop County Court on 6<sup>th</sup> April 2010. The Applicant has now applied to this Tribunal for a valuation of the freehold interest to complete the collective enfranchisement of this property. The Tribunal determined the application on the papers without a hearing.

### **The Law**

2. Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") provides that the price to be paid by the nominee purchaser for the freehold interest shall be the aggregate of the value of the freeholder's interest, the freeholder's share of the marriage value, and compensation for any other loss.
3. The value of the freehold interest is the amount which at the valuation date that interest might be expected to realise if sold in the open market subject to the tenancy by a willing seller (with the nominee purchaser, or a tenant of premises within the specified premises or an owner of an interest in the premises, not buying or seeking to buy) on the assumption that the tenant has no rights under the Act either to acquire the freehold interest or to acquire a new lease.
4. Paragraph 4 of the Schedule, as amended, provides that the freeholder's share of the marriage value is to be 50%, and that any marriage value is to be ignored where the unexpired term of the lease exceeds eighty years at the valuation date.
5. Paragraph 5 of the Schedule provides for the payment of compensation for other loss resulting from the enfranchisement.

### **Valuation**

6. The subject property is a two-storey house, about 100 years old, converted into the two aforementioned flats. It has a garden at the end of which is a train line

running into nearby Kensal Green station. The layout of each flat has been improved by the lessees but such improvements must be ignored for the purposes of the valuation.

7. The Applicant's leases are both dated 17<sup>th</sup> December 2004 and are each for a term of 125 years from 25<sup>th</sup> March 2002. The remaining term being for more than 80 years as at the valuation date of 5<sup>th</sup> November 2009, there is no marriage value to be included in the valuation of the freehold interest.
8. The leases appear to be flawed in that the demises do not include any part of the side passage or rear garden which have been retained in the freeholder's possession. This means that consideration must be given to compensation within the valuation for the loss of this land.
9. The freehold interest has been valued in accordance with the provisions of the Act set out above by Andrew M Lester MRICS of AML Surveys and Valuation Ltd, instructed on behalf of the Applicant. He originally provided a report dated 1<sup>st</sup> July 2009 but the Tribunal issued directions on 9<sup>th</sup> August 2010 asking for certain matters to be dealt with and he produced a revised report dated 8<sup>th</sup> September 2010.
10. The Tribunal is satisfied that Mr Lester's report describes the property and the relevant valuation elements accurately so that his valuation is acceptable save in one respect. He correctly refers to the *Sportelli* case in which the House of Lords (at [2008] UKHL 71) and the Court of Appeal (at [2007] EWCA Civ 1280) approved the decision of the Lands Tribunal to fix the deferment rate at 5%. He then refers to the more recent decision of the Lands Chamber of the Upper Tribunal in *Zuckerman v Calthorpe* LRA 97 2008 setting a higher rate for properties in Birmingham and argues that some of the same adjustments should apply here to justify a rate of 5.5%. However, the subject property is far closer to the prime central London area than Birmingham and the Tribunal is not satisfied that it is in a position to depart from *Sportelli*. The rate should remain at 5%.
11. Accordingly, the Tribunal determines the freehold price to be £19,300 in accordance with the calculation attached to these reasons as an Appendix.

Chairman.....*N.K. Nicol*.....

Date 15<sup>th</sup> September 2010

**APPENDIX****Valuation for Enfranchisement****1 Mortimer Road, London NW10 5QR****Current value of freeholder's interest**

	£	£	£
Annual Ground Rent	500		
YP for 17.38 years @ 7%	<u>9.8780</u>	4939.01	
Reversion	1000		
YP for 25 years @ 7%	11.6535832		
PV of £1 for 17.38 years @ 7%	<u>0.3085389</u>	3595.58	
Reversion	3,200		
YP for 25 years @ 7%	11.6535832		
PV of £1 for 42.38 years @ 7%	<u>0.0568480</u>	2119.95	
Reversion	4,000		
YP for 25 years @ 7%	11.6535832		
PV of £1 for 67.38 years @ 7%	<u>0.0104742</u>	488.25	
Reversion	8,000		
YP for 25 years @ 7%	11.6535832		
PV of £1 for 92.38 years @ 7%	<u>0.0019299</u>	179.92	
Reversion to long lease value of the 2 flats	530,000		
PV of £1 for 117.38 years @ 5%	<u>0.0032796</u>	1738.19	
Current value of freeholder's interest			13060.90
<b>Plus value of additional land</b>			
Additional value of front and rear gardens/covered passageway			6250
	Total		19310.90
	But say		<b><u>£19,300</u></b>