

2019

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
LEASEHOLD VALUATION TRIBUNAL for the  
LONDON RENT ASSESSMENT PANEL**

**LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993 –  
SECTION 24**

**REFERENCE:LON/OOBJ/ OCE/2010/0113**

**Property:** 158 West Hill, London, SW15 3SR  
**Applicant:** 158 West Hill Management Co. Ltd  
**Respondent:** Sinclair Gardens Investments (Kensington) Ltd.  
**Date of hearing:** 3 November 2010  
**Date of inspection:** 3 November 2010  
**Appearances:** Mr D Ambrose MRICS of Bartholomews, instructed by  
W H Matthews & Co., Solicitors  
Mr G Miller (Flat 7)

**For the Applicant**

Mr G P Holden FRICS of Parsons Son & Basley,  
instructed by P Chevalier & Co., Solicitors

**For the Respondent**

**Date of Tribunal's Decision: 9 November 2010**

**Members of the Tribunal: Mrs J S L Goulden JP  
Mr W R Shaw FRICS**

**REF: LON/OOBJ/OCE/2010/0113**

**PROPERTY: 158 WEST HILL, LONDON SW15 3SR**

**Background**

1. The Tribunal was dealing with an application dated 6 July 2010 under S24 of the Leasehold Reform Housing and Urban Development Act 1993 (hereinafter referred to as "the Act") to determine the price payable on a collective enfranchisement in respect of 158 West Hill, London SW15 3SR (hereinafter referred to as "the subject property").
2. The Applicant Nominee Purchaser is 158 West Hill Management Co. Ltd. and the Respondent Reversioner is Sinclair Gardens Investments (Kensington) Ltd.
3. A copy of a specimen lease of Flat 3 was provided to the Tribunal. The lease was dated 8 April 1987 and made between Kendalbourne Ltd (1) 158 West Hill Management Ltd (2) and C J Turner (3) and was for a term of 99 years from 29 September 1986 and the rents and subject to the terms and conditions therein contained. The Tribunal was advised that all the leases were in essentially the same form. There were seven flats and the owners of all the flats had a share in the management company and were Participating Tenants.
4. The following matters had been agreed:-
  - (a) The valuation date is the date of the Initial Notice, namely 11 November 2009
  - (b) The unexpired lease term as at the valuation date is 75.88 years
  - (c) There are seven participating flats
  - (d) The capitalization rate is 7%
  - (e) The deferment rate is 5%
  - (f) The reversionary value of the flats with vacant possession is £1,730,000
  - (g) The transfer terms
5. The matters which were in dispute and which required the determination of the Tribunal were:-
  - (a) Relativity
  - (b) The value of the additional freehold land
  - (c) The premium

### Inspection

6. In view of the issues raised and the difference between the parties in valuation terms, the Tribunal considered that it would be of assistance if the front area to the subject property (which was used for parking of cars) was inspected. The subject property including the front area thereof was inspected externally after the hearing had ended, on 3 November 2010. Reference is made to this inspection under the appropriate head below.

### Hearing

7. The Hearing took place on 3 November 2010. The Applicant, 185 West Hill Management Co. Ltd. was represented by Mr D Ambrose MRICS of Bartholomews, instructed by W H Matthews & Co. Solicitors. The Respondent, Sinclair Gardens Investments (Kensington) Ltd was represented by Mr G P Holden FRICS of Parsons Son & Basley, instructed by P Chevalier & Co. Solicitors. One of the lessees, Mr G Miller of Flat 7 at the subject property attended.
8. The salient parts of the evidence and the Tribunal's determination is set out under each head.

### Relativity

9. The Applicant contended for 94% and the Respondent for 92.5%.
10. Mr Ambrose said that neither valuer had evidence of transactions in the area and he relied on a graph based on RICS research and the Beckett & Kay Graph of Graphs. He said "*I do not intend to rely upon any particular case or cases as it is possible to prove or disprove a specific relativity and I think it is much more relevant to look at the general trend which can be shown by graphs*".
11. Mr Ambrose said that the subject property was not in the Prime Central London area where property tends to be more valuable and relativities for the same unexpired term tend to be lower. He had selected relativity at the lower end of the range of graphs. Although he confirmed that he had agreed settlements with relativity for similar lease lengths at 94%, he supplied no evidence to the Tribunal.
12. Mr Holden had relied on four Lands Tribunal decisions alone. He found the graphs "*of no particular assistance*" and had found difficulty in finding comparables in the area which was "*a common problem*". He did not have faith in the RICS research document and as well as the unexpired lease term, the state of the property market and location should also be taken into account.

### The Tribunal's determination

13. The Tribunal did not find the evidence from either valuer compelling. It would, for example, have been expected that Mr Ambrose would have wished to produce evidence to the Tribunal of the settlements in which he said relativity has been specifically agreed. On the other hand, Mr Holden dismissed the use of graphs and referred to four Lands Tribunal decisions only.
14. Whilst the Tribunal is critical of the parties for the reasons set out above, it is felt that the graphs submitted on behalf of the Applicant, although with caveats, do give a reasonable spread. Of the four Lands Tribunal decisions submitted on behalf of the Respondent, only two had unexpired lease terms between 70 and 80 years. The Tribunal considers two relevant Lands Tribunal decisions to be of limited assistance.
15. The Tribunal adopts a relativity of 94%.

### Value of the additional freehold land

16. The Applicant contended for £500 and the Respondent for £20,000.
17. Mr Ambrose argued that the area at the front of the building has been used on an ad hoc basis for parking cars and the lessees enjoyed rights to use the area. He referred to the Fourth Schedule to the lease in support. He said that West Hill was a red route and many adjoining properties which had been converted into flats enjoy parking facilities.
18. Mr Ambrose said that there were three useable car parking spaces. This use had been permitted by the freeholder without restriction and *"by their action....is a right of the lessees for which they can attribute no additional value"*. He said that it would be impossible to vary the lease terms without consent and a deed of variation which would be required from all seven lessees. Any value for the additional land had already been taken into account in the selling prices for the flats which would make them more attractive to a would be purchaser with a car. If the property were to be sold to a third party, they would get no value for this land.
19. Mr Holden accepted that there were three useable parking spaces, but said that the area at present used for parking had not been demised but was retained by the freehold subject to mutual rights of use for "recreation". He said *"what the present use demonstrates is that the leaseholders jointly recognize the value of this land for an alternate use. The ownership of this land must be much greater than simply having a right over it. There are benefits to the leaseholders collectively in its ownership and control. One of which, as they are all participating in the purchase, is the opportunity to recoup some of the price paid"*

*for the freehold by selling sections of the front area.....West Hill.....self evidently enhances the value of off-street parking". Mr Holden referred to LVT decisions in support of his view.*

20. Mr Holden had no direct evidence of the value of parking spaces in Putney but having searched the internet suggested that the average asking rent in SW15 was £122 per calendar month. He had therefore taken a value of approximately £4000 and on a 5 year purchase arrived at a value for the additional land at £20,000 as being "*the value to the Nominee Purchaser immediately on purchase*".

### **The Tribunal's determination**

21. The Fourth Schedule to the lease, in which the Applicant was a party and on which the Applicant relied, grants:

- (i) **the right in common with the Landlord and the Owners and Occupiers of all other flats and all others having a like right to use**
- (ii) **for the purposes of recreation only the garden ground at the front and rear of the building forming part of the property.**

22. The Tribunal rejects the Applicant's argument that the parking of cars constitutes recreational use under the terms of the lease. It is noticeable that there is no reference in the lease to any access to any part of the grounds with vehicles. Indeed, the property reserved to the Respondent as set out in the Second Schedule to the lease includes "**the roads paths and forecourts from time to time forming part of the property.....**" and a tenant's covenant at Clause 3(17) places an obligation on the tenant "**Not to do or permit any act or thing whereby any road forecourt path landing passage or staircase appurtenant to or forming part of the reserved property may be damaged or obstructed or the reasonable use thereof by others may be impeded or hindered in any what whatsoever except temporarily whilst loading or unloading goods at the demised premises in an expeditious manner**".

23. Mr Ambrose's argument as to variation of the lease is not fully understood. The Tribunal does not consider the lease terms need to be varied since the leases give no right to park cars in the first place and the Tribunal does not accept that there has been a waiver of the lease terms.

24. Whether or not other adjoining properties which had been converted into flats enjoy parking facilities is irrelevant. The fact that the lessees have, to date, been permitted to park in the area without restriction and this, in some way, means that the freeholders had accepted parking is rejected. Although it was argued that the land's value (if any) is already discounted in the selling prices of the flats "*which make them more attractive to a would be purchaser with a car*" is also discounted. From the Tribunal's inspection, there is insufficient room for seven

allocated parking bays. None of the flats have a parking space demised. A would be purchaser with a car would therefore have to compete with the other lessees for a parking space and, it is suggested, this would make a flat in a converted property on a red route less, rather than more, attractive.

25. In the view of this Tribunal, the land to the front of the subject property clearly has a value and Mr Holden's evidence is preferred. Mr Ambrose said that there were three useable car parking spaces (although in evidence he suggested that it may be four). On the Tribunal's inspection, it was noted that the area was gravelled on hard standing and there were two entrances to the property, one on each side. The Tribunal considers that there could well be more than three useable car parking spaces. However Mr Ambrose has used that number and Mr Holden has accepted and has based his valuation on that number. The Tribunal considers Mr Holden's estimate of £20,000 to be conservative.
26. The Tribunal determines the value of the additional land at £20,000. In making this determination, the Tribunal has taken into account the fact that all seven lessees are Participating Tenants.

**Premium**

27. The Applicant contended for £80,000 and its valuation is attached as Appendix B. The Respondent contended for £112,620 and its valuation is attached as Appendix C.
28. The Tribunal determines the premium at £99,650 and its valuation is attached as Appendix A.

CHAIRMAN.....

DATE.....9<sup>th</sup> .....November...2010 ...

Re: 158 West Hill, London, SW15 3SR (DA3)  
 Price to be paid for Collective Enfranchisement  
 (Valuation Date - 11th November 2009)  
 REF: TW/LON/00BJ/OCE/2010/0113

Input

7 flats all participating with similar leases of 99 years from 27.09.1986 thus expiring 2085 with 75.88 years unexpired.

Ground Rent (Flats 2-7)	29.09.86 - 2019	£75pa
	2019-2052	£150pa
	2052 - 2085	£250pa
Ground Rent (Flat 1)		£150, £225 & £325pa
Date of valuation:	11th November 2009	
Capitalisation Yield:	7%	
Deferment Yield:	5%	
Relativity for 75.88 years	94%	
Extended lease value:	£1,730,000	

A. Freeholders Interest

GR received		£600.00	
YP 9.88 @ 7%		<u>6.9643800</u>	£4,178.63
GR increase to		£1,125.00	
YP @ 7% for 33 years	12.7537900		
PV of £1 @ 7% for 9.88 years	<u>0.5124934</u>	<u>6.5362331</u>	£7,353.26
GR increase to		£1,825.00	
YP @ 7% for 33 years	12.7537900		
PV £1 @ 7% for 42.88 years	<u>0.0549571</u>	<u>0.7009113</u>	£1,279.16
Reversion to extended lease values		£1,730,000	
PV £1 @ 5% for 75.88 years		<u>0.0246693</u>	<u>£42,677.89</u>
		<u>£55,488.94</u>	say £55,500

B. Marriage Value

Extended lease value		£1,730,000	
Less:			
LH value - 94% of £1,730,000		£1,626,200	
FH value		<u>£55,500</u>	<u>£1,681,700</u>
Marriage value			£48,300
Freeholders 50% share			<u>£24,150</u>
Premium to be paid			£79,650

C. Additional Land

Value of additional freehold			<u>£20,000</u>
Premium to be paid			£99,650

Re: 158 West Hill, London, SW15 3SR (DA3)  
 Price to be paid for Collective Enfranchisement  
 (Valuation Date - 11th November 2009)  
 REF: TW/LON/00BJ/OCE/2010/0113

Appendix B

Input

7 flats all participating with similar leases of 99 years from 27.09.1986 thus expiring 2085 with 75.88 years unexpired.

Ground Rent (Flats 2-7)	29.09.86 - 2019	£75pa
	2019-2052	£150pa
	2052 - 2085	£250pa
Ground Rent (Flat 1)		£150, £225 & £325pa
Date of valuation:	11th November 2009	
Capitalisation Yield:	7%	
Deferment Yield:	5%	
Relativity for 75.88 years	94%	
Extended lease value:	£1,730,000	

A. Freeholders Interest

GR received		£600.00	
YP 9.88 @ 7%		<u>6.9643800</u>	£4,178.63
GR increase to		£1,125.00	
YP @ 7% for 32 years	12.7537900		
PV of £1 @7% for 9.88 years	<u>0.5124934</u>	<u>6.5362331</u>	£7,353.26
GR increase to		£1,825.00	
YP @ 7% for 33 years	12.7537900		
PV £1 @ 7% for 42.88 years	<u>0.0549571</u>	<u>0.7009113</u>	£1,279.16
Reversion to extended lease values		£1,730,000	
PV £1 @ 5% for 75.88 years		<u>0.0246693</u>	<u>£42,677.89</u>
		<u>£55,488.94</u>	say £55,500.00

B. Marriage Value

Extended lease value		£1,730.00	
Less:			
LH value - 94% of £1,730,000		£1,626,200	
FH value		<u>£55,500.00</u>	<u>£1,681,700</u>
Marriage value			£48,300.00
Freeholders 50% share			<u>£24,150.00</u>
Premium to be paid			£79,650.00

C. Additional Land

Nominal Garden value say			<u>£500.00</u>
			£80,150.00
Premium to be paid		Say	£80,000.00



**158 WEST HILL  
PUTNEY**

**PRICE TO BE PAID FOR COLLECTIVE ENFRANCHISEMENT  
(VALUATION DATE - 11 NOVEMBER 2009)**

**(A) VALUE OF FREEHOLDER'S INTEREST**

	Ground Rent	£600.00	
YP 9.88 @ 7%		6.9643800	4,178.63
	Increase to:	£1,125.00	
YP 32 yrs @ 7%	12.7537900		
PV £1 in 9.88 yrs @ 7%	0.5124934	6.5362331	7,353.26
	Increase to:	£1,825.00	
YP 33 yrs @ 7%	12.7537900		
PV £1 in 42.88 yrs @ 7%	0.0549571	0.7009113	1,279.16
	Reversion to: £1,730,000		
PV £1 in 75.88 yrs @ 5%		0.0246693	42,677.89
			£55,488.94 Say 55,489

**(B) MARRIAGE VALUE**

Proposed:		£1,730,000	
Existing	L/H	£1,600,250 (92.5%)	
	F/H	£55,489 (£1,655,739)	
		MARRIAGE VALUE = 74,261	
		FREEHOLDERS SHARE @ 50% = £37,130.50 SAY	37,131
			£92,620
PLUS:	Value of additional Freehold		£20,000
			£112,620