

LON/00AE/OCE/2011/0158

**LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT  
ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATION  
UNDER SECTION 24 and 26 OF THE LEASEHOLD REFORM, HOUSING AND  
URBAN DEVELOPMENT ACT 1993**

<b>Applicants</b>	<b>Sufiah Suleiman Schweda Philip David Fry</b>
<b>Respondent:</b>	<b>Harold George Green (deceased)</b>
<b>Re</b>	<b>38 and 38A St Mary's Road London NW10 4AY</b>
<b>Date of Application to Court</b>	<b>21<sup>st</sup> July 2011</b>
<b>Date of Vesting Order</b>	<b>8<sup>th</sup> September 2011</b>
<b>Valuation date:</b>	<b>21<sup>st</sup> July 2011</b>
<b>Members of the Leasehold Valuation Tribunal:</b>	
<b>Mr P L Leighton LLB(Hons) Ms M Krisko BSc (Est Man) FRICS</b>	
<b>Date of Tribunal's decision:</b>	<b>5<sup>th</sup> December 2011</b>

## Introduction

- 1 The Applicant applied to the Salisbury County Court on 21<sup>st</sup> July 2011 for a vesting order in respect of the property known as 38 and 38A St Mary's Road Willesden London NW10 4AY("the property") on the grounds that the freehold owner Harold George Green could not be located. On 8<sup>th</sup> September 2011 District Judge Brookes made the vesting order and the matter was transferred to the Tribunal to make a valuation of the premium payable under section 26(1) of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act")
- 2 The Applicants occupy the premises pursuant to leases dated 24<sup>th</sup> June 1976 and 6<sup>th</sup> December 1978 and made for a term of 99 years from 24<sup>th</sup> June 1976 and 6<sup>th</sup> December 1978 respectively. The ground rent provided under the lease amounted to £25 per annum throughout the term. There are no other unusual features in the lease which would affect the valuation... Mr Graham the valuer acting for the tenants states that the unexpired terms as at the date of the application to the court were 63.93 and 66.38 years respectively

## The Property

- 3 The property is a house converted into two flats in a centre terraced two-storey building built pre 1919 in traditional materials. The external walls are formed in solid brickwork under a timber pitched and tiled roof covering.
- 4 Each flat consists of a lounge, kitchen, two bedrooms a box room study and bathroom WC and enjoys the benefit of the rear garden which is subdivided for the benefit of each leaseholder ... The property has gas central heating and all other main services throughout the property. The floor areas of the flats are approximately 75 and 78 sq metres and there is a shared front entrance and rear garden the property is stated to be in a

good state of repair and reasonable external decoration. . There is good decoration in Flat 38A and 38 is in need of redecoration

- 5 The repairing and insuring covenants are with the leaseholders and there is no enforceability clause by the landlord so that the tenants are responsible for everything and the landlord merely collects the ground rent.

### **The Law**

- 6 The basis of the valuation is to be carried out in accordance with the provisions of Schedule 6 of the Act in the same way as if the respondent landlord were before the tribunal.

### **Valuation Evidence**

- 7 In formulating his evaluations of the unimproved values of the two maisonettes Mr Graham took into account sales of other period style, conversion and purpose-built flats and maisonettes in the Willesden area between May 2010 on September 2011. He has made no adjustment for time on the basis that he considers that the market was relatively flat for this type of property during that period
- 8 The properties which he considered as comparables were: –
- (a) 242 Roundwood road in W 10 sold on 27th may 2010 four £238,000
  - (b) 50 6A St Mary's Road in W 10 sold on 20 September 2010 at £262,000
  - (c) 20 St Mary's Road in W 10 sold on 27 January 2011 at £250,000
  - (d) 1B Glynfield Road in W 10 sold for £240,000 on 18 April 2011
  - (e) 33 Drayton Road in W 10 sold for £249,950 on 6 April 2011
  - (f) 33 St John's Avenue Road in W 10 sold for £230,000 on 28 April 2011
  - (g) 30 the Harlesden Gardens in W 10 sold for £249,999 on 12 July 2011
  - (h) 7 St Mary's Mansions, St Mary's Road in W 10 sold on 20 September 2011 at £238,000

- 10 Each of these properties is slightly different but similar in character and Mr Graham has felt justified in applying an average for the value of the extended lease which he has fixed in the sum of £250,000.

#### **Deferment rate**

- 11 Mr Graham in his report sets out a detailed argument for the deferment rate to be increased from 5% as laid down by the Lands Tribunal in Sportelli to 5.25% on the grounds that there is no enforceability clause in the lease and applying the decision of the Lands Tribunal in **245 Glyn Road London E5** which stated that where there was no enforceability clause there was a greater risk of deterioration at the end of the lease.
- 12 The Tribunal considered that there was some force in this argument and considered that a deferment rate of 5.25% was reasonable in the circumstances

#### **Relativity**

- 13 In order to assess the value of the existing lease from the market value of the extended lease Mr Graham is relying upon the graphs following the decision of the Lands Tribunal in **Arrowdell Limited-v-Corston court (North) Limited LRA /72/2005**, that no reliance should be placed upon decisions of the LVT and that the preferred basis of assessment for relativity is based on the graphs or from open market sales.
- 14 Mr Graham chooses not to rely upon any open market evidence but produces graphs from the following sources from which he deduces the following values He dismisses South East Leasehold and other graphs which appeared to him to be limited to the south coast the ones which he chose were:-

Nesbitt and Company	86.93 and 88.83 respectively
Becket and Kay	88.84 and 90.29 respectively
Average Relativity	87.5% for 38A 89.5% for 38

- 15 Mr Graham therefore contends for a figure of extended lease values of £250,000 for each flat and existing leasehold values of £218,500 and

£223,750 Applying a deferment rate of 5.25% to this figure he arrives at a premium of £35,540 which he rounds down to £36,500

### The Tribunal's Decision

- 16 The Tribunal accepts that the capitalisation rate of 7% is reasonable and applies that figure for its own valuation
- 17 . The Tribunal agrees that the unimproved extended leasehold value is about £250,000
- 18 With regard to the existing lease value the Tribunal has considered the average of the various graphs produced by Mr Graham . The Tribunal therefore adopts a figure of 87.5% and 89.5% respectively With regard to the deferment rate the Tribunal has carefully considered the submissions made by Mr Graham for a higher figure than the 5% upheld in Sportelli . The Tribunal accepts that a further addition of 0.25% is warranted on the basis of a lack of an enforceability clause
- 19 Accordingly the Tribunal is willing to accept the figures put forward by Mr Graham but does not accept that it should be rounded down and accordingly fixes the premium for the property in the sum of £35,540 As the figure put forward and the basis for calculation is accepted there is no need for a separate valuation
- 20 The TR1 form needs to be amended to show that the property is transferred with limited title guarantee and under additional provisions to add the words "The property is transferred by order of the District Judge pursuant to the provisions of the Leasehold Reform Housing and Urban Development Act 1993 "

Chairman Peter Leighton

Date 5<sup>th</sup> December 2011

