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Ref LON/LVT/1071/98

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

Leasehold Reform Act 1967 Housing Act 1980

**DECISION OF LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Applicant: John Lyon's Charity

Respondent: Mr M E Keough

RE: 5 The Lane, London NW8

Date of Tenant's Notice: 30 July 1998

Application to Tribunal dated: 21 December 1998

Heard: 14 September 1999

Appearances: Mr M E Keough (tenant) and Mrs P Delgado
Mr K G Buchanan BSc ARICS Conrad Ritblat

for the Tenant

Mr J E C Briant BA ARICS, Cluttons Daniel Smith
Mr D Cunnell BA (Hons), Cluttons Daniel Smith
instructed by Mr D J Greenish of Lee & Pembertons, Solicitors

for the Landlord

Members of the Leasehold Valuation Tribunal:

Mr P D Wulwik LLB
Mrs J E Davies FRICS
Mrs L Walter MA (Hons)

(Chairman)

Date of Tribunal's decision 08 OCT 1999

LON/LVT/1071/98
5 The Lane, London NW8

A. Introduction

1. This is an application by the landlord John Lyon's Charity to determine the price to be paid for the freehold interest of 5 The Lane, London NW8 under Section 9(1C) of the Leasehold Reform Act 1967 (as amended).

2. The property at 5 The Lane is a detached house on three storeys built in the 1940's. The property is held by the current tenant Mr. M.E. Keough under a Lease dated 31 July 1986 and made between (1) The Keepers and Governors of Harrow School and (2) Mr. and Mrs. G.S. Lederman for a term of 75 years from 24 June 1985 at the original ground rent of £500 per annum subject to review every 25 years on 24 June 2010 and 24 June 2035.

3. By Clause 1(b) of the Lease the ground rent on review is to be whichever is the higher of either the sum of £500 or the sum payable immediately before the review date or a sum equivalent to 0.25% of the capital value of the premises at the review date ("the relevant date"). The term "capital value" is defined to mean -

 "... the sum which on the relevant date could reasonably be obtained in the open market by way of fine or premium on the grant of a Headlease of the demised premises with vacant possession for a term of SEVENTY FIVE (75) years from the relevant date at a peppercorn rent subject to the covenants and conditions herein contained (with the omission therefrom of the premium and the rent hereby reserved) and upon the assumption that the

demised premises are fully repaired in accordance with the covenants herein”.

4. On 30 July 1998 the former tenant of 5 The Lane Jane Landau served a notice to acquire the freehold of the property. On 24 September 1998 the landlord served a notice in reply admitting the tenant’s right to have the freehold. On 2 October 1998 the Lease of 5 The Lane was assigned to Mr. Keough for a price to the order of £1,855,000. On 21 December 1998 the landlord issued its application for the determination by the Tribunal of the price payable by the tenant for the freehold under the Act. The application stated that the price considered appropriate by the landlord was £275,000 and that the terms of the conveyance other than the price had been agreed.

5. The hearing date was notified to the parties by letter dated 20 July 1999. On 5 September 1999 the tenant wrote to the Tribunal requesting an adjournment of the hearing on the grounds that his Surveyor Mr. Buchanan of Conrad Ritblat was not returning from holiday until 8 September and that he himself had been asked to attend a meeting in New York. The application for an adjournment was opposed by the landlord on the basis that the tenant’s surveyor was returning to the office on 7 September and that the tenant’s own business arrangements should not affect the hearing date. In the result, the application for an adjournment was refused.

B. Hearing

6. At the hearing on 14 September 1999 the landlord John Lyon’s Charity was

represented by Mr. J.E.C. Briant BA, ARICS of Cluttons Daniel Smith, Surveyors, accompanied by his assistant Mr. D. Cunnell BA (Hons) of the same firm. The tenant Mr. Keough was accompanied by Mrs. P. Delgado and by Mr. K.G. Buchanan BSc, ARICS of Conrad Ritblat, who had been advising the tenant.

7. In opening the matter, Mr. Briant referred to the fact that Mr. Keough in his written statement of case had referred to two areas of the parties' discussions which had been on a without prejudice basis, that he was content for Mr. Keough's statement to be considered by the Tribunal and that he would deal in his evidence with the reasons that he was now arguing a little differently from what he had previously been putting forward in the without prejudice discussions that had taken place. He confirmed that in the circumstances on behalf of the landlord he was prepared to waive the without prejudice protection attaching to the parties' discussions where without prejudice matters had been divulged, the same relating to an offer made on behalf of the landlord to the tenant in January 1999 and to a previous discussion concerning the value of tenant's improvements to the property.

8. Mr. Briant informed the Tribunal that a number of matters were agreed by the parties :-

- (1) The terms of the transfer of the freehold other than the price were agreed.
- (2) The valuation date was agreed to be the date of the tenant's notice of claim to acquire the freehold, being 30 July 1998. The lease thus had just under 62 years unexpired.
- (3) The yield rate was agreed to be 6%.

(4) The marriage value was agreed at 50% to each side.

9. Mr. Briant produced a written proof of evidence. He proceeded to take the Tribunal through those parts of his evidence where the parties were not agreed. The principal matters in issue between the parties were as follows :-

- (1) The value of tenant's improvements.
- (2) The value of the existing leasehold interest.
- (3) The ground rent review and how it should be calculated.
- (4) The value of the freehold interest with vacant possession.

10. (1) The value of tenant's improvements

Mr. Briant stated that previous licences had related to the following works -

- (i) The erection of a garage.
- (ii) A single storey addition at the rear of the property for private residential use.
- (iii) The conversion of the loft space to form a study/bedroom, the installation of two dormer windows and the construction of a new staircase leading to the loft.
- (iv) (a) The construction of a new addition over the entrance hall to extend the original bathroom.
- (b) The removal of the partition between the work room and the dressing room on the first floor to form one room.
- (c) The addition of a conservatory to the kitchen together with the removal of a door, a window and the demolition of the structural wall to form a wider opening.
- (d) The extension to the south side of the kitchen to the boundary wall to form

additional storage space.

- (e) The extension from the ground floor bedroom to the boundary wall to form additional stores.
- (f) The addition of a store cupboard and low level storage space on the south side of the drawing room.
- (g) The addition of the brick courses to the flat roof above the ground floor bedroom.

11. Mr. Briant stated that the tenant had applied for consent for further substantial alterations to the property and was at the present time in the middle of a large building contract. These works had been commenced in 1999 and therefore after the valuation date. The 1999 works involved the removal and modification of several aspects of the previous improvements, including the demolition and replacement of the conservatory and the installation of a new staircase to the second floor which subject to consents was to be converted into three rooms and two bathrooms. Mr. Briant was now of the view that as a result of these changes the value of the original improvements was quite modest and he would allow for the original improvements a notional figure of £50,000 off the freehold value. He had in fact previously attributed a value to tenant's improvements of £130,000 back in January 1999. Plans showing the layout of the property before the 1999 works and the proposed layout of the property were provided to the Tribunal.

12. (2) The value of the existing leasehold interest

Mr. Briant's starting point was to take the price paid by the tenant Mr. Keough for

the property in October 1998 of £1,855,000, which Mr. Briant acknowledged was felt at the time to be a high price for the unexpired Lease. He deducted 20% of the price as being his estimate of the increase in value caused by the existence of the Act, with any increase in value caused by the impact of the Act falling to be disregarded. He thereby arrived at a figure of £1,484,000 as the value of the leasehold interest.

13. (3) The ground rent review and how it should be calculated

The ground rent review on 24 June 2010 is to 0.25% of the capital value of the property on the assumption of a 75 year lease at a peppercorn rent. Mr. Briant took the value of the lease on a nominal 75 year term as £1,855,000 being the price paid by the tenant, albeit for a shorter term then remaining unexpired of approximately 61¾ years. This gave an annual ground rent on review on 24 June 2010 of £4,637.50, which Mr. Briant rounded down to £4,600 per annum.

14. (4) The value of the freehold interest with vacant possession

Mr. Briant stated that the property was part of a 1940's development and was quite a difficult property in terms of comparables. The only real comparable was said to be 1 The Lane which was situated on the corner of Marlborough Place and The Lane and part of the same development. Mr. Briant commented on the two properties as follows :-

- (i) The subject property 5 The Lane was a 1940's detached house of brick construction on three floors with an approximate effective floor area of 180 m² or 1938 sq.ft. and without improvements 146 m² or 1571 sq.ft. The accommodation internally

consisted of four bedrooms (one with en suite bathroom and one with en suite shower room), study, bathroom, maid's room, utility room, kitchen/breakfast room, drawing room/dining room, conservatory and garage. Externally there was a front garden, a back garden and off street parking for two cars. The property had been in good condition. The tenure was leasehold. The valuation date for the purpose of the enfranchisement claim was 30 July 1998.

- (ii) 1 The Lane was a 1940's detached house of brick construction on two floors with an approximate effective floor area of 160 m² or 1722 sq.ft. The accommodation internally consisted of four bedrooms, three bathrooms, dressing room, maid's room, utility room, kitchen/breakfast room, drawing room, dining room and conservatory. Externally there was a front garden, a back garden but no off street parking. The property was in good condition. The tenure was freehold. Contracts had been exchanged for the sale of the property on 29 June 1998 at a price now known to be £1,475,000, the sale completing in November 1998. The date that contracts had been exchanged was only one month before the valuation date for 5 The Lane.

15. Mr. Briant stated that the main difference between the two properties was the location, with 1 The Lane being on the corner of Marlborough Place and The Lane and experiencing passing traffic while 5 The Lane was in the middle of the development in The Lane and was much quieter and more discreet. Mr. Briant considered that this was reflected in the different rateable values of the two properties with 1 The Lane being rated at RV £1,262 as at 1 April 1973 and 5 The Lane being rated at RV £1,972, increased to RV £2,388 on 14 August 1991. The

exact condition of 1 The Lane in 1998 was not known. The agents' sales particulars had stated that it had been refurbished, but from the exterior of the property Mr. Briant believed that it might be in need of further attention. After making an allowance for these factors, Mr. Briant was of the view that the freehold value of 5 The Lane was £1,850,000.

16. Mr. Briant also referred to 4 The Lane, which was next door to the subject property. That was a negotiated settlement where the tenant's notice of claim to acquire the freehold had been dated 2 May 1998 and again was very close to the valuation date of 5 The Lane. Mr. Buchanan had also been acting for the tenant in that case. The property was a two storey brick built house constructed in the 1940's comprising three bedrooms, dressing room, two bathrooms/WC, en suite shower room, study, reception room, dining room, family room, kitchen/breakfast room, utility room, maid's room, shower room and kitchenette. The "improved" 'A' area was 158 m². The unexpired term of the Lease had been 62.25 years, the ground rent being £500 per annum subject to review. In July 1999, shortly before the matter was heard by a Tribunal, the price was agreed at £198,000. The freehold value of the property was considered to be £1,750,000, less £150,000 for improvements. The leasehold value was put at £1,280,000.

17. Mr. Briant considered that 4 The Lane was not as good as 5 The Lane, being squashed into the site. It shared an access way with 3 The Lane. Mr. Briant believed that his figure for the freehold value of 5 The Lane represented quite a modest uplift. The differential between the unimproved freehold value and

leasehold value of 4 The Lane was 80%. He was of the view that it should be similar for 5 The Lane. There was the same yield figure of 6% in the case of 4 The Lane, which was agreed in relation to 5 The Lane. Mr. Briant produced a settlements graph based on Eyre Estate and John Lyon's Charity Estate settlements to support his argument that the differential between freehold and leasehold values should be approximately 80%.

18. Mr. Briant's proposed enfranchisement price on behalf of the landlord was £227,501. A copy of Mr. Briant's valuation is at Appendix A.
19. Mr. Briant then dealt with two specific aspects of Mr. Keough's written statement:-
 - (1) He acknowledged that in January 1999 it had been part of the landlord's case that the value of tenant's improvements for 5 The Lane was about £130,000. He had reconsidered the matter in the light of the very substantial works being carried out by the tenant and had adjusted his figure for tenant's improvements down to £50,000. There had been a conservatory at the property. A conservatory could add value to a property but he did not think that it was a particularly good conservatory. He pointed out that as part of the tenant's works Mr. Keough was in fact replacing it. Further the previous tenant had installed a staircase to the second floor and had converted the second floor into habitable space with one large room and a shower room. The staircase went through a first floor bedroom. The tenant was now proposing to build a more traditional staircase up to the second floor from the landing, which was a much better proposal. The original improvements were now going in part. Mr. Briant considered that he was probably being a little too kind in

not taking into account the fact that the staircase went through the bedroom on the first floor.

- (2) Mr. Briant stated that the tenant would be giving evidence of a valuation of 5 The Lane which he had obtained from DTZ Debenham Thorpe earlier this year, valuing the freehold interest at £1,700,000 and the leasehold interest at £1,400,000. Mr. Briant stated that it was not known what the comparables were on which the valuation was based. He was therefore not sure how helpful the valuation would be to the Tribunal. No one was present from DTZ Debenham Thorpe.

20. The tenant Mr. Keough had no questions for Mr. Briant. In answer to questions from the Tribunal, Mr. Briant emphasised that it was the value of tenant's improvements that had to be disregarded. He believed that 1 The Lane did not have a loft conversion but considered that it had the potential for a loft conversion in the same way as 5 The Lane.

21. Mr. Keough produced a written statement of case, from which he read. He referred to the matters which were agreed, before turning to the principal issues.

22. (1) The value of tenant's improvements

Mr. Keough had taken the total area of all previous tenant's improvements as 48.7 m². On the basis of a freehold value of £1,700,000 for an area of 215.2 m², it gave a value for the improvements of £384,000 if the value of the improvements was proportional. He was prepared to accept a figure of £192,356. He stated that he was happy to accept Mr. Briant's figures for the approximate effective floor area,

with and without improvements.

23. Mr. Keough posed the question whether the landlord's present allowance for improvements of £50,000 was sufficient for an extra 25% living space and a garage. He considered that the garage had a high value and that the previous tenant's improvements were of great value to him, paving the way for him to carry out the present refurbishment works involving the modification of previous improvements and easing the obtaining of planning consent for the present works. He stated that he did not see the logic of disregarding tenant's improvements in the light of the present works or for the drop in the value of tenant's improvements from the landlord's previous figure of £130,000 to £50,000.

24. (2) The value of the existing leasehold interest

Mr. Keough relied on DTZ Debenham Thorpe's opinion of the leasehold value of £1,400,000 as at 31 March 1999. He produced a copy of DTZ Debenham Thorpe's valuation report. They appear to have based their valuation on the sale of 1 The Lane in the Autumn of 1998, referring to a sale figure of £1,425,000. The sale figure in fact appears to have been £1,475,000. Mr. Keough stated that he was more flexible in relation to the leasehold value of 5 The Lane, it being the freehold value which was the major issue for him.

25. (3) The ground rent review and how it should be calculated

Mr. Keough took the value of the Lease as £1,400,000, giving an annual ground rent on review on 24 June 2010 of £3,500.

26. (4) The value of the freehold interest with vacant possession

Mr. Keough considered that the value of the freehold as at the notice date of 30 July 1998 was £1,700,000. He relied on the following :-

- (i) The valuation of the freehold by DTZ Debenham Thorpe in the sum of £1,700,000 as at 31 March 1999.
- (ii) The sale price of 1 The Lane, it appearing that the tenant's surveyor Mr. Buchanan of Conrad Ritblat had spoken the day before to Mr. Mark Schneider a Director of Arlington Estates and had been told that the sale price was £1,475,000. Mr. Keough queried whether the property at 5 The Lane was worth some £400,000 more than 1 The Lane, disregarding tenant's improvements. He accepted that the location of 5 The Lane was better than that of 1 The Lane but stated that it did not account for the difference.
- (iii) The fact that Mr. Keough's purchase of the leasehold interest in 5 The Lane was not an open market transaction. The property had not been marketed by the previous tenant prior to exchange of contracts. No sales particulars were drawn up. Mr. Keough produced a letter from the former tenant Jane Landau dated 2 September 1999 confirming that she and her husband were going to stay in the house and to carry out substantial refurbishment works themselves, that Mr. Keough had made his approach to purchase when the property had not formally been placed on the market and no sales particulars had been prepared, that they only pursued negotiations with Mr. Keough since he was prepared to pay whatever reasonable price they requested from him to move and that they believed they had received a price for the property which was above market value.
- (iv) The previous settlement of 3 The Lane. The tenant's notice of claim to acquire the

freehold had been dated 29 September 1996. The enfranchisement price was £110,000. The matter had settled in October 1997. The sale of the freehold assumed an unimproved freehold value of £875,000 as at 29 September 1996. Mr. Keough considered that 3 The Lane was quite similar to 5 The Lane in nearly every aspect, in terms of size, Lease characteristics, position, garage etc. He stated that using HM Land Registry data for NW8, prices for all properties had increased 26% between the second quarter of 1996 and the second quarter of 1998. Applying the average increase in value to 3 The Lane suggested an unimproved freehold value of £1,103,000. The Land Registry data did not include very expensive properties. However the point that Mr. Keough sought to make was that the landlord was suggesting an unimproved freehold value for 5 The Lane that was more than double the value agreed for what he regarded as a nearly identical property two years earlier. Mr. Briant's settlement schedule indicated that 3 The Lane had five bedrooms, four bathrooms, four reception rooms, off street parking for three cars and a single garage, that the "improved" 'A' area was 169.06 m², that the unexpired term of the lease had been 63.75 years and that the ground rent had again been £500 per annum subject to review.

27. Mr. Keough's proposed enfranchisement price was £186,222. A copy of Mr. Keough's valuation is at Appendix B.
28. Mr. Keough stated that the differential between the improved freehold and leasehold values that he was proposing of £1,700,000 and £1,400,000 was 82%. He referred to the fact that there was quite a range of settlements produced by Mr.

Briant's settlements graph. He considered that a differential of about 82% was well within Mr. Briant's range of settlements. He emphasised that even a 1% change in this regard could make quite a difference to the figures.

29. In answer to questions from Mr. Briant, Mr. Keough stated that it had been worth it to him to pay the extra over the market value to secure 5 The Lane. He had been looking for a family home, not a professional investment. He was familiar with the market. 5 The Lane fitted what he and his wife had been looking for. They recognised that they would have to pay over the odds because the property was not on the market. His purchase of the property did not represent open market value. It was not an economic decision on his part. Mr. Briant accepted that it was not a true open market transaction in the strict sense.

30. In his closing remarks, Mr. Keough stated that he was happy to accept the decision of the Tribunal. He considered that the settlement of 4 The Lane restricted Mr. Briant's ability to negotiate anything below that level of value. In his closing remarks, Mr. Briant stated that he was sceptical of the indices used by Mr. Keough in relation to the updating of the unimproved freehold value of 3 The Lane. There had been a steep rise in capital values in the intervening period. 4 The Lane had nearly gone before the Tribunal. He did not accept that the tenant there had given up the fight. He was professionally represented by Mr. Buchanan, who had also been advising Mr. Keough.

C. Inspection

31. The Tribunal inspected 5 The Lane on 15 September 1999. The property had been gutted. It was in the course of major refurbishment works. The works had started on 22 March 1999 and were expected to be completed at the beginning of December 1999. The property occupied a central position in The Lane. It was situated towards the rear of its plot and was heavily overlooked by other properties. There was little garden. The Tribunal considered that the tenant Mr. Keough had paid a very full price for the property.

32. The Tribunal noted the common access way serving the neighbouring property 4 The Lane and 3 The Lane. 4 The Lane was rather squashed into its site. 1 The Lane was immediately on the right, on entering The Lane from Marlborough Place. It was not an overly attractive property. The properties at 1, 3, 4 and 5 The Lane were of similar construction. To the left of 5 The Lane was 8 The Lane and then 7 The Lane. 6 The Lane was down to the side of 7 The Lane. 6, 7 and 8 The Lane appeared to have reasonable gardens. There was no 2 The Lane.

D. Decision

33. The Tribunal's decision on the principal matters in issue between the parties is as follows :-

(1) The value of tenant's improvements

Mr. Briant for the landlord set out in his written proof of evidence details of the various tenant's improvements to which previous Licenses had related. There was no dispute at the hearing that the tenant's improvements which had been carried out

as at the valuation date of 30 July 1998 were as set out by Mr. Briant.

The landlord had originally attributed a value to the tenant's improvements of £130,000 but had subsequently sought to adjust the figure downwards to £50,000 on the basis of the current 1999 works which involved the renewal and modification of several aspects of the previous improvements. Mr. Briant sought to argue that the current works indicated that the previous works had a limited value.

The tenant Mr. Keough for his part had sought to ascribe a value to the improvements on the basis of the proportion that the area of tenant's improvements bore to the entire property and then taking approximately one-half of the figure to arrive at his suggestion of £192,356 for the value of tenant's improvements.

The Tribunal considered that the tenant's approach to the value of improvements took little account of the actual value of the improvements carried out, which is what has to be disregarded in arriving at the enfranchisement price payable by the tenant. However the Tribunal considered that the tenant's improvements were of considerably greater value than the landlord's figure of £50,000. In particular, the Tribunal considered that -

- (i) The erection of the garage had added to the value of the property, bearing in mind the difficulties with on-street parking in the immediate locality.
- (ii) The construction of the conservatory would have added to the value of the property, albeit that the Tribunal accept that it may not have been a particularly enhancing feature of the property.
- (iii) The conversion of the loft space to provide further accommodation with en suite facilities was a valuable addition to the property, even accepting that the staircase up to the second floor could have been more appropriately sited. The first floor

bedroom through which the staircase ran up to the second floor was by no means rendered unusable by the presence of the staircase.

The Tribunal consider that the landlord's original figure of £130,000 was the correct figure for the value of tenant's improvements as at July 1998.

(2) The value of the existing leasehold interest

Mr. Briant's figure for the value of the leasehold interest of 5 The Lane as at 30 July 1998 was £1,484,000 with improvements, the figure being based on the purchase price paid by the tenant for the assignment of the Lease in October 1998 of £1,855,000 and with the deduction of 20% for the increase in value caused by the impact of the Act.

The tenant relied on DTZ Debenham Thorpe's opinion of the leasehold value of £1,400,000 with improvements as at 31 March 1999, which was based on the sale of 1 The Lane in the Autumn of 1998. The sale price of 1 The Lane in fact appears to have been £1,475,000 and not £1,425,000 as DTZ Debenham Thorpe believed. The tenant stated that he was more flexible in relation to the leasehold value of 5 The Lane.

The Tribunal consider that the existing leasehold value of 5 The Lane as at 30 July 1998 was £1,450,000 with improvements, the figure being considered appropriate by the Tribunal as the leasehold value of the property based on the evidence before the Tribunal and in the light of the Tribunal's own knowledge and experience of property prices in the locality.

(3) The ground rent review and how it should be calculated

For the purpose of the calculation of the ground rent payable on review on 24 June 2010 under the provisions of Clause 1(b) of the lease, Mr. Briant took the value of

the lease on a nominal 75 year term as £1,855,000 being the price paid by the tenant.

The tenant Mr. Keough took the value of the lease as £1,400,000.

The Tribunal consider that the existing leasehold value was £1,450,000 with improvements, as referred to previously.

The unexpired term of the lease as at the valuation date of 30 July 1998 was in fact 61.90 years and not 61.95 years as referred to by the parties.

Further since the value of improvements is disregarded at all stages, this has been held to include the capitalisation of the rent. The value of tenant's improvements must be excluded from the rent revision: see Sharp v. Earl Cadogan (1998), Unreported, Lands Tribunal.

The capital value of the premises without improvements is £1,450,000 - £130,000 = £1,320,000. The ground rent payable on review on 24 June 2010 under the provisions of Clause 1(b) of the Lease will therefore be $0.25\% \times £1,320,000 = £3,300$.

(4) The value of the freehold interest with vacant possession

Mr. Briant's figure for the freehold vacant possession value of 5 The Lane as at 30 July 1998 was £1,850,000 with improvements. He took the same view as Mr. Keough that the only relevant comparable was 1 The Lane, though he also referred to the negotiated settlement on 4 The Lane.

Mr. Keough's figure for the freehold value of 5 The Lane with improvements was £1,700,000 based on DTZ Debenham Thorpe's valuation as at 31 March 1999, the sale price achieved for 1 The Lane, the fact that his purchase of the leasehold interest of 5 The Lane in October 1998 had not been a true open market transaction

and the previous negotiated settlement on 3 The Lane, where the valuation date was 29 September 1996 and Mr. Keough had updated the unimproved freehold value using HM Land Registry data.

The Tribunal agree with the parties that the best comparable is 1 The Lane. The Tribunal note that DTZ Debenham Thorpe in their report at Appendix 3 had made comparison with 1 The Lane, which they acknowledged had the disadvantage of not having a garage or driveway and of fronting onto Marlborough Place. The Tribunal agree that 5 The Lane has a better location.

The negotiated settlement relating to 4 The Lane had to be approached with caution, as in the case of settlement evidence generally. The valuation date in relation to the negotiated settlement on 3 The Lane was too old for that settlement to be of any real assistance.

The Tribunal agree that Mr. Keough had paid a very high or full price for the leasehold interest in 5 The Lane and that it was not a true open market transaction, with the property not having been on the market at the time and with Mr. Keough being prepared to pay what it took to secure the property for himself.

The Tribunal consider that the freehold value of 5 The Lane as at 30 July 1998 was £1,750,000 with improvements, the Tribunal arriving at that figure bearing in mind the evidence relating particularly to 1 The Lane and again in the light of the Tribunal's own knowledge and experience of property prices in the locality.

The Tribunal note in passing that the differential between the Tribunal's unimproved freehold and leasehold values of £1,620,000 and £1,320,000 is approximately 81% and as such within the range of Mr. Briant's settlements graph.

34. The Tribunal agree with the parties that their respective share of the marriage value should in each case be 50%. The enfranchisement price determined by the Tribunal as payable by the tenant Mr. Keough under Section 9(1C) of the Act is £187,100.

A copy of the Tribunal's valuation is included at Appendix C.

Chairman *P. Wulwik*
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Peter Wulwik

08 OCT 1999
Dated.....

5 The Lane Freehold Sale Price

From: M.E. Keough
Date: 12 September 1999

Notice Date	30-Jul-98	
Lease Details		
Date	31-Jul-86	
Term (years)	75	
Expiry Date	23-Jun-60	
Unexpired Term (years)	61.95	
Ground Rent to 23 June 2010	£500	
Ground Rent from 24 June 2010 (.25% of Leasehold Value)	£3,500	
Values		
Freehold Value	£1,700,000	
Existing Lease	£1,400,000	
Tenant improvements	£192,356	
Value of Freehold Present Interest		
Annual Ground Rent Term 1	£500	
Present Value (11.95 years @6% yield =8.36 factor)		£4,180
Annual Ground Rent Term 2	£3,500	
Present Value (50 years from 2010 @6% yield)		£27,470
Reversion		
Freehold Value less improvements	£1,507,644	
Present Value (61.95 yrs in the future @6% yield)		£40,794
	Lessor's Interest	£72,444
Marriage Value		
Freehold value less improvements	£1,507,644	
Less Lessor's Present Interest	£72,444	
Less Tenant's Interest (less improvements)	£1,207,644	
Marriage Value	£227,556	
	Marriage Value Share (50%)	£113,778
	Price to acquire freehold	£186,222

5 The Lane, Marlborough Place, London NW8

<u>Valuation Date</u>	30.7.98
<u>Lease details</u>	
Date	31.7.86
Term	75 years from 24.6.85
Expiry date	24.6.2060
Unexpired term	61.90 years
Ground rent	£500 p.a. to 23.6.2010

Values

Freehold value with V.P.	£1,750,000
Existing lease	£1,450,000
Lessee's improvements	£130,000
Ground rent	£3,300 p.a. from 24.6.2010

Value of Freehold Present Interest

Ground rent receivable	£500 p.a.	
Y.P. for 11.90 years @ 6%	<u>8.33544</u>	£4,168
Ground rent receivable	£3,300	
Y.P. for 50 years @ 6%	15.762	
P.V. £1 in 11.90 years @ 6%	<u>.49987</u>	£26,001

Reversion

F.H. value less improvements	£1,620,000	
P.V. £1 in 61.90 years @ 6%	<u>.027137</u>	£43,962
	Lessor's Interest	£74,131

Marriage Value

F.H. value with V.P. less improvements	£1,620,000
<u>Less</u> Lessor's present interest	£ 74,131
Lessee's interest	<u>£1,320,000</u> <u>£1,394,131</u>
Marriage value	£225,869

50% £112,935

£187,066

Premium to be paid : say £187,100