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Residential  
Property  
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**Case Reference: LON/OOAN/LSC/2007/0411**

**APPLICATION UNDER SECTION 48 of the Leasehold Reform Housing  
and Urban Development Act 1993**

Applicant: Lucinda Burgess

Respondent: Watford Securities Limited

Premises: Flat 2, 1C Cowick Road, London SW17 8PF

Date of Hearing 11 November 2008

Appearances for Applicant: None

Appearances for Respondent: Mr I. McMellin MRICS (John Whiteman and  
Company)

Leasehold Valuation Tribunal: Mrs Hindley LL.B  
Mr Jarero BSc FRICS

Date of Tribunal's Determination 12 November 2008

1. This is an application under Section 48 of the Leasehold Reform Housing and Urban Development Act 1993 in respect of Flat 2, !C Cowick Road, London SW17 8PF.
2. By a notice of claim dated 13 December 2007 the applicant proposed a premium of £2000.
3. By a counter notice dated 20 January 2008 the respondents admitted the claim but sought a premium of £6,000 and on 23 January 2008, by a second counter notice, the respondents admitted the claim but sought a premium of £9,382.
4. An application on behalf of the applicant was received by the Leasehold Valuation Tribunal on 16 July 2008 and standard Directions were issued on 30 July 2008.
5. The applicant failed to comply with any of the Directions but on 10 November 2008 Paton Walsh Laundry, solicitors on behalf of the applicant, wrote to the Tribunal saying that having considered the report of the respondent's valuers – John Whiteman and Company – the applicant accepted their valuation of the extended lease at £205,000, leaving only the issues of the yield and the deferment rate to be determined by the Tribunal.
6. The existing lease, dated 9 November 1990, was for a term of 99 years from 25 December 1988. Accordingly, at the valuation date (13 December 2007) there were 80 years and 11 days remaining and thus no marriage value was payable.

#### The Hearing

7. At the hearing on 11 November 2008 Mr McMellin produced a revised valuation (attached at Appendix 1) adopting a deferment rate of 5% and a yield of 7%..
8. In support of his deferment rate he said that since Sportelli, 5% was the accepted deferment rate.
9. In support of his yield rate he said that the subject ground rents were sizeable and worth collecting and that in other similar cases he had agreed a number of settlements at 7%.

#### The Decision

10. The Tribunal was satisfied, on the basis of the evidence before them and from their own knowledge and experience, that the yield and deferment rates adopted by Mr McMellin were, in the circumstances of the case, appropriate.
11. Accordingly, the Tribunal determines the premium payable for the extended lease of the subject flat to be £6,153 as set out in the valuation attached at Appendix 2.

#### Costs under Paragraph 12 of Schedule 13 of the Housing Act 2004

12. At the hearing Mr McMellin asked for costs under the above Act on the basis that the applicant had not complied with the Directions, had at no time attempted to negotiate and because the matter could have been dealt with without the necessity for a hearing.

13. The Tribunal is sympathetic to the application since it appears that the applicant has failed to comply with the Directions and, by taking no part in the proceedings until the very last minute, has acted unreasonably. This means that the applicant would appear to have acted contrary to the provisions of both Paragraphs 12(2)(a) and 12(2)(d).
14. However, Paragraph 32 of the Residential Property Tribunal Procedure (England) Regulations 2006 requires the Tribunal to allow the applicant to make representations before making such a determination of costs.
15. Accordingly, the applicant has until 1 December 2008 to make written representations to the Tribunal giving reasons why an order for costs (up to a maximum of £500) should not be made against her.

Chairman

*B. D. H. J. J. J.*

Date

*13/11/08.*



**Amended Valuation – 80 year term**

**1. Valuation of Existing Interest.**

Term						
Ground Rent				£100		
Years Purchase for	14	years @	7.0%	x 8.74547		£875
Ground rent					£200	
Years Purchase for	33	years @	7.0%	12.75379		
Present Value £1 For	14	years @	7.0%	0.387817	x 4.9461	£989
Ground rent					£300	
Years Purchase for	33	years @	7.0%	12.75379		
Present Value £1 For	47	years @	7.0%	0.0415875	x 0.5304	£159
				<b>Subtotal</b>		<b>£2,023</b>
Reversion						
Open Market Value					205,000	
Present Value £1 for	80	years	@	5.0%	0.02018	
						<b>£4,136</b>
				<b>Total</b>		<b><u>£6,159</u></b>

**2. Calculation of Marriage Value** **£0**

**3. Additional Compensation** **£0**

Premium to be paid **£6,159**

## Leasehold Valuation Tribunal

Ref: LON/00BJ/OLR/2008/0743

## Valuation of Flat 2, 1c Cowick Road, London SW17 8PF

Valuation Date 13 December 2007

99 year lease from 25 December 2007

Length of lease remaining - 80 yrs 11 days 80.03 years

Ground rent	for 1st 33 years	£100
	for 2nd 33 years	£200
	remainder of term	£300
Capitalisation rate		7%
Deferrment rate		5%
Value of freehold vacant possession		£205,000

## Value of freeholder's present interest

Ground rent receivable	£100	
YP 14.03 yrs @ 7%	8.7567	£876
Review to revised ground rent on 25 March	£200	
YP 33 years @ 7%	12.75379	
Deferred 14.03 yrs @ 7%	0.3870	£987
Review to revised ground rent on 25 March	£300	
YP 33 years @ 7%	12.75379	
Deferred 47.03 yrs @ 7%	0.04150	£159
Reversion to market value	£205,000	
Deferred 80.03 yrs @ 5%	0.02015	£4,131

Diminution of freeholder's interest £6,153

Premium payable to freeholder £6,153