



LRA/145/2006

LANDS TRIBUNAL ACT 1949

***LEASEHOLD ENFRANCHISEMENT – deferment rate – freeholders’ appeal allowed –
enfranchisement price determined at £3,264,182***

**IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE LEASEHOLD
VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL**

BY

TRUSTEES OF THE EYRE ESTATE

**Re: 56 Avenue Road
London NW8**

DECISION ON THE BASIS OF WRITTEN REPRESENTATIONS

by

N J Rose FRICS

The following case is referred to in this decision:

Earl Cadogan and Cadogan Estates Limited v Sportelli and Sportelli [2006] RVR 382

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DECISION

1. This is an appeal by the Trustees of the Eyre Estate, the owners of the freehold interest in a residential property known as 56 Avenue Road, London, NW8, against a decision of the Leasehold Valuation Tribunal for the London Rent Assessment Panel, which determined the price to be paid for the freehold interest by the lessees, Mr S L Plant and Mrs L B Plant, under section 9 of the Leasehold Reform Act 1967. On 16 November 2006 the President granted the appellants permission to appeal against one element of the determination, namely the deferment rate. The lessees did not respond to the appeal.

2. The LVT determined an enfranchisement price of £3,053,965 and they adopted a deferment rate of 5.5% in reaching that figure. Before me the appellants contended that a rate of 4.75% should be substituted for the LVT's 5.5%, and this adjustment produced a price of £3,264,182.

3. The President indicated that it appeared to him that the case would be suitable for disposal under the written representations procedure and the appellants replied that they were content for such procedure to be adopted.

4. A written proof of evidence on behalf of the appellants was submitted by Mr J E C Briant BA, MRICS, the Surveyor to the Eyre Estate and a partner in the firm of Cluttons. In the light of that evidence I find that the appeal property comprises a substantial detached house, constructed of brick in the 1930s on basement, ground and two upper floors, together with garage accommodation and a mews house in the rear garden. It occupies a plot of 1,618.5m² on the east side of Avenue Road on a corner with Elsworthy Road. Notice under the Act was served by the lessees on 20 September 2004, when the lease had 24.76 years unexpired. At that date the gross internal area of the existing house was 1,145m² (12,300 ft²), including the garage accommodation and the mews house. The area disregarding tenant's improvements was 975m² (10,150 ft²).

5. Mr Briant referred to the decision of this Tribunal (George Bartlett QC, President, His Honour Michael Rich QC and Mr P R Francis FRICS) in *Earl Cadogan and Cadogan Estates Limited v Sportelli and Sportelli* [2006] RVR 382 which was published on 15 September 2006, subsequent to the LVT's decision in the present case. In paragraph 123 of that decision, the Tribunal said:

“The application of the deferment rate of 5% for flats and 4.75% for houses that we have found to be generally applicable will need to be considered in relation to the facts of each individual case. Before applying a rate that is different from this, however, a valuer or an LVT should be satisfied that there are particular features that fall outside the matters that are reflected in the vacant possession value of the house or flat or in the deferment rate itself and can be shown to make a departure from the rate appropriate.”

6. Those observations were made in relation to properties held on lease with at least 20 years unexpired. In Mr Briant's opinion there were no factors that would lead to the conclusion that the deferment rate in the present case should be other than 4.75%. He added that, since the *Sportelli* decision was published, he had agreed a number of enfranchisement claims on the basis of a deferment rate of 4.75%.

7. In the absence of any other evidence I accept Mr Briant's opinion. The appeal is allowed. I determine that the price payable for the freehold interest in 56 Avenue Road, London, NW8 is £3,264,182. I make no order as to costs.

Dated 16 February 2007

N J Rose FRICS