

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00HN/OAF/2006/0012

REASONS

Application : Sections 21(1)(a) and 9(1A) of the Leasehold Reform Act 1967 as amended (“the 1967 Act”)

Applicant/Leaseholders : Kevin Flahive, Joanne Flahive, Catherine Ann Flahive, and Karen Flahive

Respondent/Landlord : Sir George Christopher Cadafael Tapps Gervis Meyrick

Building : Bourne Lodge, 70 Christchurch Road, Bournemouth, Dorset, BH1 3PF

Units : The nine residential letting units in the Building

Date of Applicant/Leaseholders’ Initial Notice : 8 August 2005

Date of Application : 24 August 2006

Date of Directions : 1 September 2006

Date of Hearing : 16 January 2007

Venue : Council Chamber, Civic offices, Christchurch, Dorset

Appearances for Applicant/Leaseholders: Mr Mark Sefton

Applicant/Leaseholders’ Expert Witnesses : Mr George Y Burgoyne MRICS, and Mr Philip D Moses MRICS

Also in attendance : Mrs Joanne Wallace (nee Flahive), Mrs Katherine Ann Wright (nee Flahive), and Mr Robin Smith

Appearances for Respondent/Landlord: Mr Kenneth Munro

Respondent/Landlord’s Expert Witness : Mr Geoffrey D Bevans FRICS MCI Arb CDipAF FEWI

Members of the Leasehold Valuation Tribunal : Mr P R Boardman JP MA LLB (Chairman), Mr J S McAllister FRICS, and Mr D M Nesbit JP FRICS FCI Arb

Date of Tribunal’s Reasons : 20 February 2007

Introduction

1. This Application by the Applicant/Leaseholders is under sections 21(1)(a) and 9(1A) of the 1967 Act, namely for the Tribunal to determine the price payable upon the Applicant/Leaseholders acquiring the freehold of the Building from the Respondent/Landlord
2. On the 1 September 2006 and the 15 September 2006 the Tribunal gave directions
3. The hearing of the application took place on the 16 January 2007, and both parties sent closing submissions after the hearing
4. Section 9(1A) of the 1967 Act provides as follows :

(1A) the price payable for a house and premises,--

- (i) the rateable value of which was above £1,000 in Greater London and £500 elsewhere on 31st March 1990, or,*
- (ii) which had no rateable value on that date and R exceeded £16,333 under the formula in section 1(1)(a) above (and section 1(7) above shall apply to that amount as it applies to the amount referred to in subsection (1)(a)(ii) of that section)*
shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, might be expected to realise on the following assumptions:-
 - (a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy, but on the assumption that this Part of this Act conferred no right to acquire the freehold or an extended lease.;*
 - (b) on the assumption that at the end of the tenancy the tenant has the right to remain in possession of the house and premises;*
 - (i) if the tenancy is such a tenancy as is mentioned in subsection (2) or subsection (3) of section 186 of the Local Government and Housing Act 1989, or is a tenancy which is a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954 in respect of which the landlord is not able to serve a notice under section 4 of that Act specifying a date of termination earlier than 15th January 1999, under the provisions of Schedule 10 to the Local Government and Housing Act 1989; and*
 - (ii) in any other case,*
under the provisions of Part I of the Landlord and Tenant Act 1954;
 - (c) on the assumption that the tenant has no liability to carry out any repairs, maintenance or redecorations under the terms of the tenancy or Part I of the Landlord and Tenant Act 1954;*

- (d) on the assumption that the price be diminished by the extent to which the value of the house and premises has been increased by any improvement carried out by the tenant or his predecessors in title at their own expense;*
- (e) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and*
- (f) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below*

5. Section 9(1D) of the 1967 Act provides as follows :

(1D) Where, in determining the price payable for a house and premises in accordance with this section, there falls to be taken into account any marriage value arising by virtue of the coalescence of the freehold and leasehold interests, the share of the marriage value to which the tenant is to be regarded as being entitled shall be one-half of it

Documents

- 6. The documents before the Tribunal are :
 - a. those comprising pages 1 to 269 of the Tribunal's bundle, together with the documents numbered A1 to 10 produced at the hearing and which now form part of the Tribunal's bundle
 - b. the Applicant/Leaseholders' skeleton argument dated the 11 January 2007
 - c. Counsel's closing submissions for each party, submitted after the hearing
- 7. In these reasons, references to page numbers are, unless the context otherwise requires, references to page numbers in the Tribunal's bundle

Inspection

- 8. The Tribunal inspected the Building on the morning of the hearing on the 16 January 2007. Also present were Mrs Wallace, Mrs Wright, and Mr Smith, the Applicant/Leaseholders' predecessor in title, who stated that he now acted as caretaker for the Applicant/Leaseholders
- 9. The Building is a substantial detached Victorian property, probably constructed in about the 1880's. There are helpful photos at page 155. It is overlooked to the west by a block of flats, one corner of which is just visible in the lower of the 2 photos. The east side of the Building is used as a driveway and car park, as shown in the lower of the 2 photos. To the north of the building, not visible in the photos, is number 70A Christchurch Road, which is in separate ownership, but which has a right of way over the driveway of the Building. The west side of the

Building is a garden, which Mr Smith said was for the use of Unit 1. Mr Smith said that the Building had already been converted into 9 Units when he had purchased in 1994. Retiling had taken place in 1994. There is a garage at the rear, which Mr Smith said was used by the Applicant/Leaseholders for storage. Mr Smith said that the Building was not a Listed Building, but was in a Conservation Area

10. The Tribunal inspected the 9 Units. There are helpful descriptions, floor areas, and floor plans at pages 25 to 28. Four of them, numbers 1 (5 beds), 7 (3 beds), 8, (1 bed) and 9 (1 bed), are flats. The other 5 Units are all bed-sits. Access to Units 1 to 8 is through the main entrance of the Building. There is a separate access to Unit 9. The Tribunal noted some evidence of roof leaks in Units 3 and 4. There is a cellar which is accessed through Unit 1, but which Mr Smith said was used solely by the Applicant/Leaseholders
11. Mr Smith said that all the Units were sublet on assured shorthold tenancies

Preliminary and procedural matters

12. Mr Burgoyne and Mr Bevans had produced a joint statement at page 24, agreeing that :
 - a. the valuation date was the 8 August 2005, being the date of the initial notice
 - b. the unexpired term of the Applicant/Leaseholders' Lease was 38.59 years at that date
 - c. the ground rent payable by the Applicant/Leaseholders to the Respondent/Landlord at that date was £638.07, rising on the 28 September 2014, and then 10-yearly, in line with agricultural wages
 - d. the Applicant/Leaseholders acquired their leasehold interest on the 30 June 2003 for £400,000
 - e. the price payable fell to be valued under section 9(1A) of the 1967 Act
 - f. the Building was registered as a House in Multiple Occupation on the 18 October 2002
13. Mr Munro confirmed at the hearing that the Respondent/Landlord was not pursuing the application for a debarring order referred to in correspondence

The Lease dated the 23 June 1945 (pages 220 to 229)

14. The Lease was for 99 years from the 25 March 1945 subject to a right of way with or without vehicles over the land coloured blue on the plan and was at a rent of £40 a year payable quarterly in advance on the usual quarter days. The lessee's covenants included in clause 2:
 - (ii) a full repairing covenant
 - (iv) a covenant not to erect additional buildings or to make alterations
 - (vi) a decorating covenant: external 3-yearly and internal 7-yearly
 - (vii) an insurance covenant
 - (x) a covenant to use the Building for the letting of suites of private residential flats not exceeding 4 in number

Supplemental Deed dated the 15 April 1977 (Pages 230 to 234)

15. The deed increased the rent payable to £240 a year, and contained additional lessee's covenants in clause 2 :
- (d) not to assign part only of the Building
 - (e) not to sublet the Building except by way of an underlease at the best rent reasonably obtainable without a fine being taken

Supplemental Deed dated the 21 April 1986 (pages 235 to 242)

16. The deed granted permission to the lessee to carry out specified works and to use the Building as 9 self-contained flats, and increased the annual rent by £160 until the 28 September 1994, and contained provisions to increase the additional £160 a year on the 29 September in 1994, 2004, 2014, 2024, and 2034 in the same ratio as agricultural wages

Mr Moses's letter to Mr Burgoyne dated the 10 November 2006 (pages 79 to 90)

17. Mr Moses stated that his valuation was to assist Mr Burgoyne to prepare a report on the Building for loan security purposes. His valuation as the Building stood, as a freehold investment house in multiple occupation and on the special assumption that it was fully compliant with all planning, building, fire and HMO regulations, was £800,000
18. He had adopted a yield of 6.5%, and had assumed a 6-month marketing period
19. He suspected that about £50,000 was needed to bring the Building up to current building/fire/HMO standards
20. If each Unit were sold on long lease, with proper management and maintenance arrangements, the total market value of all 9 Units would be £950,000

Mr Moses's e-mail to Mr Burgoyne dated the 22 November 2006 (page 78)

21. Mr Moses stated that his valuation of £950,000 assumed that all necessary works had been done to make the Units saleable

Mr Burgoyne's report (pages 31 to 152)

22. Mr Burgoyne attached to his report the HMO certificate dated the 18 October 2002 (pages 46 to 48), and various planning consents and building regulations approvals (pages 50 to 61)

23. Mr Burgoyne stated that the gross rental income was £59,060 for 2004/2005 (page 65), and £55,645 for 2005/2006 (page 66). Mr Moses's expected gross income was higher (page 89)
24. The transfer document was extremely onerous with many restrictions. The Building could not be altered in any way
25. Mr Moses's valuations were £800,000 as an HMO and £950,000 as individual flats. In either case, money would have to be spent to bring the Building up to the required standards
26. The appropriate "yield" according to the guidance in **Sportelli** was 5% for a block of flats and 4.75% for a house. However, in Mr Burgoyne's view, it was reasonable to use 5.25% if valuing the Building as an HMO, or 5% if valuing it as flats
27. Having considered the various indices of relativity set out at pages 135 to 137, Mr Burgoyne had adopted a 70% relativity
28. The Nationwide stated that house prices had risen by 8.2% from September 2005 to September 2006 (pages 144 to 147). Halifax stated that prices had risen by 7.8%, and that Bournemouth prices had risen by 7%. Mr Moses's valuation was in November 2006, some 15 months after the valuation date. Mr Burgoyne had reduced Mr Moses's valuation by 7%
29. Mr Burgoyne had valued the Building as an HMO to be retained, where the buyer would be an investor, and as a Building to be sold as individual flats, where the buyer would be a property dealer, and had allowed for the costs of bringing the Building up to the appropriate standard in each case. He had also allowed for acquisition and resale costs, as well as bank interest and profit margin (page 149)
30. His valuations were £155,790 as an HMO (pages 151 to 152) and £146,950 as individual flats (pages 149 to 150). Copies are attached to these reasons as Appendix 1 and Appendix 2, respectively
31. The price for the Applicant/Leaseholders to pay to the Respondent/Landlord at the valuation date of the 8 August 2005 was £155,790

Mr Bevans's report dated the 30 November 2006 (pages 154 to 186)

32. In relation to the capitalised value of the right to receive the ground rents, Mr Bevans stated that the rent at the valuation date was £638.07, reviewable in line with agricultural wages every 10 years. There was a review date only one month after the valuation date. Agricultural wages had

then risen from £5.40 an hour to £5.59 an hour. The rent would have then increased to £679.30. At the valuation date the unexpired term was 38.59 years. The capitalisation rate should be 4.5%, taking into account the 4.75% rate in one of the **Sportelli** cases, 13 South Terrace Kensington (£94 a year rent fixed for the remaining 22.6 years of the term), and the fact that an investor would accept a lower rate in this case because of the 10-yearly rent review which would exceed inflation

33. In relation to the present value of the right to the freehold reversion with vacant possession at the end of the term of the Lease, Mr Bevens stated that he thought that with relatively little work 9 units could be provided which could be sold off on long leases which would be more readily saleable than redeveloping and selling the existing Building. His calculations were at page 181. On the basis of his valuation of the Building as flats, had adopted a 5% deferment rate according to the guidelines in **Sportelli**
34. In relation to “hope value”, this had been defined in **Sportelli** as consisting of “the option that the freeholder has to sell the freehold or a lease extension to the tenant and thus realise the whole or part of the freeholder’s share of marriage value as exists at the date of the sale”. It had been accepted in **Sportelli** that :
 - a. hope value could be added in cases under section 9(1A) of the 1967 Act
 - b. the option to deal was at its highest when the unexpired term was about 30 years
 - c. the lump sum to be added on was in the order of 20% of the latent value released
35. In this case the option to deal arose earlier and lasted longer because the alienation clause in the Lease created an additional marriage value over and above what would apply if the reversionary terms were similar to the Lease terms. 20% was an appropriate percentage of the latent value in this case, taking account of the spreadsheet at page 183, and the graph at page 184
36. In relation to the value of the existing leasehold in the “no-1967 Act world”, the Applicant/Leaseholders paid £400,000 for the leasehold interest with the 1967 Act in existence. They would have paid less in a “no-1967 Act world”, because they would have had no right to enfranchise in the future. However, if hope value was part of the freehold valuation considerations, then it must also be part of the leasehold considerations, and the additional hope value would cancel out any deduction (5% and 10% in recent LVT decisions concerning local properties) for the “no-1967 Act world” hypothesis. Income from the lettings had not increased much over the period of the Applicant/Leaseholders’ ownership, so the value of the leasehold would not have increased much either. However, to reflect the statutory hypothesis that the Applicant/Leaseholders had no responsibility for repair or decoration, Mr Bevens had added 10% to the £400,000 to give a present leasehold value of £440,000 for present purposes
37. Mr Bevens’s final figure was £305,783, in accordance with the calculations at page 186. Copies of his valuations at pages 181 and 186 are attached to these reasons as Appendix 3

Skeleton argument of the Respondent/Landlord dated the 5 December 2006 (pages 187 to 192)

38. Mr Munro submitted that :

- a. the HMO order did not affect the freehold value; it was not open to the Applicant/Leaseholders to reduce the value of the Building artificially by their use of it
- b. relativity deductions in LVT decisions since 2000 determining the value of the leasehold interests in cases under the 1967 Act and the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act") had varied in accordance with the table at page 189; Mr Bevans's view was that any such deduction was likely to be offset by the inherent inclusion of hope value in the leasehold interest; and Mr Bevans's approach was to take the most recent sale of the leasehold interest and to add 10% for the non-repairing hypothesis
- c. Mr Bevans had adopted a 5% deferment rate
- d. Mr Bevans had followed **Sportelli** in adding 20% of marriage value for hope value

Skeleton argument on behalf of the Applicant/Leaseholders dated the 21 December 2007 (page 153)

39. The Applicant/Leaseholders' solicitors submitted that the price should be £155,790 for the reasons in Mr Burgoyne report

Further skeleton argument on behalf of the Respondent/Landlord dated the 6 January 2007 (pages 193 to 199)

40. Mr Munro submitted that :

- a. the difference between Mr Bevans's freehold value of £855,000 and Mr Burgoyne's value of £625,000 was a combination of different values for the Units, different conversion/refurbishment costs, allegedly onerous covenants in the transfer, and a developer's profit of 17.29% for a 6-month project
- b. Mr Burgoyne's valuation relied on the advice from Mr Moses, who had made it clear that he was valuing for loan security purposes, and it was reasonable to suppose that his figures were conservative
- c. Mr Burgoyne had adopted Mr Moses's qualified refurbishment figure of £50,000, which was half Mr Burgoyne's own figure
- d. Mr Moses's valuation of individual units was based on the assumption that the standard of finish was that purely required to meet current building/fire/HMO standards, and did not address development value
- e. Mr Burgoyne did not explain why he had not included a figure for hope value
- f. the onerous covenants in the Lease prevented any directly comparable relativity analysis

- g. Mr Burgoyne's analysis of relativity :
 - ignored the covenants in the Lease
 - relied on 2 of the many indices and 5 LVT decisions without explaining his choice
 - did not refer to the Lands Tribunal decision in **Arrowdell v Coniston Court (North) Hove Ltd** which indicated that LVT's should consider graphs of relativities, and that, whilst individual components of an LVT valuation could not be used by subsequent LVT's, compilations were admissible evidence
- h. Mr Burgoyne adopted a deferment rate of 5% if the property was valued as flats, but 5.25% if it was valued as an HMO, without evidence or argument to support the uplift
- i. Mr Burgoyne adopted the same rate for capitalisation rate and deferment rate ostensibly on the basis of **Sportelli**, whereas **Sportelli** was dealing only with deferment rates
- j. despite Mr Bevans's disagreement with Mr Burgoyne's relativities, Mr Burgoyne's figure for the valuation of the leasehold interest was either £437,500 or £441,000, compared with Mr Bevans's figure of £440,000
- k. Mr Burgoyne's freehold valuation on an HMO basis (page 151) :
 - deducted 5% for right of way, whereas Mr Moses's valuation figure of £800,000 had taken it into account (page 83)
 - deducted 10% for restrictions whereas they did not exist to the same extent as in the leasehold interest
 - should therefore have started with a figure of £750,000 (compared with Mr Bevans's figure of £855,000 on page 186) instead of £630,000
- l. Mr Burgoyne's £800,000 was based on Mr Moses's net income valuation on page 89 (£52,323), which was 5.5% of resale values (£950,000); a similar percentage of Mr Bevans's resale values (£1,010,000 – page 181) gave a rental income of £55,627, which, if capitalised at Mr Moses's 6.5% (page 89) gave a freehold value of £855,800. If Mr Bevans's figure (page 181) for the retained value of the right to receive the ground rents (£40,000) was added, and Mr Moses's figure for costs (£50,000) was deducted, the net starting figure was £845,000 compared with Mr Bevans's starting figure of £855,000

Applicant/Leaseholders' skeleton argument dated the 11 January 2007

41. Mr Sefton submitted that :

- a. the inclusion of hope value, being 20% of the actual marriage value in respect of which the Respondent/Landlord would receive half, would result in the Respondent/Landlord receiving more than half the marriage value, in contravention of section 9(1D) of the 1967 Act
- b. it was not appropriate to rely on **Sportelli** as authority for the inclusion of hope value because :
 - the appeal in 13 South Terrace was unopposed, and the tenant was unrepresented and no arguments were put to the Lands Tribunal on its behalf

- **Sportelli** did not purport to determine this issue under the 1967 Act for the future, but only the deferment rate issue
 - Lands Tribunal decisions on legal issues were not to be treated as binding : **West Midland (Trust) Association (Inc) v Birmingham Corporation** [1968] 2QB 188 at 210
 - LVT's have refused to follow **Sportelli** on this point in decisions following proper argument on both sides in **10 Holbein Mews London SW1** dated the 23 November 2006, **36 Walton Street London SW3** dated the 30 November 2006, and **8 Reston Place London SW7** dated the 11 December 2006
- c. it was illogical to suggest that the tenant should pay not only a share of marriage value as the actual purchaser, but should also pay an extra slice of marriage value as if a third party was the purchaser and as if the third party would hope to make a profit by selling on to the tenant in the future
 - d. Mr Bevens had produced no evidence about the existence of hope value in this case
 - e. nothing in **Sportelli** precluded Mr Burgoyne's slightly higher deferment rate of 5.25%, because the Building was being valued as an HMO, compared with Mr Bevens adoption of the **Sportelli** guideline figure of 5%
 - f. Mr Burgoyne's higher capitalisation rate of 5% was justified compared with Mr Bevens's figure of 4.5% because the ground rent of £638.07 was not substantial, it was not dynamic (Mr Bevens had speculated that it would increase by a mere £41.23 in 2014), and if the tenant defaulted it would be uneconomic to try to recover it
 - g. Mr Bevens's freehold and leasehold valuations of £855,000 and £440,000 were unpersuasive, and resulted in a relativity of only 51%, which did not sit easily with the table of LVT relativity decisions for leases of this length (78% to 81% - page 135) or the Savills "2002-enfranchiseable" table (73.9% to 74.6% - page 137)
 - h. graphs of relativity were capable of providing the most useful guidance : **Arrowdell**
 - i. contrary to Mr Munro's submission, Mr Bevens had not said in his expert report that the onerous covenants in the Lease prevented any comparable relativity analysis
 - j. either the Respondent/Landlord's freehold value was much too high, or the leasehold value was too low, or both
 - k. Mr Burgoyne's figures produced values which had a credible relationship to each other, based, correctly on the Building's current use as an HMO
 - l. Mr Burgoyne's use of a relativity of 70% was :
 - an approach to arrive at the leasehold value which was endorsed in **Arrowdell**
 - a modest figure compared with the published relativities

Mr Moses's oral evidence

42. In examination-in-chief Mr Moses said that he was a Member of the RICS. He understood his duty to the Tribunal as an expert witness. His report dated the 10 November 2006 had not been

produced for the purposes of evidence to the Tribunal, and he would draw to the Tribunal's attention any relevant matters

43. He produced at the hearing a number of documents

44. Page A1 was a tabular expression of his conclusions in his report dated the 10 November 2006. A copy is attached to these reasons as Appendix 4. It was uncertain whether the Units could be sold. He had valued them on different assumptions. He had looked at the Building as an investment. The figures in blue were his valuations. They were less than 5% different from the rent roll. He had deducted 20% to reflect void periods and maintenance. He had undertaken a number of portfolio investment valuations. Applying a capitalisation rate of 6.5% on the net rent of £52,323 gave an investment value of £804,972. If each Unit was put into a saleable condition and sold, the total value would be £950,000, but an investor, in Mr Moses's experience, would deduct 15%, leaving a figure of about £800,000, which is the approach an investor would adopt to see if there was a profit margin, and to see if the resale value underpinned the investment price he would pay

45. Page A2 was an adjustment of the values in A1 to the valuation date. A copy is attached to these reasons as Appendix 5. Rental values had not changed much in the interim. Capital values had changed to some degree. The 2006 capitalisation rate was 6.5%. In 2005 it had been 6.5% to 7%. 7% gave a figure of £747,474, which was probably a truer reflection of the value at the valuation date. Mr Moses's costs of compliance figure of £50,000 was, in Mr Moses's opinion, more realistic than the £100,000 estimated at the time by a building surveyor who had accompanied Mr Moses during his inspection of the Building. Mr Moses's £800,000 figure did not include the costs of compliance. If the £50,000 was deducted from Mr Moses's revised valuation date figure of £747,474 the starting point for the freehold valuation was, say, £700,000. Again, as a check, he had included a final column of resale values, which came to £878,500, rounded to £880,000. An investor's deduction of 15% would leave £750,000, which, after deduction of compliance costs, was £700,000, the same figure as the value of the Building as a whole

46. Page A3 had been drawn up after Mr Moses and Mr Bevans had met at the Building the day before the hearing to discuss Mr Bevans's suggested alteration of the internal layout of the Units to release further value. A copy is attached to these reasons as Appendix 6. The column in red showed the appropriate values for the amended Units, which produced a gross resale value of £955,000. There was a deduction of £40,000 for the extra works, in addition to the £50,000 costs of compliance. Mr Bevans proposed selling on ground rents of £200. Mr Moses thought that the maximum would be £100 to £150 as the buyers would be first-time buyers with a mortgage. 9 Units at £150 at a capitalisation rate of 5% would result in a figure of £27,000. 5% would have to be deducted for lack of planning consent. The blue figures were the rents on the basis of the re-arrangement. It was more appropriate to value as an investment. The red figures were only a comparison. £700,000 was about the right figure

47. In cross-examination Mr Moses said that there had been no discussion before his report dated the 10 November 2006 about the value of the leasehold interest, only the freehold interest. He had had no experience of valuations under the 1967 Act or the 1993 Act. He had considered the documents at page 82, including the section 106 Agreement dated the 21 September 2001 referred to, before preparing his valuation. He had not added anything for the value of that permission, despite deducting 5% for the lack of planning permission at A3 because he recalled that the planning history was uncertain, and permission might not exist for all Units. The planning history probably supported the existence of 9 Units, but it could not be assumed that any additional units would be permitted. His 5% deduction was for what was proposed
48. His final column of resale values at A1 and A2 was only a comparison. The percentages shown were not capitalisation rates, but the actual percentages which the blue annual rent figures bore to the resale values
49. He had said at page 87 that the Building would be bought by private investors, whereas in oral evidence he had said that it would be first-time buyers, but it could be either or both. Private investors as well as first-time buyers might have regarded ground rents of £200 as excessive. An investor would buy for both rental income and capital growth
50. For his values at page 82 he had relied on evidence of sales by estate agents and his own experience. He had started as a valuer in the Valuation Office (Inland Revenue) in Bournemouth in 1985, valuing residential and commercial properties for tax and rating. He then joined a series of residential surveyors firms culminating in joining Goadsbys in 2004. He now carried out residential and commercial valuations, portfolio work, and acted as an expert witness in matrimonial cases. He had chosen 6.5% as the appropriate capitalisation rate for 2006 based on his valuations and evidence collected for those valuations. In his experience of working for Goadsby's for 3 years, 7% was appropriate for 2005, although he had no underlying evidence to place before the Tribunal
51. The costs compliance figure of £50,000 at page 86 had derived from his valuation of 5 letting rooms in a terraced house for one of his investor clients who had stated that it would cost £10,000 a room to refurbish. Mr Moses's view was that £50,000 was about the right figure in this case, but he had not been instructed to ascertain an exact figure
52. Mr Moses was the author of the schedule of sales of flats at page 90
53. The figure of £40,000 at A3 for the costs of rearranging the Building to Mr Bevans's proposed new layout had followed the meeting with Mr Bevans the day before the hearing
54. Mr Moses had not considered values in a "no-1967 Act world", because he had not been instructed to do so

55. Mr Moses had not seen the spreadsheet of rental income (pages 63 to 68) before the hearing. It stated that BRP Estates were being paid a commission of 7.5% (£358 as a percentage of £4777), and that Mr Smith was being paid 7.5% as a caretaker
56. In answer to questions from the Tribunal Mr Moses said that in his experience the deduction rate of 20% for maintenance and voids was normal. It also included management costs and building insurance costs
57. The figure of £40,000 for rearranging the Building at A3 was his own figure, but had been a reasonable, perhaps generous, estimate, without costings, based on his discussion with Mr Bevans. Mr Moses had estimated £10,000 for Units 5 and 6, and £30,000 for dividing the ground floor Unit. He had estimated a further £50,000 for compliance. He thought the total of £90,000 was a reasonable estimate
58. The 15% deduction at A3 for sale as an HMO was because no-one would buy a block of flats for one figure, and then sell it on at the same figure. There would need to be a profit incentive. He had actual experience of such transactions
59. Property prices in Bournemouth had risen over the last year but were not rampant. At the valuation date there had been a good demand, but not a significant pressure of demand over supply
60. Mr Moses was content that there were planning consents for 9 Units, even though the documents in the Tribunal's bundle only seemed to indicate permission for 6. The 2001 planning consent had been a detailed consent for 5 years. The section 106 Agreement had required a contribution of £964.66
61. There was no re-examination

Mr Burgoyne's oral evidence

62. In examination-in-chief Mr Burgoyne said that he was a Member of the FRICS. He had been in practice since 1973. He had been principal of his firm for 25 years. He had a general practice, including residential valuations
63. His valuation at page 151 had been on the basis that there were restrictive covenants. He now produced the valuation at A4 on the basis of no restrictive covenants, with his final price being £167,800. A copy of that valuation is attached to these reasons as Appendix 7

64. The 5% deduction for the right of way was because this was a full vehicular right of way over the main drive and car park area, and had a substantial effect on value
65. He had applied a 70% relativity to ascertain the value of the leasehold interest. Mr Bevens's approach of taking the sale price to the Applicant/Leaseholders did not take account of the fact that that had not been a fully arms-length transaction. The Lease had not been put to the open market. It had merely been an agreement between 2 business colleagues. He had arrived at 70% relativity by looking at the LVT decisions at page 135 and the Savills "post-1967 Act" relativity figures at page 137 to compare them with the lower relativity figures outside the 1967 Act. He had also looked at the College of Estate Management figures at page 137. He had concluded that 70% was a fair relativity figure in this case. He had now seen the Beckett & Kay graph at A5. It strengthened his own analysis. The orange graph of LVT decisions showed a relativity of over 70% for terms of 40 years unexpired, a fraction under 70% for 35 years, and a fraction over 70% for 38.5 years
66. The capitalisation rate of 5.25% was appropriate because the ground rent was reviewable on an unpredictable basis, namely what might happen to agricultural wages. Mr Bevens's projection of a £49 increase over the next 9 years was not a good growth scenario for an investor
67. The deferment rate of 5.25% was more appropriate than the 5% **Sportelli** guideline because the Building was an HMO. It was not well laid out. Historic growth values of HMO's were not as good as other investments (like shops with a commercial lease)
68. Page 149 gave Mr Burgoyne's alternative calculation based on selling the Units on new long leases. It would be a 6-month project to acquire the Building, obtain vacant possession and refurbish. Mr Burgoyne did a lot of residential valuations for banks for lending purposes on refurbishment. He had assumed for the purposes of calculating bank interest at 7% that the bank would not lend 100% of the buying price. A comparison of the resulting figure at page 150 with the figure payable at 152 by the investor buying the Building as an HMO showed that the developer would be outbid by the investor
69. In cross-examination Mr Burgoyne said that he had relied on Mr Moses's valuation for his freehold value. Mr Moses had deducted 15% throughout for a profit for the buyer as a sale as one lot. He had also added 17.29% profit (page 149). That was not double counting. The 17.69% was developer's profit if each Unit was sold separately for a total of £950,000. The £800,000 valuation as an HMO (page 151) was a different valuation
70. He had made a 5% deduction for the right of way because in his experience a buyer in the market would pay less for a building subject to a right of way than for an identical building not subject to a right of way, even if valuing the freehold by reference to the income stream. He had picked the figure of 5% from his experience of doing this type of valuation

71. He had not relied on the £400,000 sale to the Applicant/Leaseholders when valuing the leasehold because it had not been an arms-length sale tested in the market. They had known Mr Smith for many years. The accounts at pages 63 to 68 showed the Applicant/Leaseholders paying 7.5% to him to manage the Building, as well as 7.5% to a local agent to collect the rents. Mr Burgoyne was not saying that the 7.5% to Mr Smith included part of the purchase price of the leasehold interest, but it showed that it had not been an arms-length transaction. Capitalisation of the rental income for 38.5 years and allowance for a sinking fund produced a much higher figure than the sale price. Mr Burgoyne did not know what was meant by the words "Price 360,098 (price was 360,00 [sic] less apportionment of grd rent 138.72 bought 30/06/2003" on page 63
72. Mr Burgoyne had now seen the letter from Mr Bevans to the Respondent/Landlord dated the 19 February 2002 (page A8) advising that :
- a. the net income after repairs, management, letting fees and voids was about £40,000, which gave a capitalised leasehold value of £350,000
 - b. a development proposal for 11 units would cost about £500,000. The estimated resale prices would be about £1,125,000, the projected net rental income would be about £60,000, and the proposal would be uneconomic.
 - c. if the property were held freehold and let to produce £60,000 net, its capital value as an investment would be about £750,000. If it were let as at present to produce £40,000 its capital value would be about £500,000. The expenditure required to produce the additional capital value would be uneconomic
 - d. if the property were held freehold, developed to form 11 units, and the units were then sold, the residual valuation was £420,000, including a profit element of £94,000
 - e. the maximum present freehold value was £500,000, and leasehold £350,000, and the Respondent/Landlord should pay no more than £425,000 to buy in the Lease
73. Mr Burgoyne had also now seen the letter from Stephen Noble of Lane Fox, Surveyors, to the Respondent/Landlord dated the 8 March 2002 (page A9) advising that he had taken on board Mr Bevans's suggested valuation, but in the current climate and low interest rates a potential purchaser would pay somewhere between £300,000 and £400,000 for the investment return
74. Mr Burgoyne had also now seen the letter from the Respondent/Landlord to Mr Smith dated the 12 March 2002 (page A10) stating that :
- a. the Respondent/Landlord was prepared to offer a fair price for the leasehold interest, but would not pay over the odds
 - b. the Respondent/Landlord was prepared to offer £400,000, which was the "at best" figure suggested by Stephen Noble, and might be £100,000 more than Mr Smith might achieve in the open market

75. Mr Burgoyne said that although the Respondent/Landlord had offered to sell the leasehold interest to Mr Smith for £400,000, it was still not an open market figure, because there was no evidence that it had been offered to the market. If one capitalised the rental stream at 7% for the remaining term of 38.5 years with a sinking fund of 3% the capital value was £600,000. However, Mr Burgoyne's valuation method was to value the income stream in perpetuity and then apply a 70% relativity for 38 years, and to ignore any redevelopment potential. Mr Burgoyne accepted that the existence of the section 106 agreement in 2001 indicated that someone had thought that there *might* be development potential, but evidence would be needed to show that there actually *was* development potential
76. Mr Burgoyne was familiar with the "graph of graphs" at page A5, and used it as a working tool himself when establishing relativities. He found the LVT determination graph the most useful. He had not read the Lands Tribunal decision in **Arrowdell**. If this Tribunal ruled the LVT graph inadmissible (which Mr Munro said was not his case), then Mr Burgoyne would rely on the range of LVT decisions referred to on page 135. If this Tribunal ruled those individual decisions as inadmissible on the basis of the decision in **Arrowdell** then Mr Burgoyne would refer to the College of Estate Management report. He had seen the Savills figures for central London at page 137. He had also looked at Reading and Berkshire. The relevance of relativities in central London to an HMO in Christchurch Road Bournemouth was that relativities remained constant, whereas valuations altered. The purpose of the College of Estate Management Research Report "Relative Values" dated August 2000 had been to advise the government whether there should be fixed relativity rates and deferment rates, but nothing had been done about it
77. He had not adjusted his relativity rate to take account of the fact that the Lease was restrictive, whereas the freehold title was not, because those matters would affect the values, not the relativities. The relativity was more affected by the length of the term
78. Mr Burgoyne's capitalisation rate of 5.25% was different from the capitalisation rates at pages A1 to A3 because they were capitalisation rates for HMO investment properties. There was no reason why the capitalisation rate and the deferment rate should be the same. It was to be expected that the capitalisation rate for the income stream for an HMO would be different from the capitalisation rate applied to a ground rent. A valuer would value the income stream using the capitalisation rate and then carry out Mr Moses's exercise of valuing each unit to check the figures. Mr Burgoyne would apply the appropriate capitalisation rate to the overall income stream. He would not value each unit. An investor buying the ground rent would pay a different price from that paid by an investor buying an HMO. In Mr Burgoyne's experience as a valuer advising lending institutions the market would expect a 6.5% to 7% return from an HMO income stream and less for a ground rent stream, which would result in a different capitalisation rate
79. Mr Burgoyne's deferment rate of 5.25% was higher than the **Sportelli** guideline of 5% because the Building was not particularly well laid out as an HMO. The layout affected the deferment rate rather than the capital value because the growth in the capital value of an HMO was not quite as good. There had been a tendency for the value of HMO's not to grow as fast as other

investments. He had nevertheless deducted the full 7% from Mr Moses's November 2006 valuation when arriving at his valuation on the valuation date because he had not been able to find specific evidence for HMO's

80. Mr Burgoyne's assumption (page 149) that a developer would "break the Building up" by selling the individual Units was because if the buyer did not break the property up and sell the Units individually the buyer would be an HMO investor. The valuation options were to value as an income stream or as a break-up. There was no discount in his valuation at page A4 as an income stream. A discount was appropriate for a buyer who was going to sell on immediately and therefore had to build in a profit element

81. There was no re-examination

Mr Bevans's oral evidence

82. In examination-in-chief Mr Bevans said that his qualifications and experience were summarised at page 168

83. His calculation of the price at page 186 needed amendment. The ground rent should have been £638.64, not £657.39. His freehold price was therefore now £305, 728, not £305,783

84. His hope value figure of £54,608 was based on 20% of marriage value as adopted in the case of 13 South Terrace in the **Sportelli** decision

85. The deferment rate should, in accordance with the guidance in **Sportelli**, be 5%, as he was valuing the Building as a block of flats

86. The growth rate of HMO's was in line with the growth rate in the residential market generally

87. The Lease and supplemental deeds contained restrictions on use, on assignment of part, and on sub-letting except at the best rent. This meant that it was not possible to sell each Unit on a normal long underlease. It was only possible to let the Units at a full market rent. The layout of the Units mostly corresponded with the layouts referred to in the 1986 supplementary deed at page 238

88. The relativity graphs were useful, but only if comparing like with like. It was not useful to try to compare a Mini with a Rolls Royce, and even less useful if the Mini had a broken door. In any event, the best evidence was of actual market transactions, and here there was evidence of a market transaction only 2 years before the valuation date. He had first heard the suggestion that

it was not an open market transaction when he had heard Mr Burgoyne giving evidence. Mr Burgoyne's evidence did not cause Mr Bevens to need to alter his own valuation. The freehold valuations were closer than they had thought, but relativity was the issue

89. Mr Bevens had included in his freehold valuation at page 181 a discount of 10% for "bulk buy", but had recently had such a discount challenged by a client on the basis that it had not been sought and would not have been given
90. In cross-examination Mr Bevens said that in 2002 he had written the letter at page A8 during discussions about the Respondent/Landlord buying back the leasehold interest. He had considered the possibility of implementing the 2001 planning consent, but had concluded that the proposal was uneconomic. He had not considered it economic in his present valuation either. In his letter at page A8 he had valued the freehold in 2002 at £500,000, and the leasehold at £350,000, a relativity of 70%. However, those figures were in a "1967 Act world", although he accepted that in the second paragraph of the letter at A8 he had specifically assumed that the Building could not be enfranchised. He accepted that his valuation at page 186 of freehold (£855,000) and leasehold (£440,000) produced a relativity of 51%, but he had not derived his leasehold valuation by applying a relativity percentage to his freehold valuation, but by adopting the evidence of the actual sale price only 2 years before the valuation date. On reflection, his 2002 valuation in the letter at A8 had probably valued the leasehold at the right level, but the freehold at a level which was too low, even though it had been a carefully considered valuation at the time
91. Mr Bevens's valuation method in his calculation at page 186 had been to take capital values (as Mr Moses had done in his "check-back exercise) and make a deduction, rather than to take the net HMO rents and capitalise. Both methods were valid approaches. In his 2002 letter at A8 he had taken the existing rents, deducted 30%, and capitalised. He could not say why he had now changed his approach
92. His calculations at page 181 were on the basis that the Building would be altered and then the 9 new units would be sold on long leases, resulting in gross sale proceeds of £1,050,000. The "discount for bulk buy" was because the buyer now would want a discount. The 10% would be his profit if he sold immediately. Mr Bevens had not consulted any agents to assess the capital values of the sales of each unit, but he had sent Mr Burgoyne some comparables, including a recent 1993 Act settlement at 13 Edward Court. Mr Bevens had not produced comparables for the Tribunal, but his figures at page 181 were only £55,000 different from Mr Moses's figures at page A3. Mr Bevens's figures were based on his experience of carrying out leasehold enfranchisement valuations on a daily basis, of consideration of Land Registry details, of dealing with blocks of flats and individual flats, and of looking at selling agents' details on the internet
93. Mr Sefton put to Mr Bevens the following expenses for the theoretical buyer in addition to the £855,000 calculated at page 181 :

- a. lawyers' fees for the purchase, say 2% of £855,000, namely £17,000
- b. stamp duty £34,200
- c. conversion and compliance costs, in respect of which Mr Bevens agreed Mr Moses's estimate, £90,000
- d. agents' fees on sales, say 2% of £1,010,000, £20,200
- e. lawyers' fees for drafting leases and sales, say £15,000
- f. bank interest for 6 months (although Mr Bevens said that the buyer would probably refurbish and sell one unit at a time instead) on, say, £550,000 at 7% a year, £19,000
- g. the total expenses would be about £195,400, which when added to the price of £855,000, meant that the buyer's total outlay would be £1,050,400
- h. this meant that the buyer, having sold all the units at Mr Bevens's figure of £1,010,000 and retained £40,000 as the right to receive the ground rents, would receive Mr Bevens's total (on page 181) of only £1,050,000, and would therefore make no profit, which Mr Bevens agreed if the buyer sold immediately, but in practice a buyer would keep the existing income to start with, and convert and sell piecemeal while waiting for the market to rise

94. Mr Bevens did not agree that the £400,000 sale to the Applicant/Leaseholders in 2003 had not been a sale in the open market. In this case Mr Smith had had an offer from the Respondent/Landlord as well, which he had declined. There had been other buyers interested, which Mr Bevens had only heard about just before the hearing. Mr Bevens showed the Tribunal letters from Mr Colin Wetherall of House & Sons dated the 13 November 2000 and the 25 July 2002 referring to interest from major housebuilders who had been interested in the Building for redevelopment, rather than as an HMO. They had not proceeded, but the letter showed that the property had been marketed before the sale to the Applicant/Leaseholders

95. Mr Bevens did not know the terms on which Mr Smith was engaged as a caretaker, but it made sense for the Applicant/Leaseholders to employ an agent to collect the rents and in addition someone on the spot to "police" the occupants. The fact that that person was the previous leaseholder was unusual, but, again, made sense because he knew the Building

96. The relativity was so much lower than the relativity graphs would indicate because Mr Bevens had identified onerous clauses in the Lease which depressed the value of the leasehold interest compared with the freehold interest :

- a. in relation to clause 2(iv) at page 224, it was not unusual for leases to have a qualified covenant not to make alterations without the landlord's consent, but this was an absolute covenant. Mr Bevens could not comment on whether or not absolute covenants against alterations were common in central London, or whether the relativity graphs of London LVT decisions took that into account
- b. in relation to the covenant against assignment of part only at page 231, this was not commonplace in residential leases, and was an onerous provision

- c. the requirement to obtain the best rent was onerous, because its effect was to prevent sales on long leases, which Mr Bevans would expect to be allowed in leases in the Bournemouth area

97. Mr Bevans could not say why he had not mentioned these points in his advice in 2002 at page A8. These onerous provisions were responsible for lowering the relative value of the leasehold interest from 70% to 51%, because, although it was common in Bournemouth for freeholds to be subject to restrictive covenants, the Respondent/Landlord had now conceded that the transfer of the freehold interest to the Applicant/Leaseholders would not contain an absolute restriction on the approval of alterations, and there would be no restriction on the granting of long leases

98. So far as hope value was concerned, Mr Bevans said that this was the hope of being able to do a deal which would enable the buyer to take a share of marriage value at a later date, on the basis that the present valuation was on the basis of a “no-1967 Act world”. He had no evidence of such hope value being paid in the market. He relied on its adoption in one of the **Sportelli** cases, and had spoken to Mr Cullum, one of the experts in that case

99. The ground rent in this case would be reviewed in line with agricultural wages, and should be capitalised on that basis

100. Mr Bevans did not agree with the suggestion that the deferment rate would differ according to the type of property or the use to which it was put. The deferment rate was simply a way of assessing what the buyer would pay now for the right to the freehold with vacant possession at the end of the term. There was no difference in that respect between a house and an HMO. In either case the deferment rate was assessed on the basis that the Building would be vacant at the end of the term

101. In answer to questions from the Tribunal Mr Bevans agreed that hope value was a percentage of marriage value, and that the Respondent/Landlord would actually be receiving a share of marriage value as part of the price. However, Mr Bevans said that the “no-1967 Act world” would recognise that there was an additional element of capital value because hope value was additional to the 1967 Act calculation

102. Mr Bevans’s report showed that he had considered relativity, but that he had decided not to rely on it in valuing the leasehold interest. The College of Estate Management report was of little benefit today. The enfranchisement market was much more sophisticated now. **Sportelli** had now given guidance on deferment rates. Several relativity graphs were now available. He did not find any difficulty applying a deferment rate of 4.75% or 5% in Bournemouth. This was a statutory valuation, not in the real world

103. There was no re-examination

Respondent/Landlord's closing submissions

104. Value of the freehold :

- a. Mr Bevans's individual Unit values figure of £1,010,000 (page 181) was close to Mr Moses's figure of £955,000, even after adjusting for time
- b. the figures were made even closer by a detailed comparison and adjustment of individual Unit values, and by the fact that Mr Moses's figures were for loan security purposes, and therefore conservative
- c. Mr Moses's figures had to be open to question given the extraordinary range of capitalisation rates on page A1, A2, and A3
- d. **adjustments** from those values were needed :
 - **time** : Mr Moses's figures had to be adjusted for time, but the Nationwide figures were national, and the Halifax figures were not standardised, and could be affected by changes in the sample, as mentioned in the heading to the table at page 140; Mr Bevans's figures were values at the valuation date, and did not need to be adjusted for time
 - **value of ground rents** :
 - contrary to Mr Burgoyne's contentions, there was nothing unattractive about the ground rents
 - the leases he and Mr Bevans valued would contain modern service charge provisions allowing full recovery and interest on arrears
 - the fact that the Building was an HMO had no impact
 - the evidence was that the ground rents would be £200 a Unit (Mr Bevans page 180), £150 a unit (Mr Moses page A3) or £100 to £150 a Unit (Mr Burgoyne in oral evidence). Mr Burgoyne's figure was on the basis that the Units would be bought by first-time buyers, but that contradicted Mr Moses's evidence that most if not all Units would be bought for investment/letting (page 87), and there was no evidence that investors would be affected by a rent of £200 a year
 - **costs of upgrading/conversion** : the parties agreed a figure of £90,000
 - **impact of the HMO** : if there was any impact at all it would be on the value of the existing lease where the lessee had no guarantee of recovering costs from the occupants; however, the reversion to long leases would not be affected because the service charge would allow recovery of costs
 - **discount for "bulk purchase"**:
 - both sides had made a deduction
 - Mr Bevans's was for profit and financing costs
 - Mr Burgoyne's 15% plus 5% for no planning permission involved double counting

- there was no reason to assume an immediate disposal of all the Units; each Unit had the same value before sale (where the freeholder's asset was the Unit itself) and after sale (where the freeholder's asset was the sale price)
 - **impact of onerous covenants in transfer** : the Respondent/Landlord accepted that the terms of the transfer should be in terms agreed by the Applicant/Leaseholders, so that there was no issue between the parties
 - **right of way** : there was no basis for a deduction of 5% for the right of way unless there was a development value that the right of way could impede, and neither side suggested that there was any
 - **planning permission** : there was no evidence that planning would cause any difficulty, or that a deduction should be made
105. **Deferment rate** : there was no evidence to support Mr Burgoyne's figure of 5.25%, or that the deferment rate should be higher than the 5% guidance in **Sportelli**
106. **Value of existing leasehold interest** :
- a. deriving a leasehold value from a freehold value was an acceptable method if like was being compared with like
 - b. however, the Lease covenants were onerous and prevented any directly comparable relativity analysis
 - c. Mr Bevans had used as his starting point the actual 2003 sale price and then adjusted it to take account of the "no-1967 Act world", which accorded with the methodology adopted in the decisions listed at page 189
 - d. there was no evidence to support the suggestion that the 2003 price was not a reliable guide
 - e. Mr Burgoyne's position on relativity was completely untenable in the light of **Arrowdell**
 - f. the CEM report and Savills table relating to London and to leases of longer lengths did not assist
107. **Hope value** :
- a. **Sportelli** decided, after full argument on the point, that hope value was recoverable in section 9(1A) valuations
 - b. it did not increase the Respondent/Landlord's share of marriage value to over 50%
 - c. it was not marriage value at all. It was the value of an option to deal, and was an element of the value of the reversion, to be calculated before the marriage value calculation was reached
 - d. its calculation was problematic; the Lands Tribunal had accepted 20%, which should also be accepted here

Applicant/Leaseholders' closing submissions

108. Freehold value

- a. the value in question was the figure the freehold would have sold for at the valuation date, assuming it was being sold with vacant possession
- b. Mr Burgoyne and Mr Moses had identified 2 possible buyers the investor (wanting to keep the Building as an HMO for the rental income) and the developer (wanting to upgrade the Building internally and sell off individual self-contained Units on long leases)
- c. there was no evidence to support the suggestion by the Respondent/Landlord that there might be a third class of buyer, namely someone who would formulate his bid as though he were a developer, but then retain the Building for an unspecified period
- d. there was insufficient profit for the developer to outbid the investor :
 - Mr Bevans's base figure of £1,010,000 was higher than Mr Moses's figure, with little supporting evidence
 - Mr Bevans then added the value of the ground rents he would reserve on the grant of long leases, deducted his estimate of refurbishment costs, allowed the buyer a slim 10% profit margin, which he described as "discount for bulk buy", and arrived at a net figure of £855,000
 - however, the buyer would also incur stamp duty, solicitors' fees on purchase and grant of leases, bank interest, and selling agents' fees amounting to £107,850, which was in excess of the profit allowed by Mr Bevans
 - far better guides to the price a developer would pay were the more complete development appraisals prepared as cross-checks by Mr Burgoyne (page 149) and Mr Moses (page A3), which, incorporating a more realistic profit margin of 17% (Mr Burgoyne) of 15% (Mr Moses), showed that the developer would pay less than the investor
- e. the investor would calculate his bid by :
 - calculating the net rents the investor might expect to achieve :
 - Mr Moses put forward at A2 a yearly figure of £65,404
 - he deducted a modest 20% for voids etc to reach a net yearly income of £52,323
 - a higher deduction would result in a lower net figure, and a lower capital value for the freehold
 - the Respondent/Landlord had not put forward any alternatives to those figures
 - capitalising the expected net income :
 - Mr Moses thought that 6.5% was the right figure in 2006, but that 7% was the figure an investor would have been looking for in 2005, when yields

- were slightly higher
- the Respondent/Landlord had not put forward any alternatives to those figures
- this produced a figure of £750,000
- deducting a figure for the costs of compliance with current HMO regulations, which was estimated at £50,000, which reduced the freehold value to £700,000
- deducting 5% for the existence of the right of way

109. Hope value

- a. the Applicant/Leaseholders were the only buyers who could release the marriage value latent in the Building now
- b. they did not have to pay more than half the marriage value by virtue of section 9(1D) of the 1967 Act
- c. the Applicant/Leaseholders would not in addition pay anything now for the prospect of doing a deal with themselves to generate marriage value at some time in the future
- d. the Respondent/Landlord's description of the hope value as "the value of the option to deal" was no more than another way of describing a hope of obtaining a share of marriage value
- e. the award of hope value to the landlord in **Sportelli** :
 - was in an uncontested appeal where the lessee was not represented and no argument was put forward on the lessee's behalf
 - had not been followed in subsequent LVT decisions where the lessee had been properly represented and the point properly argued
- f. there was no evidence that hope value would be added in the open market

110. Existing lease value

- a. complete reliance on a single transaction was undesirable where there were reasons for concern whether it was a transaction in the open market
- b. the relative values (51%) resulting from that approach were startlingly out of line with expected relativities, and even with Mr Bevans's own 2002 figures, which were about 70%
- c. Mr Bevans's explanation for the difference was that the Lease had onerous covenants but :
 - the covenants singled out were commonplace
 - there was no explanation why they should have such an effect on value
 - they would not have affected an investor
 - Mr Bevans did not suggest in 2002 that the covenants had that effect
- d. the Applicant/Leaseholders instead approach the value of the leasehold interest by the

use of graphs showing relativities in previous settlements for leases of similar length, which supported Mr Burgoyne's figure of 70%

111. **Deferment rate** : Mr Bevens's suggestion that he felt comfortable with the use of 5% in valuing a freehold reversion in Bournemouth because this was a statutory valuation not in the real world was incorrect; it was a valuation of the price which would be paid in the real world, but with certain specific assumptions which were contrary to reality

112. **Capitalisation rate** : there were no additional submissions

Previous decisions

113. The Tribunal has considered the decisions of the Lands Tribunal in **Sportelli** (pages 92 to 133) and **Arrowdell**, and the LVT decisions in **10 Holbein Mews London SW1** dated the 23 November 2006, **36 Walton Street London SW3** dated the 30 November 2006, and **8 Reston Place London SW7** dated the 11 December 2006

The Tribunal's findings

Capitalisation of the right to receive ground rents for the remainder of the term of the Lease

114. The Tribunal has taken account of :
- a. Mr Bevens's proposed capitalisation rate of 4.5%, based on the rate adopted in **Sportelli** in the case of 13 South Terrace, adjusted for the agricultural wage increases; however, the Tribunal finds that the rate adopted in **Sportelli** was not fully argued
 - b. Mr Burgoyne's proposed capitalisation rate of 5.25%; however, the Tribunal finds that Mr Burgoyne has adopted the same rate for capitalisation of rents and deferment of freehold reversion value, without any supporting evidence to justify the rate in either case, or to justify both rates being the same
 - c. the fact, as the Tribunal finds, that the agricultural wage rate increase applies only to the £160 a year element of the ground rent, and not to the basic £240 a year ground rent
 - d. the slightly differing figures before the Tribunal for the level of the ground rent at the valuation date :
 - £638.07 in the joint statement at page 24 and Mr Bevens's report at page 161
 - £638.64 given by Mr Bevens orally at the hearing
 - £638.67 in Mr Burgoyne's calculations at pages A4 and 151

115. Having considered all the evidence in the round, the Tribunal finds that
- a. the appropriate capitalisation rate, taking account of prospective increases in the ground rent, is 4.75%
 - b. the figure for the ground rent is £638.07, as agreed in the joint statement at page 24
116. The sum to be included in the price under this heading is £11,182.18, in accordance with our valuation in Appendix 8, where we refer to it as “value of term”

Value of the right to the freehold reversion with vacant possession at the end of the Lease term

117. The Tribunal has taken account of :
- a. Mr Bevans’s proposed valuation approach, namely to calculate how much a developer would pay; however, the Tribunal finds that that approach is undermined by :
 - the lack of reference to development costs in Mr Bevans’s calculations at page 181
 - Mr Bevans’s agreement at the hearing to the estimates of development costs put to him in cross-examination, and to the proposition then put to him in cross-examination that there would accordingly be no profit for a developer
 - the lack of any evidence in Mr Bevans’s report about the value of the Building to an investor, even as a check to his value of the Building to a developer
 - the fact that in February 2002 Mr Bevans letter to the Respondent/Landlord at A8 approached the valuation of the freehold by calculating how much an investor would pay
 - Mr Bevans’s inability at the hearing to explain the reasons for approaching the valuation in one way in 2002, but in a different way now
 - Mr Bevans’s freehold valuation in February 2002 of £500,000 (A8), but £855,000 at the valuation date (page 181)
 - b. Mr Burgoyne’s proposed valuation approach, namely to calculate how much an investor would pay:
 - using Mr Moses’s calculations at A2 based on :
 - a November 2006 rental stream of £65,404, which the Tribunal finds to be a reasonable figure to take as a starting point in the light of the actual 2004 and 2005 rental income figures at pages 63 to 68
 - a deduction of 20% for voids, maintenance etc, which the Tribunal finds to be too low in the light of the age of the Building, its layout and its use as an HMO, all of which, as the Tribunal finds, would result in more intense management and greater liability for wear and tear on the common parts; and, having taken all the circumstances into account the Tribunal finds that a more appropriate rate of deduction would be 25%

- a capitalisation rate of 6.5%, which the Tribunal finds, having considered all the circumstances, including the lack of any evidence from Mr Bevens proposing any different rate, to be an appropriate rate
- a deduction of 7% to adjust the November 2006 figures to the valuation date, which the Tribunal finds, having considered all the evidence, including the Halifax, HBOS, and Nationwide documents at pages 139 to 147, to be an appropriate adjustment rate
- a deduction of £50,000 for “costs of compliance”, which, having taken account of Mr Bevens’s agreement to that figure, the Tribunal accepts as a reasonable estimate by an investor
- making a deduction of 5% for the existence of the right of way, in respect of which :
 - the Tribunal has taken account of the lack of any deduction in this respect in Mr Bevens’s report
 - the Tribunal has also taken account of Mr Munro’s submission that there was no basis for a deduction of 5% for the right of way unless there was a development value that the right of way could impede, and neither side suggested that there was any
 - however, the Tribunal accepts Mr Burgoyne’s evidence that in his experience a buyer in the market would pay less for a building subject to a right of way than for an identical building not subject to a right of way, even if valuing the freehold by reference to income stream; the Tribunal finds that that evidence is straightforward and persuasive, particularly in relation to the right of way in this case which the Tribunal finds from the plan at page 222 to run down the centre of the drive, rather than, for example, next to a side boundary
 - however, the Tribunal is not persuaded that the value of the deduction should be calculated by reference to a percentage, and finds, having considered all the circumstances, that it is appropriate to make a deduction of £25,000 to take account of the existence of the right of way

118. Having considered all the evidence, the Tribunal prefers Mr Burgoyne’s approach to the valuation of the freehold, subject to the matters already referred to, for the reasons already given, and finds that the value of the freehold with vacant possession at the valuation date would have been £680,000, as set out in our valuation Appendix 8

119. So far as deferment rate is concerned, namely the rate to adjust the freehold value for the fact that vacant possession will not in fact be available until the end of the term, which is agreed in the joint statement at page 24 to be 38.59 years after the valuation date, the Tribunal finds that :

- a. the guidance in **Sportelli** is that the deferment rate for a house should be 4.75%, and for flats 5%
- b. it is appropriate in the case of the Building to use the deferment rate appropriate to flats, in the light of the use of the Building as an HMO

- c. Mr Burgoyne's suggestion that the deferment rate should be 5.25% rather than 5% is unsupported by any evidence
 - d. the appropriate deferment rate in this case is 5%
120. So far as hope value is concerned, the Tribunal has taken account of the evidence of Mr Bevans and the submissions of Mr Munro, but finds that the submissions of Mr Sefton are compelling, and finds, with due respect to the decision in **Sportelli**, that there should be no addition for hope value in this case for the reasons given by Mr Sefton
121. The Tribunal finds that the value of the right to the freehold reversion with vacant possession at the end of the Lease term is £103,496, making a total value of the freehold term and reversion of £114,678.18 in accordance with our valuation in Appendix 8

Value of the leasehold interest

122. The Tribunal has taken account of
- a. Mr Burgoyne's valuation approach, namely to apply a relativity percentage to his valuation of the freehold with vacant possession at the valuation date, which resulted, having adopted a relativity rate of 70%, in a valuation of £497,000 (A4)
 - b. the fact, as the Tribunal finds, that relativity is normally adopted as a valuation tool in enfranchisement cases only because there is usually no actual evidence of sales of leaseholds in the hypothetical "no-1967 Act world"
 - c. however, the fact, as the Tribunal finds, that as a general valuation principle, the most reliable valuation is one based on actual comparable transactions
 - d. Mr Bevans's approach, namely to take as a starting point the actual price paid by the Applicant/Leaseholders' in June 2003, namely £400,000, and then to make adjustments, resulting in a valuation of £440,000 (page 165)
 - e. the fact that June 2003 was only 2 years before the valuation date, which the Tribunal finds to be an acceptably short time span for the sum paid to be still relevant evidence
 - f. Mr Bevans's valuation of the leasehold in February 2002 (A8) on, as the Tribunal finds, a "no-1967 Act world" basis as £350,000, and at "no more than £425,000" having added 50% marriage value
 - g. the fact that February 2002 was only three and a half years before the valuation date, which the Tribunal finds to be an acceptably short time span for the valuation figures in that letter to be still relevant evidence
 - h. the suggestion by Mr Burgoyne in evidence that the transaction had not been an arms' length transaction; however, the Tribunal finds that that suggestion is :
 - unsupported by any evidence, even though Mr Burgoyne was instructed by the Applicant/Leaseholders', and the seller, Mr Smith, and two of the buyers, Mrs Wallace and Mrs Wright, all attended the hearing, but were not called to give

evidence

- inconsistent with the fact that the price of £400,000 actually paid to Mr Smith by the Applicant/Leaseholders in June 2003 was the same as the figure of £400,000 offered to Mr Smith by the Respondent/Landlord in March 2002 (A10)

123. The Tribunal finds that :

- a. the price of £400,000 paid by the Applicant/Leaseholders is good evidence of the market value of the leasehold interest in the “1967 Act world” in June 2003 for reasons already given
- b. Mr Bevans’s valuation of £350,000 for the leasehold interest in February 2002 in a “no-1967 Act world” is a reliable valuation as at that date because it is consistent with :
 - the offer by the Respondent/Landlord to buy the leasehold interest from Mr Smith in March 2002 for £400,000 (A10), which the Tribunal finds to have been an offer in the “1967 Act world”, in the light of the advice to the Respondent/Landlord in Mr Bevans’s letter at A8
 - the price of £400,000 paid by the Applicant/Leaseholders in the “1967 Act world” in June 2003
- c. having considered all the evidence and submissions in the round, the Tribunal finds that the most appropriate approach to the valuation of the leasehold interest in the Building at the valuation date is to adjust Mr Bevans’s valuation of £350,000 in February 2002 to take account of the growth in property prices in the three and a half years between February 2002 and the valuation date
- d. there is no evidence before the Tribunal about that rate of growth
- e. the question of growth rate figures between those dates was not put to the parties at the hearing
- f. the only evidence of growth rate figures before the Tribunal is the evidence at pages 139 to 147 in relation to the growth between the valuation date and November 2006, in relation to which the Tribunal has already found that an appropriate rate was 7%, for reasons already given
- g. having considered all the evidence, and based on the Tribunal’s collective knowledge and expertise, the Tribunal finds that an average growth rate of 7% a year is an appropriate rate throughout the three and a half years between Mr Bevans’s valuation of £350,000 for the leasehold interest in February 2002 and the valuation date
- h. the application of a growth rate of 7% a year to £350,000 for three and a half years results in a figure of £443,772
- i. the Tribunal finds that it is appropriate to round up that figure, and that the value of the leasehold interest at the valuation date was accordingly £445,000

124. The Tribunal notes that that figure of £445,000 bears a relativity of 65.44% to the figure of £680,000 which the Tribunal has already found to be the value of the freehold interest with vacant possession as at the valuation date. The Tribunal finds that that relativity of 65.44% sits

comfortably within the relativity rates shown in the “graph of graphs” at page A5 for a lease with 38.59 years unexpired

Marriage value

125. The Tribunal finds that the Respondent/Landlord’s share of marriage value is £60,160.91, in accordance with the valuation at Appendix 8

Total price payable

126. The Tribunal finds that the enfranchisement price payable is £174,850, in accordance with the valuation at Appendix 8

Dated the 20 February 2007



P R Boardman
(Chairman)

A Member of the Tribunal
appointed by the Lord Chancellor

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Bourne Lodge

Appendix 1

Mr Burgoyne's valuation £155,790 as an HMO (pages 151 to 152)

(L)

BOURNE LODGE, 70 CHRISTCHURCH ROAD, BOURNEMOUTH
VALUATION ON AN HMO BASIS

Resale Value £800,000
 (November 2006 on the assumption that HMO regulations are in place)

Less £50,000 to bring up to standard £750,000

Less 10% for freehold restriction on Title £80,000 £670,000

Less 5% for right of way over land £40,000 £630,000

Relativity £630,000 x 70% = £441,000

£630,000 - £441,000 = £189,000

Freehold Value Ground Rent £638.67 at 5 1/4% p.a. 38.59 years

$$\frac{(15.867 + 16.942)}{2} 16.404 = £10,476.74$$

P V of £1 5 1/4% p.a. 38.59 years is .1401185

£800,000 x .1401185 = £112,094

(Freeholder can expect property to be returned in good order and freeholder restrictions would not apply)

(2)

Freehold Value £112,094 + £10,476.74 = £122,570

Marriage Value Relativity £189,000

Less current value £122,570
 £ 66,430

+ 2 = £ 33,216

Compensation £33,216 + £122,570 = £155,785

say £155,790

(152)

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Bourne Lodge

Appendix 2

Mr Burgoyne's valuation £146,950 as individual flats (pages 149 to 150)

②

BOURNE LODGE, 70 CHRISTCHURCH ROAD, BOURNEMOUTH
VALUATION ON A VACANT POSSESSION BASIS

Resale Value V.P. £950,000 (November 2006)

Less % increase in value between
August 2005 - November 2006 i.e. 7%
(Halifax House Price Index)

= £ 66,500
= £883,500

Less £50,000 to bring up to basic HMO standard

£833,500

Less £25,000 to self contain units
(i.e. heating, electric meters etc.)

£808,500

~~Less costs of acquisition resale etc.~~

Agents fees say

£19,000 }

Legal fees say

£15,000 }

£ 34,000

= £774,500

Less Bank interest for 6 months

on say £500,000 - purchase price
and £ 50,000 - refurbish costs
i.e. £550,000 7%

£19,250
= £755,250

£755,250 to include purchase price and profit

£625,000 plus costs of £128,250

= £753,250

Value at August 2005 = £883,500 - £753,250

= £130,250

% Profit = $\frac{£130,250}{£753,250} = 17.29\%$ acceptable

Relativity £625,000 x 70% = £437,500

Relativity = £625,000 - £437,500 = £187,500

①④⑨

(2)

Freehold Current Value

Ground Rent £638.64

38.59 years at 5% is 16.942 = £10,819.83

PV of £1 5% 38.59 years . 152876

£625,000 x . 152876 = £95,547

£95,547 + £10,819.83 = £106,366

Marriage Value

Relativity £187,500

Less Freehold value £106,366

£ 81,134

£ 40,567

Compensation £40,567 + £106,366 = £146,933 say £146,950

(150)

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Appendix 3

**Mr Bevans's freehold reversion valuation (page 181) and final valuation
£305,783 (page 186)**

ASSESSMENT OF FREEHOLD REVERSIONARY VALUE

The property is currently arranged as nine letting units as set out in the Statement of Agreed Facts.

Flat 1 is a large five bedroomed flat and could easily be divided to form a large two bedroomed flat at the front and a one bedroomed flat at the rear (Flat nos 1a and 1b below).

Flat 5 on the first floor is disadvantaged by the fact that its bathroom is across the landing. The studio room of flat 5 could easily be incorporated with that of flat 6 to provide a 1 bedroomed flat.

Having carried out those alterations, general refurbishment and complied with any other requirements for separation the resulting nine individual flats could be sold off on individual long leases. I consider that the prices realised, if sold on 99 year leases, subject to an initial ground rent of £200 per annum per flat would have been as follows:

Flat 1a	Large two bed ground floor flat	£160,000
Flat 1b	Ground floor one bedroomed flat	£110,000
Flat 2	First floor one bedroomed flat	£100,000
Flat 3	First floor studio flat	£ 75,000
Flat 4	First floor studio with sep, kitchen	£ 80,000
Flat 5/6	First floor one bedroomed flat	£110,000
Flat 7	Second floor three bedroomed flat	£150,000
Flat 8	Ground floor two bedroomed flat	£140,000
Flat 9	Rear ground floor one bed flat	<u>£ 85,000</u>
	Total	£1,010,000

Add retained value of right to receive ground	
Ground rents of £1,800 pa (@4.5% in perpetuity)	<u>£ 40,000</u>
	£1,050,000

Deduct	
Conversion/refurb costs	
@ £10,000 per unit	£ 90,000
Probable discount for bulk buy	
@ 10% of gross value	<u>£105,000 £195,000</u>

Value	£855,000
--------------	-----------------

LEASEHOLD REFORM ACT CALCULATIONS

FREEHOLD ACQUISITION - 1967 ACT

VALUATION BASE SEC.9(1A)

ADDRESS Bourn Lodge Christchurch Road Bournemouth

VALUATION DATE 08/08/2005

DESCRIPTION House as 9 flats

LEASE	Term	99	Yrs from	25/03/1945	unexpired term	38.59
	Rent £	657.39	p.a. until	28/09/2014	Yrs at this rent	9.15
	Review(s)	2014	then every	10	years	
	Review machinery		Ag wages			

ASSUMPTIONS

EXISTING LEASEHOLD VALUE	£	440,000
FREEHOLD REVERSIONARY VALUE	£	855,000
YIELD ON FREEHOLD TERM		4.50%
PVE DISCOUNT RATE		5.00%
PERCENTAGE OF MARRIAGE VALUE TO F/HLD		50.00%

Value of freehold interest

	Years	Yield	S.Fund		
Ground rent reserved				£	657.39
Years purchase	9.15	4.50%			7.3672
				£	4,843
Ground rent reserved				£	679.30
Years purchase	29.44	4.50%			16.1408
	9.15	5.00%			0.6399
				£	7,016
Reversion to capital value				£	855,000
Present value £	38.59	5.00%			0.1522
				£	130,098
					<u>£ 141,958</u>

Hope Value

	Freehold	in reversion			855,000
Less	Freehold	subject to lease		£	141,958
	Leasehold			£	440,000
					<u>£ 581,958</u>
		Latent value released			£ 273,042
		Add Hope value at 20%			£ 54,608
		Add freehold term and reversion			<u>£ 141,958</u>
		Total of Freehold			<u>£ 196,566</u>

Marriage value

	Freehold	in reversion			£855,000
Less	Freehold before			£ 196,566	
	Existing leasehold			£ 440,000	
					<u>636,566.003</u>
					<u>£ 218,434</u>
		Marriage value divided between above		50.00%	£ 109,217

Total price payable

Freehold term and reversion including hope value	£ 196,566
Add share of marriage value	<u>£ 109,217</u>
	<u>£ 305,783</u>

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Appendix 4

**Mr Moses's tabular expression of his conclusions in his report dated the 10
November 2006 (page A1)**

BOURNE LODGE, 70 CHRISTCHURCH ROAD, BOURNEMOUTH

UNIT	FLOOR	BEDS	doubles	singles	LOUNGE	KITCHEN	BATH/SHR	RENTAL VALUES			RESALE VALUES	
								per week	per month	per annum		
1	ground	5	4	1	1	1	2	£350	£1,517	£18,204	£200,000	9.1%
8	ground	2	2	0	1	1	1	£138	£600	£7,200	£130,000	5.5%
9	ground	1	1	0	combined		1	£104	£450	£5,400	£90,000	6.0%
2	first	1	1	0	combined		1	£110	£475	£5,700	£100,000	5.7%
3	first			studio			separate	£90	£390	£4,680	£80,000	5.9%
4	first			studio		separate	separate	£100	£433	£5,200	£80,000	6.5%
5	first			studio			remote	£81	£350	£4,200	£45,000	9.3%
6	first			studio			separate	£90	£390	£4,680	£75,000	6.2%
7	second	3	3	0	1	1	1	£195	£845	£10,140	£150,000	6.8%
									£5,450	£65,404	£950,000	6.9%
DEDUCT voids, maintenance, etc @ 20%										-£13,081		
Net income										£52,323		
Capitalise @										6.5%		
Investment value										£804,972		
								say	£800,000	£950,000		

NOTE: the rent for Flat 1 would be unlikely to exceed £900 pcm (£10,800 pa) for a single letting on an Assured Shorthold Tenancy

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Appendix 5

Mr Moses's adjustment of the values at page A1 to the valuation date (page A2)

2005 VALUATION - IGNORING POTENTIAL TO CARRY OUT ALTERATIONS

Mr Moss

A2

BOURNE LODGE, 70 CHRISTCHURCH ROAD, BOURNEMOUTH

UNIT	FLOOR	BEDS	doubles	singles	LOUNGE	KITCHEN	BATH/SHR	RENTAL VALUES			RESALE VALUES	
								per week	per month	per annum		
1	ground	5	4	1	1	1	2	£350	£1,517	£18,204	£185,000	9.8%
8	ground	2	2	0	1	1	1	£138	£600	£7,200	£120,000	6.0%
9	ground	1	1	0	combined		1	£104	£450	£5,400	£83,250	6.5%
2	first	1	1	0	combined		1	£110	£475	£5,700	£92,500	6.2%
3	first			studio			separate	£90	£390	£4,680	£74,000	6.3%
4	first			studio		separate	separate	£100	£433	£5,200	£74,000	7.0%
5	first			studio			remote	£81	£350	£4,200	£41,500	10.1%
6	first			studio			separate	£90	£390	£4,680	£69,500	6.7%
7	second	3	3	0	1	1	1	£195	£845	£10,140	£138,750	7.3%
								£5,450	£65,404		£878,500	7.4%

DEDUCT voids, maintenance, etc @ 20%

Net income

Capitalise @

Investment value

	£52,323	
	6.5%	7.0%
	£804,972	£747,474
say	£805,000	£750,000
		£880,000

Therefore say	£750,000	(85% resale values)
Less costs of compliance	-£50,000	
Say	£700,000	

NOTE: the rent for Flat 1 would be unlikely to exceed £900 pcm (£10,800 pa) for a single letting on an Assured Shorthold Tenancy

PDM

Jan. 2007

A2

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Appendix 6

**Mr Moses's calculations following Mr Bevans's suggested alteration of the
internal layout of the Units to release further value (page A3)**

2005 VALUATION - TO REFLECT POTENTIAL TO ALTER FLAT LA. OUT FOR RESALE

BOURNE LODGE, 70 CHRISTCHURCH ROAD, BOURNEMOUTH													
UNIT	FLOOR	BEDS	doubles	singles	LOUNGE	KITCHEN	BATH/SHR	RENTAL VALUES			RESALE VALUES		COMMENTS
								per week	per month	per annum			
1a	ground	2	2	0	1	1	1	£185	£800	£9,600	£160,000	6.0%	Formed from Flat 1
1b	ground	1	1	0	combined		1	£110	£475	£5,700	£95,000	6.0%	Formed from Flat 1
8	ground	2	2	0	1	1	1	£138	£600	£7,200	£130,000	5.5%	
9	ground	1	1	0	combined		1	£104	£450	£5,400	£85,000	6.4%	
2	first	1	1	0	combined		1	£110	£475	£5,700	£95,000	6.0%	
3	first				studio		separate	£90	£390	£4,680	£75,000	6.2%	
4	first				studio	separate	separate	£100	£433	£5,200	£75,000	6.9%	
5 & 6	first	1	1	0	combined		separate	£110	£475	£5,700	£100,000	5.7%	Formed from units 5 & 6
7	second	3	3	0	1	1	1	£195	£845	£10,140	£140,000	7.2%	
								£4,943	£59,320			6.2%	
DEDUCT voids, maintenance, etc @ 20%									-£11,864				
Net income									£47,456				
Capitalise @									6.5%	7.0%			
Investment value									£730,092	£677,943			
											£955,000		
DEDUCT costs associated with re-arranging accommodation:											say	-40000	
DEDUCT costs of compliance with regulations:											say	-50000	
												£865,000	
ADD for value of freehold reversion:												27000	9 x £150 @ 5%
Therefore, AGGREGATE value:												£892,000	
DEDUCT 15% for sale as one lot, as an HMO:												-£133,800	
												£758,200	
DEDUCT 5% for lack of planning permission:												-£37,910	
												£720,290	less profit?
											say	£700,000	
PDM													
Jan. 2007													

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
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Appendix 7

**Mr Burgoyne's revaluation on the basis of no restrictive covenants : £167,800
(page A4)**

BOURNE LODGE, 70 CHRISTCHURCH ROAD, BOURNEMOUTH

VALUATION ON AN HMO BASIS

Resale Value £800,000

(November 2006 on the assumption that HMO regulations are in place)

Less £50,000 to bring up to standard £750,000

Less 5% for right of way over land £40,000 £710,000

Relativity £710,000 x 70% = £497,000

£710,000 - £497,000 = £213,000

Freehold Value Ground Rent £638.67 at 5¼% p.a. 38.59 years

$$\frac{(15.867 + 16.942)}{2} 16.404 = £10,476.74$$

P V of £1 5¼% p.a. 38.59 years is .1401185

£800,000 x .1401185 = £112,094

(Freeholder can expect property to be returned in good order).

Freehold Value £112,094 + £10,476.74 = £122,570

Marriage Value Relativity £213,000

Less current value £122,570
 £ 90,430

÷ 2 = £ 45,215

Compensation £45,215 + £122,570 = £167,785

say £167,800

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Appendix 8

Tribunal's valuation

BOURNE LODGE, 70 CHRISTCHURCH ROAD, BOURNEMOUTH BH1 3PF

**DETERMINATION OF THE SOUTHERN
LEASEHOLD VALUATION TRIBUNAL**

A) Value of freehold interest

<u>Term</u>	Ground rent received	£638.07 p.a.	
	Years purchase 38.59 years		
	@ 4.75%	17.525	
		<hr/>	
	Value of term		£11,182.18
<u>Reversion</u>			
	Gross freehold reversionary		
	Value as H.M.O.	£755,000	
<u>Less</u>	(1) Estimated cost of works		
	agreed to bring up to		
	standard	£50,000	
	(2) Affect of right of		
	way	£25,000	
		<hr/>	
		£75,000	
		<hr/>	
	Value	£680,000	
	Present value £1 after		
	38.59 years @ 5%	0.1522	
		<hr/>	
	Value of freehold reversion		£103,496
			<hr/>
	Total value of freehold		£114,678.18

B) Marriage Value

Freehold reversion value		£680,000
Less (1) Value freehold interest	£114,678.18	
Less (2) Value existing leasehold interest	£445,000	
		£559,678.18
		£120,321.82
Total marriage value		£120,321.82
Landlords share 50%		£60,160.91

Total enfranchisement price payable

1. Value of freehold (A above)	£114,678.18
2. Share of marriage value (B above)	£ 60,160.91
	£174,839.09
Enfranchisement price	
	say £174,850