



The following cases are referred to in this decision:

*Arrowdell v Coniston Court (North) Hove Limited* [2007] RVR 39

*Nailrile Limited v Earl Cadogan, unreported, Lands Tribunal reference LRA/114/2006*

*Fox v Wellfair Limited* [1981] 2 LL Rep 514

*Zermalt Holdings SA v Nu-life Upholstery Repairs Limited* [1985] 2 EGLR 14

*Pitts and Wang v Earl Cadogan* [2007] RVR 269

*Earl Cadogan v Erkman* [2009] 13 EG 144

*Arbib v Earl Cadogan* [2005] 3 EGLR 139

## DECISION

### Introduction

1. This is an appeal by Dependable Homes Limited against the decision of the Leasehold Valuation Tribunal for the Southern Rent Assessment Panel on 29 February 2008 determining the premium payable for a new lease under section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 of Flat 21, Sunningdale Court, Jupps Lane, Goring by Sea, West Sussex BN12 4TU at £12,968.

2. The respondent tenants are Mr David and Mrs Margaret Mann who hold a lease of the appeal premises dated 1 July 1963 for a term of 99 years from 25 December 1962. At the valuation date, 26 July 2007, the lease had 54 years to run at a fixed ground rent of £12.60 per annum.

3. Before the LVT the appellant argued for a premium of £19,500 and the respondents for £13,725. The disputed issues between the parties were the long leasehold value and the relativity. Mr Pridell for the appellant took the long leasehold value at £167,500 to which he applied a relativity of 84% to give a short leasehold value of £140,700. Mr Spratt for the respondents took the long leasehold value at £151,537 having uplifted the short leasehold value of £135,000 by 12.25% (equivalent to a relativity of 89%).

4. The LVT determined the long leasehold value of the appeal property at £150,000 before turning its attention to the appropriate relativity. It said:

“28. Mr Pridell relies heavily on the ‘graph of graphs’ but, as pointed out by Mr Spratt, his chosen relativity of 84% falls outside the graph’s range for 54 years unexpired. Mr Spratt’s relativity of 89% also falls outside the graph’s range.

29 The ‘graph of graphs’ is an average of averages based on limited, undefined data from all areas outside central London. The Tribunal considers its evidential value to this case falls short of the Lands Tribunal’s hope, expressed in [*Arrowdell v Coniston Court (North) Hove Limited* [2007] RVR 39], that there may be thoroughly researched and institutionally adopted and guided variable graphs for use in enfranchisement valuations, in the absence of other compelling evidence.

30. Mr Spratt gave the Tribunal evidence of market value comparables which, when adjusted for improvements and the ‘no act world’, support a lower value for the short lease than that put forward by Mr Pridell, even having allowed for adjustments for tenant’s improvements. Although relativity is relevant in these cases for the reasons already promulgated, the ‘graph of graphs’ has little relevance in this case. Both valuers chose to value outside its range. Comparables of actual sales of long leasehold flats, albeit requiring further adjustment for tenant’s improvements were put to the Tribunal in evidence.

31. From the Tribunal's assessment of that evidence and for the reasons stated above, the Tribunal's determination of the premium to be paid on the grant of the new lease of the Property is based on a short leasehold value of £135,000 and a long leasehold value of £150,000 (involving a relativity of 90%). All other variables have been agreed between the parties and this results in a premium to be paid of £12,968...".

5. The LVT refused permission to appeal and so the appellant applied for permission to this Tribunal. In granting permission on 2 July 2008 the President made the following observations:

"An appeal would in my view stand a good chance of success. The LVT appears to have misunderstood and misapplied the Lands Tribunal decision in *Arrowdell*; and in applying a relativity outside the range of the valuers' evidence and determining a price that was less than that sought by the tenant the decision is probably wrong in principle. In view of the relatively small amount that appears to be at stake (the decision surprisingly does not record the respective prices contended for) it is unfortunate that the parties should have to incur the costs of an appeal, which would have to be by way of rehearing. But I think it is inevitable that permission should be granted."

6. Ms Camilla Lamont appeared for the appellant and called Andrew John Pridell FRICS, Principal of Andrew Pridell Associates Limited, as an expert witness. Mr Christopher Spratt BSc FRICS, Principal of C G Spratt & Son, appeared for the respondents and, with the permission of the Tribunal, also gave expert evidence.

7. I made an accompanied internal inspection of the appeal property and external inspections of comparable properties on 26 June 2009.

## **Facts**

8. Flat 21 Sunningdale Court is a purpose-built first floor flat located at the western end of Block C1, one of six three-storey blocks in a 1960s development at the junction of Jupps Lane and Goring Way. It comprises two double bedrooms, a sitting/dining room with a door to a south facing balcony, a kitchen, bathroom and separate WC. There are communal gardens. The flat has double glazed uPVC windows but no central heating (heating is provided by night storage heaters). There are no improvements to be excluded for valuation purposes.

9. The parties have agreed the capital value of the ground rent in the sum of £175 and have agreed the deferment rate at 5%.

## Issues

10. There are two disputed issues. Firstly, the value of the unimproved long leasehold interest which the appellant takes as £167,500 and the respondents £150,000. Secondly, the relativity, which the appellant says is 82% and the respondents 90%. The result of these differences means that the appellant calculates the premium payable as £21,023 and the respondents as £12,968.

### **Evidence: long leasehold value**

11. Mr Pridell relied mainly upon one comparable, the sale of a long leasehold interest (93 years unexpired) in flat 28 Sunningdale Court on 30 November 2007 for £167,500. Flat 28 was a two bedroom first floor flat in Block C2, the block that adjoined Block C1 in which the appeal property was situated. Flat 28 had the same accommodation and aspect as flat 21. However, the kitchen and bathroom had been improved and gas fired central heating had been installed. Mr Pridell estimated the value of these improvements at between £4,250 to £5,500. He thought that this amount was offset by the disadvantage of what he described as an access from an open staircase and deck. He said this was “pretty grotty” and offered no security. The lack of a communal front door was a serious detraction that reduced the value of the flat by £5,000. He thought that the value of flat 28 was directly comparable with that of flat 21 which he also valued at £167,500.

12. Mr Pridell considered two further comparables. Flat 34 Sunningdale Court was a two bedroom, ground floor flat that was on the market in January 2008 at an asking price of £169,950. He said that serious interest had been shown at around £160,000 but that no sale had been completed. Flat 9 Davies Court was a two bedroom ground floor flat in a similar three-storey block closer to the town centre which Mr Pridell conceded was a better location. A share in the freehold was sold for £144,000 on 8 July 2008. The property was in need of upgrading, refitting and redecoration.

13. Mr Pridell said that the market was still rising until June 2007. After the failure of Northern Rock in September 2007 there was a period of uncertainty but values did not immediately collapse and mortgages were still available. The market evened out before retreating in early 2008.

14. Mr Spratt relied upon the sale of nine flats in Sunningdale Court, including that of flat 28. One of the flats, No.29, was sold twice. Seven of the nine comparables were sales of long leases (ranging from 90 to 95 years unexpired term). The remaining two comparables were sales of short leases (54 years and 56 years unexpired term). The sale of seven of the comparables took place within 12 months of the valuation date (five before and two afterwards). The remaining two comparables were sold in August 2005 (No.4) and in August 2008 (No.19). Five of the comparables were first floor flats, one was a ground floor flat and three were second floor flats. Only four of the comparables were produced in evidence before the LVT. Two of the comparables were in the same block as the appeal property, No.19 being immediately below it and No.23 being immediately above. All the flats had two bedrooms

except No.29 which had one. A summary of the Sunningdale Court comparables of both parties is given in the table below.

<b>Comparable Sales: Sunningdale Court</b>							
<b>Party</b>	<b>Flat No.</b>	<b>Sale Date</b>	<b>Block</b>	<b>Floor</b>	<b>Bedrooms</b>	<b>Price</b>	<b>Unexpired Term</b>
R	4	8/05	A	1	2	£139,000	56
R	5	4/07	A	1	2	£125,000	54
R	17	1/07	B	2	2	£140,000	93
R	19	8/08	C1	G	2	£133,000	93
Appeal Property	21	07/07 (Valuation Date)	C1	1	2	–	54
R	23	12/06	C1	2	2	£148,000	90
A/R	28	11/07	C2	1	2	£167,500	93
R	29	1/07	C2	1	1	£130,000	95
R	29	5/08	C2	1	1	£143,000	94
A	34	–	C3	G	2	NOT SOLD	N/A
R	47	5/07	D	2	2	£146,000	93

15. Mr Spratt noted that the sale of No.28 was the only comparable that had fetched more than £150,000. He said that the flat had been substantially improved and thought that Mr Pridell's valuation allowance was too small and that his counter adjustment for the open staircase was unjustified. Taking all the sale evidence into account Mr Spratt argued that the long leasehold value of the appeal property was £150,000 at the valuation date. This figure reflected the modest nature of the block and its proximity to an industrial estate and a working men's club.

16. The appellant criticised the provenance of the comparables that Mr Spratt relied upon because they had not been verified by reference to Lands Registry Office Copy Entries. Instead Mr Spratt had obtained basic details of the sales from a website called Property Pod. The data available on that website gave no details of the lease term, number of bedrooms, floor level or condition. Mr Spratt overcame the first of these omissions by referring to the schedule of leases contained in the Office Copy Entry for the freehold interest in Sunningdale Court. The number of bedrooms and floor levels were not disputed between the parties. The condition of each comparable flat was unknown apart from that of No.28 which was deduced from the sales particulars.

17. Both experts considered that long leasehold comparables of between 90 to 95 years unexpired term represented 100% of the value to which the appropriate relativity should be applied. Neither expert adjusted the comparables for time in relation to the valuation date.

## **Evidence: relativity**

18. Mr Pridell said that the appropriate relativity in this appeal was 82%. He based this on past (but unspecified) LVT determinations, his experience of the workings of the legislation, interpretation of the “graph of graphs” and from his company’s own graph of relativities. Before the LVT he had argued for a relativity of 84%. This was derived from a different graph of graphs (Beckett and Kay’s 2006 second revision rather than the 2008 first revision which he was now using) and had erred on the high side in favour of the tenants. At the time of the LVT hearing he had not produced his own graph which he explained was constructed at the end of 2008 and was based upon provincial (non prime central London) LVT decisions, settlements and opinions in both enfranchisement and lease extension cases. It showed a relativity of 82% for an unexpired term of 54 years. Mr Pridell said that both his graph and the graph of graphs had already taken the benefit of the Act into account and that no separate adjustment was necessary. Applying a relativity of 82% to his long leasehold value of £167,500 gave a value of the short leasehold interest in flat 21 of £137,350.

19. Mr Spratt adopted the relativity of 90% that was determined by the LVT and which he considered realistic given the nature and locality of the appeal property. He supported this view by reference to three other LVT and Lands Tribunal decisions on relativity; at Anchor Court, Goring (60 year unexpired term, relativity 91.75%), Coniston Court, Hove (the appeal property in *Arrowdell*, 63 years unexpired, relativity 88%) and Seaview Court, Bognor Regis (52 years unexpired, relativity 87.5%). He also described an approach that he said had been adopted by LVTs in the area which allowed an uplift in value of the short leasehold of 0.5% for every year of unexpired term below 80 years. Applying this to the appeal property (which had an unexpired term of 54 years) resulted in an uplift of 12.5%, which equated to a relativity of 89%.

20. Mr Spratt rejected the use of graphs of relativity which he described as self serving and of variable and unknown provenance, often being based upon settlements in the prime central London area. He saw no compelling reason to apply data obtained from large West End firms in preference to the decisions of experienced local valuers who sat on the LVT. Whilst the Tribunal’s decision in *Arrowdell* about relativity and the use of the graph of graphs should not be ignored, neither should it be treated as having the status of a “fixing precedent”. There was no evidence to illustrate the basis upon which that graph had been prepared and, in particular, whether it allowed for the no Act world. He said that location as well as term length was an important determinant of relativity. Mr Pridell’s view was that location had no effect at all upon relativity.

21. Mr Spratt preferred to rely upon local LVT decisions and the evidence of two sets of transactions at Elm Court and Romney Court to establish the appropriate relativity. The first set was the sale of two flats at Elm Court, Goring. The long leasehold interest (94 years) in No.5 was sold in September 2006 for £135,000 whilst the short leasehold interest (53 years) in No.4 was sold in January 2007 for £128,000. Mr Spratt said that the difference between the sale prices represented a relativity of 94.85%. The second set of transactions was of the sale of flats in Romney Court, Worthing. Details were given of the sale of three long leasehold interests (each with an unexpired term of 120 years) in one ground floor and two second floor flats between 2005 and July 2007. Mr Spratt took £185,000 as the representative value of such a

long leasehold interest. This was then compared with the sale price of the short leasehold interest (61 years unexpired) in a second floor flat which was sold for £170,000 in June 2008. Mr Spratt deducted £5,000 from this figure to allow for an extra garage and then added back £10,000 to reflect its poor condition. This gave a value of the flat on a short leasehold basis of £175,000. He compared this figure with the notional value of £185,000 for the long leasehold interest to give a relativity of 94.6%.

## **Submissions**

22. Ms Lamont argued that the LVT's decision was flawed for four reasons. Firstly, the LVT had failed to have due regard to the evidential value of the graph of graphs, notwithstanding the acknowledged absence of no Act World evidence and contrary to the decision in *Arrowdell*, as approved by the Tribunal in *Nailrile Limited v Earl Cadogan*, unreported, Lands Tribunal reference LRA/114/2006. Secondly, by relying upon Mr Spratt's evidence the LVT had reached a view on relativity (90%) that no reasonable LVT, on the material before it could have reached. Had the LVT given due weight to the evidential value of the graphs of graphs it should have appreciated that its figure of relativity was "outside the boundaries of lawful determination". It should also have realised that by accepting Mr Spratt's reliance upon previous LVT decisions it was acting contrary to *Arrowdell* which said that such decisions, whilst not inadmissible, were of no evidential value. Thirdly, the LVT relied upon evidence that was based upon its personal knowledge of transactions that were not disclosed by (or to) the parties and had rejected both parties' evidence without giving sufficient reasons. Ms Lamont relied upon *Fox v Wellfair Limited* [1981] 2 LL Rep 514; *Zermalt Holdings SA v Nu-life Upholstery Repairs Limited* [1985] 2 EGLR 14 and *Arrowdell*. Finally, the LVT had erred by determining a premium lower than that argued for by the tenants. It was wrong for it to determine a price outside the range contended for by the parties, see *Pitts and Wang v Earl Cadogan* [2007] RVR 269 at paragraph 9 and *Earl Cadogan v Erkman* [2009] 13 EG 144 at paragraphs 14 to 15.

## **Conclusions: jurisdiction**

23. I consider firstly whether this Tribunal is entitled to determine a premium that falls outside the disputed range of the parties before the LVT. This issue was considered in *Erkman* from which the following principles are derived:

- (i) The Lands Tribunal may determine a price that is higher or lower than that determined by the LVT (see *Arrowdell* at paragraph 14).
- (ii) The Lands Tribunal cannot determine a price which is higher than that contended for by the freeholder or lower than that contended for by the tenant before the LVT (see *Pitts and Wang* at paragraph 9).
- (iii) A price outside the range of the parties' contentions before the LVT would not be a matter in dispute.
- (iv) The limitation in (ii) above applies to the price as a whole and not to its component parts.



- (v) The Lands Tribunal can only reach a determination in relation to a component of the price where there is evidence to support it.
- (vi) Where an appeal is by way of a rehearing (as it is in the present case) the Lands Tribunal is not limited by the evidence given before the LVT.
- (vii) The Lands Tribunal can entertain evidence that would justify a relativity or a value that falls outside the range contended for before the LVT and can reach a determination outside of this range, but it cannot as a consequence determine a price that is outside of the range contended for.

24. Applying these principles to the present appeal I reach the following conclusions. Firstly, the LVT were wrong to determine a price (£12,968) that fell outside the disputed range of the parties (£13,725 and £19,500). Secondly, my jurisdiction to determine a price is limited to the disputed range before the LVT and not an extended range as now argued for by the parties (£12,968 and £21,023). Thirdly I can determine the component parts of the price (the long leasehold value and relativity) outside of the figures argued for by the parties before the LVT provided that the resultant price falls within the disputed range before it.

#### **Conclusions: long leasehold value**

25. The best comparable evidence of long leasehold values is that adduced for the sale of seven flats in Sunningdale Court. I place no weight upon Mr Pridell's comparable at flat 34 since this was not a completed sale. Nor do I rely upon his comparable at flat 9 Davies Court, a flat in poor condition in a better located block.

26. Of the seven comparables, two are in respect of sales of No.29. These took place in January 2007 (£130,000) and May 2008 (£143,000). However it is not possible to use these as a means of calculating the increase in value between those two dates because there are no details of the condition of the property at either date. It is possible that the increase in sale price is due (at least partially) to repairs and/or improvements made in the intervening period. In any event these two sales are of limited assistance because No.29, unlike the appeal property, is a one bedroom flat.

27. I agree with Mr Pridell that the best comparable is that of the sale of No.28 in November 2007. The sale is verified by an Office Copy Entry and is of a similar flat in the block (C2) adjoining that in which the appeal property is situated (C1). This means that the two properties have the same aspect and proximity to Goring Way. It is the only comparable that both experts have relied upon. It is also the only one of the Sunningdale Court comparables about which something is known of its condition and improvements. It has a refitted kitchen and bathroom as well as gas-fired central heating. Mr Pridell estimated the value of these improvements at between £4,250 and £5,500. Mr Spratt did not accept these figures but, apart from saying that the works would cost more than Mr Pridell said, did not proffer an alternative amount. Mr Pridell said that the additional value of the improvements was offset by the open staircase and balcony leading to flat 28. Mr Spratt argued that an external staircase (which he said was

covered) and balcony was not unusual and would not command any valuation weight, unlike a modernised kitchen and bathroom or an additional bedroom.

28. Mr Pridell's figures were of value and not cost. Nevertheless I agree with Mr Spratt that Mr Pridell has underestimated the allowance for the improvements at No.28, although I accept Mr Pridell's opinion that the external (albeit covered) staircase and balcony detract from the value of that property. In my opinion a net downward adjustment of £7,500 is appropriate to reflect the value of these factors, resulting in a value of £160,000 for No.21 based on this comparable.

29. Three of the remaining comparables at Sunningdale Court are on the second floor. Mr Spratt said that this affected marketability rather than price, it being more difficult to sell a second floor flat because of the stairs. In my opinion there is likely to be a difference in price as well as marketability and I have allowed 5% to reflect this disadvantage. The three second floor flats were all sold before the valuation date and before the downturn in the market following the collapse of Northern Rock. I place the most weight upon the sale of No.23 which is immediately above the appeal property in block C1. The other two flats are in the adjoining block B (No.17) and block D (No.47). The respective prices were £148,000, £140,000 and £146,000. There are no details about their condition. Adjusting for the difference in floor level I consider that an equivalent figure of £155,000 for the appeal property is appropriate based on these comparables. I do not place weight upon the final comparable, the ground floor flat at No.19 which was sold in August 2008, even though it is immediately below the appeal property in block C1. I accept Mr Pridell's view that the market was affected by the recession by that time which was over 12 months after the valuation date. Looking at the evidence overall and placing most weight upon the comparable at No.28 I consider that the value of the long leasehold interest in flat 21 at the valuation date was £158,000.

### **Conclusions: relativity**

30. Mr Spratt does not rely upon the graph of graphs. Instead he relies on previous LVT decisions, a rule of thumb approach adopted by local LVTs and an analysis of comparables at Elm Court and Romney Court. I do not find any of Mr Spratt's approaches to be of assistance.

31. The use of LVT decisions as evidence before this Tribunal was considered in *Arrowdell* where the President and Mr N J Rose FRICS said at 45:

“37. ... In our judgment leasehold valuation tribunal decisions on relativity are not inadmissible, but the mere percentage figure adopted in a particular case is of no evidential value. The reason for this is that each tribunal decision is dependent on the evidence before it, and thus, in order to determine how much weight should be attached to the figure adopted in a decision, it would be necessary to investigate what evidence the leasehold valuation tribunal had before it and how it had treated it. Such a process of investigation is potentially lengthy, and it is inherently undesirable that leasehold valuation tribunal hearings should resolve themselves into rehearings of earlier determinations.

...

39. ... If no assistance is to be derived from earlier leasehold valuation tribunal decisions for the reasons we have just given, the same will go for settlements that have themselves been based on such decisions. In such circumstances, in our view, it is necessary for the Tribunal to do the best it can with any evidence of transactions that can usefully be applied, even though such transactions take place in the real world rather than the no-Act world. Regard can also be had to graphs of relativity ....”

In my opinion the use of previous LVT decisions in this appeal is susceptible to the same criticisms as were described in *Arrowdell* and should be rejected for the same reasons.

32. Mr Spratt said “a broad brush approach which has been adopted by Local Tribunals is to allow an uplift in value of the leasehold interest of 0.5% for every year of unexpired term below 80 years.” No examples were given of LVT decisions that adopted this approach. In my opinion such a rule of thumb approach to the calculation of relativity, which is not based upon a proper consideration of the facts and evidence of individual cases, is wholly undesirable and I attach no weight to it.

33. The decision in *Arrowdell* says that evidence of transactions may be considered even where those transactions take place in the real world rather than the no-Act world. Mr Spratt has provided such evidence in relation to two local blocks of flats, one at Elm Court, Goring and the other at Romney Court, Worthing. The major difficulty with both of these comparables is that Mr Spratt, when comparing the value of a short leasehold to that of a long leasehold, takes no account of the benefit of the Act. He acknowledged that there was a difference in the value of a short leasehold interest in the Act and no-Act worlds but said that he was unable to quantify the amount of the appropriate allowance. He did not know of any valuer who made a deduction from the Act world value as high as 10% but he was aware that one of the parties had argued for 5% in the appeal at Anchor Court, Goring, one of the LVT appeal decisions upon which he relied. Mr Spratt said that his failure to adjust for the benefits of the Act should not lead to his comparables being discarded and that, in any event, even if such adjustments were made the relativity would still be in the region of 90%.

34. The determination of the premium payable in respect of the grant of a new lease must be made by reference to Part II of Schedule 13 to the 1993 Act. Paragraph 3(2) of that Schedule states:

“(2) Subject to the provisions of this paragraph, the value of any such interest of the landlord ... is the amount which at the relevant date that interest might be expected to realise if sold on the open market by a willing seller (with neither the tenant nor any owner of an intermediate leasehold interest buying or seeking to buy) on the following assumptions –

...

(b) On the assumption that Chapter I and this Chapter confer no right to acquire any interest in any premises containing the tenant’s flat or to acquire any new lease;

....”

This assumption must be taken into account. How this achieved is a matter for evidence but in *Nailrile* the Tribunal, the President and Mr A J Trott FRICS, having considered comprehensive evidence and argument on the issue, allowed a deduction of 7.5% from the Act world figure (see paragraph 228).

35. The application of a percentage deduction is complicated in this case by the unreliability of the transaction evidence. Although the sale prices were verified by Office Copy Entries Mr Spratt provides no details about the condition of the two flats at Elm Court (which he assumed in each case was “standard”) and was uncertain whether they were on the same floor (he concluded that they were on different, first and second, floors). No adjustment was made for time (the transactions were three and half months apart) or floor level. The ground rents are also different.

36. Mr Spratt acknowledged that the uncertainties are greater in respect of the four Romney Court comparables because of the need to make several adjustments. Three of the comparables are in respect of the sale of long leasehold interests, none of which is verified by an Office Copy Entry. One of the comparables was sold at an unspecified date in 2005, some three years before the sale date of the comparator short leasehold interest in flat 16 in June 2008 (for which an Office Copy Entry was available). The other two long leasehold interests were sold in November 2006 and July 2007 but Mr Spratt makes no adjustment for time in his analysis. Mr Spratt does have some personal knowledge of the block since it is managed by his firm and he has visited all the flats “at one time or another” and had inspected flat 16. He described all the flats as being similar although flat 17 (which sold for the highest price of £195,000) was said to have been well refurbished. Mr Spratt analysed the three long leaseholds to give a comparable value for flat 16 “assuming it is in reasonable condition in accordance with the comparables sold on long leases” of £185,000. But this is less than any of the three comparable sales, the average price of which was £189,500. Mr Spratt adjusted the sale price of the short leasehold interest of flat 16 by deducting £5,000 in respect of a garage and adding £10,000 as “the basic cost of refurbishment to bring [the flat] to reasonable order.” This gave a “nominal value” of the flat on a short leasehold basis of £175,000 which Mr Spratt said represented a relativity of 94.59% when compared to the assumed long leasehold value of £185,000. But the adjustments made to the short leasehold price were not explained beyond Mr Spratt’s comment that they represented his opinion of value and cost and, as with Elm Court, excluded any adjustment for the benefit of the Act. Also, the unexpired term of the short leasehold of flat 16 was nearly 62 years compared with 54 years at the appeal property.

37. Mr Spratt declined to use the same technique of comparison between short and long leasehold values in respect of Sunningdale Court, where evidence existed of two short leasehold sales (54 and 56 years unexpired) of first floor flats in block A. Mr Spratt dismissed these as being “back flats”. I presume he means by this that block A, unlike the other five blocks, fronts Jupps Lane rather than Goring Way. In terms of the layout of the blocks themselves there seems little difference between the two flats in block A and those in block B (No.17) and block D (No.47) which Mr Spratt is content to rely upon in his valuation. Ms Lamont pointed out that were one to compare the price of the short leasehold in No.5 (being the first floor flat sold closest to the valuation date) with Mr Spratt’s assessment of the long leasehold value of No.21 at £150,000, the relativity would be 83.3% (before adjusting for the benefit of the Act).

38. I conclude that Mr Spratt's analysis of relativities based upon comparable transactions is incomplete and inadequate and cannot be relied upon.

39. That leaves the graphical evidence relied upon by Mr Pridell. He produced his own graph of relativities "based on the [1500] cases conducted through my company", namely settlements and LVT determinations. This showed a relativity of 82% for an unexpired term of 54 years. He also referred to an updated (2008: first revision) version of the Beckett and Kay graph of graphs which for an unexpired term of 54 years gave a range of relativities from 72% to 87% with a mid point of approximately 80%.

40. I do not accept Mr Spratt's assertion that relativity must reflect location; he produced no evidence to support it other than to say that the graph of graphs was based solely upon non-comparable prime central London transactions. In *Arrowdell*, a case concerning a property in Hove, the Tribunal relied upon a graph showing relativities in the London suburbs. In the absence of more satisfactory evidence I therefore rely upon the graph of graphs. Mr Pridell's own graph is said by him to have been based upon LVT decisions and settlements. As such it is subject to the same criticisms of LVT decisions made in *Arrowdell* (see paragraph 31 above). The use of settlements was criticised in *Arbib v Earl Cadogan* [2005] 3 EGLR 139 and again in *Nailrile* at paragraph 226.

I accept Mr Priddell's view that the graphs of graphs is used to determine a relativity that reflects the benefit of the Act and requires no further adjustment (it was so used in *Nailrile*, see paragraph 228).

41. Reviewing all the evidence I conclude that the appropriate relativity in this appeal is 83%.

### **Conclusions: Premium payable**

42. The appeal must be allowed. Having concluded that the value of the long leasehold interest is £158,000 and that the relativity is 83% I determine the premium payable for the extended lease to be £19,000 in accordance with the valuation contained in Appendix 1.

Dated 8 September 2009

A J Trott FRICS

**VALUATION OF THE LANDS TRIBUNAL  
21 SUNNINGDALE COURT, JUPPS LANE, GORING BY SEA**

**PREMIUM PAYABLE IN RESPECT OF GRANT OF NEW LEASE**

**VALUATION DATE: 26 JULY 2007**

1. <u>Diminution in value of landlord's interest</u>			
A. Present interest			
(i) Capital value of ground rent income			
Ground rent	£ 12.60		
YP 54 years @ 7%	13.916		
		£ 175	
(ii) Value of reversion			
Capital value upon reversion	£158,000		
x PV of £1 in 54 years @ 5%	<u>0.072</u>		
		<u>£11,376</u>	
Total value of present interest			£11,551
2. B. <u>Future interest</u>			
(i) Capital value of ground rent income			
Ground rent is a peppercorn, therefore	£NIL		
(ii) Value of reversion			
Capital value upon reversion	£158,000		
X PV of £1 in 144 years @ 5%	<u>0.001</u>		
		<u>£ 158</u>	
Total value of future interest			<u>£ 158</u>
Diminution in value of landlord's interest			£11,393
2. <u>Marriage value</u>			
Capital value of extended leasehold interest		£158,000	
<u>Less</u>			
(i) Value of existing unimproved leasehold			
Interest @ 83% relativity	£131,140		
(ii) Value of landlord's present interest	<u>£ 11,551</u>		
		<u>£142,691</u>	
Total marriage value		£15,309	
Landlord's share @ 50%			£ 7,654
3. Compensation under Schedule 13 para 2(c)			
			<u>NIL</u>
Premium payable			£19,047
Say			£19,000