

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

Property: 5a Richmond Road, Bedford MK40 3DG

Applicant Leaseholder: Ms CE Vicarey

Applicant's Solicitor: Mr P Cooper, Heald Solicitors, Stewart House, 69/71 Bromham Road, Bedford MK 40 2 AQ

Applicant's Surveyor: Mr S Watson BSc MRICS Ground Floor, Stortford House, 231 London Road, Bishops Stortford, Hertfordshire CN23 3LA

Respondent Landlord & Freeholder: Sarah Margaret Bevan [Last known address:
25 Lancaster Road, Shortstown, Bedford MK42 0UA]

Case number: CAM/09UD/OLR/2005/38

Tribunal: Mr JR Morris (Chariman)
Mr JR Humphrys FRICS
Miss M Krisko BSc (Est Man) BA FRICS

Date of Hearing: 10th February 2006

An application to the Tribunal under Section 50 and 51 of the Leasehold Reform, Housing and Urban Development Act 1993 as amended by the Commonhold and Leasehold Reform Act 2002 (the 1993 Act) to determine the premium and other sums payable to the Respondent Landlord to be paid in to court and the terms of the lease on the grant of an extension to the lease of the Subject Property

Premium Payable:	£2,944.00
Ground rent Payable:	<u>£ 270.00</u>
Total Payable:	£3,214.00

STATEMENT OF REASONS

Documents Received

1. Documents received are:
 - a) An application form under Section 50 and 51 of the Leasehold Reform, Housing and Urban Development Act 1993 as amended by the Commonhold and Leasehold Reform Act 2002 (the 1993 Act) to determine the premium and other sums payable to the Respondent Landlord to be paid in to court and the

terms of the lease on the grant of an extension to the lease of the Subject Property

- b) A Statement of Case by the Applicant
- c) A Court Order (Claim Number 5BE01820) dated 27th October 2005 directing that:
 - The lease of 5a Richmond Road Bedford MK40 3DG dated 13th March 1981 and made between Francis Maurice Bevan (1) and Sarah Margaret Bevan (2) for a term of 92 years from 29th September 1980 and which is now vested in the Applicant to be surrendered and a new lease be vested in the Applicant upon such terms and for such premium as are determined by a Leasehold Valuation Tribunal in accordance with section 51(1) of the 1993
 - That the need to serve notice under section 42 of the Act or to effect further notice of the proceedings be dispensed with
- d) A Lease of the Subject Property dated 13th March 1981 between Francis Maurice Bevan (1) and Sarah Margaret Bevan (2) for a term of 92 years commencing 29th September 1980 as varied by a Deed dated 23rd August 1985 between Francis Maurice Bevan(1) and Ann Jewell Durant (2) but only as to the ground rent payment date
- e) A Draft Deed of Surrender and Re-grant of a new Lease of the Subject Property
- f) Report and Valuation in respect of the Subject Property by the Applicant's Surveyor dated 27th July 2005

The Property

- 2. The Property is a ground floor maisonette being one of two such units in a converted former Victorian semi-detached house (the Building). The Building is constructed of brick under a tiled pitched roof. The Property has its own front and rear gardens. There is no garage or off road parking. The accommodation comprises an entrance hall, lounge, and kitchen, two bedrooms and bathroom with w.c. When let following conversion in 1973 there were two inter connecting living rooms. The Applicant has constructed a corridor through the rear living room to the front living room to enable the rear room to be used as a bedroom. The Building is situated in a residential road on the North East side of Bedford.

The Lease

- 3. The Property is registered at the Land Registry with Absolute Leasehold Title Number BD85503. An Official Copy of the Register was provided. The Property Register states that the Lease is dated 13th March 1991 and is between Francis Maurice Bevan (1) and Sarah Margaret Bevan (2). It is for a term of 92 years from 29th September 1980 at a rent stated in the Lease. The Proprietorship Register names Cara Elaine Vicarey as the leasehold proprietor.

4. The Building is registered at the Land Registry with Absolute Freehold title Number BD35719. An Official Copy of the Register was provided. The Proprietorship Register names Sarah Margaret Bevan of 25 Lancaster Road, Bedford as the freehold proprietor.
5. The Lease (a copy of which was provided) dated 13th March 1991 although for a term of 92 years from 29th September 1980 nevertheless was originally to have been for 99 years for the 29th September 1973. There appears to have been some delay and the term actually granted is 92 years from the 29th September 1980. The ground rent under the lease commences in 1973 and is:
£25.00 for the first 25 years (29.9.1973 – 18.9.1998)
£45.00 for the next 25 years (29.9.1998 – 28.9.2023)
£70.00 for the next 25 years (29.9.2023 – 28.9.2048)
£90.00 for the residue (29.9.2048 – thereafter)
6. There is a Variation of the Lease dated 23rd August 1985 (a copy of which was provided) between Francis Maurice Bevan (1) and Ann Jewell Durant (2) noted on the Official Copy of the Register for the Absolute Leasehold Title Number BD85503. The Variation is a waiver for payment of the ground rent for the period 29.9.1973 to 28.9.1980 although the period of time for which the rental is due remains as set out in the lease.
7. Under Clause 3 of the Lease the Applicant has full repairing and insuring liability. The Respondent only has the right to undertake repairs or maintenance if the Applicant should fail to carry out the obligations.

The Application

8. This is an application to the Tribunal under Section 50 and 51 of the Leasehold reform, Housing and Urban development Act 1993 (the 1993 Act) to determine the premium and other sums payable to the Respondent Landlord to be paid in to court and the terms of the lease on the grant of an extension to the lease of the Subject Property.

The Law

9. The method of calculation of the premium for an extended lease is by virtue of section 42 (C) of the 1993 Act by reference to Schedule 13 Part II of the 1993 Act.

The Inspection

10. The Tribunal inspected the Property in presence of the Applicant. Externally the Building was in poor condition and in need of repair and redecoration. Several of the bricks were spalling and the pointing poor.
11. Internally there was a fitted kitchen, the walls were partly un-plastered and the brickwork painted. The bathroom was directly off the kitchen and fitted with a modern suite. The wc, originally the external wc, was accessed via the bathroom. Space and water heating was by gas fired central heating system. The Subject Property had mains gas, electricity, water and drainage. There were signs of damp in the living room walls

to the front and side of the house. A corridor had been constructed by the Applicant in order to enable the second living room to be used as a bedroom.

The Hearing

12. The Tribunal noted that the Applicant's Surveyor was acting as an expert.
13. The Tribunal noted that the Date of Valuation was 5th August 2005 being the date upon which the Application was made to the Court for the dispensing with Notice to the Respondent.

Yield for Capitalisation of Ground Rent and Deferment of the Reversion

14. The Applicant's Surveyor stated that the yield for capitalisation of the ground rent and deferment of the reversion was the same. The Applicant's Surveyor stated in written representations that the years purchase is considered to be an all risks yield taking into consideration the following factors:
 - a) Uncertainty about current interest rates
 - b) Tenants already have control of their own management
 - c) A long leasehold is remaining
 - d) New government legislation make enfranchisement easier and cheaper
 - e) The landlord has not demanded Ground Rent during the period of the present Lessees occupation and appears unlikely to do so this during the remainder of the Lease
15. He said in oral evidence that the main point was that a Landlord would not have the opportunity of any other income than the ground rent for which there would be the costs of collection. There were no management charges or commissions since it was a full repairing and insuring lease and only one possible lease extension. Therefore a yield of 10% was submitted.

Marriage Value

16. The Applicant's Surveyor said that the open market is buoyant at the present time and Estate Agents are reporting no variation in price for a property of a term of 72 years and that 162 years unexpired. However the hypothetical situation must be considered whereby if two identical flats were placed on the open market one with 72 years and the other with 142 years remaining logic suggests that there ought to be a differential even if it were only a £1.
17. The Applicant's Surveyor proposed that the marriage value would be the difference between purchase price in the open market of the subject property and an identical alternative with a long lease. He gave his opinion based on the general range of prices for similar properties and the advice of estate agents with good knowledge of the properties and the current market location.
18. Advice and evidence had been sought from local agents and three properties were submitted as guidance and one as a comparable. The properties submitted as guidance were:

- 6a Hereford Road, Bedford MK42 0RP a purpose built 2 bedroom flat with parking on the market for £120,000 in January 2006 and believed will achieve £115,000.
- Flat 3, 34 Clapham Road, Bedford MK41 7PP a 2 bedroom flat conversion with parking on the market for £115,000 in November 2005
- 23 Charlbury Court, Merton Road, Bedford MK40 a purpose built 2 bedroom flat with parking on the market for £115,000 in July 2005

The Property submitted as a comparable was:

- 29 St Michaels Road Bedford MK40 a 2 bedroom Maisonette conversion of a Victorian house sold during July 2005 with a term of 110 years for £120,000. It was stated in oral evidence that this property was in exceptionally good condition.

19. In addition it was noted that a valuation had been carried out in respect of 5b Richmond Road, which is the first floor flat, in October 2004 when it had been valued at £115,000. The agents Eales and Holland had stated that at the present time they did not foresee any significant change in that opinion.
20. Agents had informed the Applicant's Surveyor that a longer lease would not make a significant difference to the price of a property since unexpired term was beyond most people's lifetime.
21. The Applicant's Surveyor stated that the Property had been valued in 2004 at £95,000 to £99,000. It was felt at the time that notwithstanding the failure to sell at that price the Agent was undervaluing the Property and that it should be £105,000 or £106,000. Based on the valuation of 5b and 29 St Michaels Road and then making an allowance for the improvement of the Property by the Applicant by creating the second bedroom he had suggested a figure of £116,000. However on reflection and having been given an opportunity to re-consider the valuation by the Tribunal he submitted that £110,000 was nearer the mark.
22. The Applicant's Surveyor valued the premium for the Lease extension as being £1,845.00 excluding any ground rent payable. His calculations are at **Appendix 1**.

Decision

23. The Tribunal found the Applicant's Surveyor to a helpful and careful witness.

Yield for Capitalisation of Ground Rent and Deferment of the Reversion

24. The 10% yield and deferment rate adopted by the Applicant's Surveyor was his opinion and was not supported by any comparables, agreements or other evidence presented to the Tribunal. The Tribunal therefore used the knowledge and experience of its members. The Tribunal accepted that the Applicant had a full repairing and insuring liability under the lease therefore the landlord had no opportunity for any income other than the ground rent which although rising would be relatively expensive to collect also the site of the Property was fully developed with no scope for additions. However the Tribunal took account of the active market in ground rents where purchasers of properties where tenants held leases of 67 year remaining would look forward to those tenants needing to sell, and sooner rather than later, approaching the

landlord for a lease extension which would take place in a “no Act” world. The Tribunal therefore determined that a 9% yield was appropriate for both capitalisation of ground rent and deferment of reversion.

Marriage Value

25. The Tribunal noted that as the Applicant had a full repairing and insuring lease the state of repair and maintenance of the Property should be disregarded. However the additional liability would have an effect on reducing the capital value.
26. The Tribunal noted the properties referred to as guidance and considered the best comparable to be 29 St Michaels Road. The Agent had told the Applicant’s Surveyor that it was in exceptionally good condition and there was nothing from the Tribunal’s brief view of the exterior to question this opinion. It was described as a two-bedroom maisonette whereas the Subject Property as let had two living rooms and one bedroom. In the original layout it was necessary to pass through one of the living rooms to get to the other. To make it feasible for one of the living rooms to be used as a second bedroom the present Tenant had constructed a corridor although this achieved the desired effect the Tribunal considered that more fundamental works to improve the layout would be necessary to increase the Subject Property’s value. It was not known whether 29, St Michael’s Road had central heating but this was probable whereas there was some doubt as to whether the heating system was installed in the Subject Property when modernised in 1973 or let in 1980 and this was likely to be a tenant’s improvement. The comparable may also have off road parking or a garage, although this could not be confirmed. The covenants of the lease were not known although the term was for 110 years whereas the Lease for the Subject Property was 67 years.
27. In taking account of the valuation of 5b Richmond Road at an asking price of £115,000 (which although assessed in October 2004 was said to be the current value) it was noted from the plan provided with the Lease that it had a much more attractive layout than the Subject Property with two bedrooms as originally let together with an additional box room. It possibly also has the use of the roof space.
28. The Tribunal considered that the Subject Property as originally let was a much less attractive proposition than either 29 St Michael’s Road or 5b Richmond Road. The Tribunal determined that the market value of the Subject Property with its existing term of 67 years is £100,000 and with the extended term of 157 year is £105,000.

Valuation

29. The Tribunal therefore adopted a yield of 9%, an existing leasehold value of £100,000 and an extended leasehold value of £105,000, which gives a relativity of 95.2%. The Tribunal determined that the price payable for the extended lease is **£2,944** in accordance with the valuation attached at **Appendix 2**.
30. Added to the premium is the ground rent for 6 years which is the period for which the Respondent could claim without being statute barred under section 19 Limitation Act 1980. The ground rent for 6 years at £45 per annum is **£270**.

32. The Tribunal approved the draft Deed of Surrender and Re-grant of a new Lease.

JR Morris (Chairman)

Appendix 1

VALUATION IN RESPECT OF THE GRANT OF A NEW LEASE OF THE PROPERTY KNOWN AS 5A RICHMOND ROAD

Schedule 13 Part II, Paragraph 3

Diminution of Landlords Interest

A) Diminution of Landlords Interest

Section 56 provides that the tenant be bound to accept a new lease for a term aggregate of 90 years plus the existing Lease term at a Peppercorn rent

Schedule 13, Part II, Paragraph 3 (2)(c) provides that any value attributable to an improvement by the Tenant shall be ignored

1) Valuation of Landlords present interest

Present Rent	£45		
Years Purchase 10% 18years		8.2014	
			369
In 18 years Rent	£70		
Years Purchase 10% 25 years		9.077	
Present Value in 18 years @ 10%		0.179858	
			114
In 43 years Rent	£90		
Years Purchase 10% 24 years		8.9847	
Present Value in 43 years @ 10%		0.0166002	
			13
Reversionary value in 67 years	£116,000		
Present Value in 67 years		0.0016853	
			195
TOTAL			£691

2) Value of Landlords interest once new lease is granted

Reversionary Value	£116,000		
Present Value in 157 years @10%		0.0000726	
			8
Diminution of Landlords Interest		£691 minus £8	= £683 (a)

B) Landlords Share of Marriage Value

(i)	Landlords share of Marriage Value	691
	Tenants present interest	113,000
	TOTAL	113,691
(ii)	Tenants new lease interest	116,000
	Landlords interest under new lease	8
	TOTAL	116,008

Marriage Value 116,008-113,691= 2,317
 @ 50% **£1,158 (b)**

C) Compensation for loss arising out of grant of new lease

There is no diminution in value to adjoining property arising from this lease extension

£ Nil (c)

Total premium under Schedule 13

	(a)	683	
	(b)	1,158	
	(c)	<u>0</u>	
TOTAL		1,841	
		but say	£1,845

Appendix 2

TRIBUNAL'S VALUATION FOR LEASE EXTENSION

Current lease unexpired: 67 years

Ground rent:

£25.00 for the first 25 years (29.9.1973 – 18.9.1998)

£45.00 for the next 25 years (29.9.1998 – 28.9.2023)

£70.00 for the next 25 years (29.9.2023 – 28.9.2048)

£90.00 for the residue (29.9.2048 – thereafter)

Extended lease: (67 years plus 90 years) 157 years

Ground Rent: Peppercorn

Diminution in Value of Landlord's Interest

Present Rent	£45		
YP @ 9% for 18 years		8.7556	
			£394
Rent in 18 years	£70		
YP @ 9% for 25 years		9.8226	
Present value in 18 years @ 9%		0.21199	
			£146
Rent 43 years	£90		
YP @ 9% for 24 years		9.7066	
Present value in 43 years @ 9%		0.02458	
			£ 21
Reversionary Value in 67 years	£105,000		
Present Value in 67 years @ 9%	0.00311		
			<u>£327</u>
			£888
Landlord's proposed interest in 157 years			Nominal

Landlord's Share of Marriage Value

Value of Tenant's interest under extended lease	£105,000	
Less:		
Value of Tenant's interest under existing lease	£100,000	
Value of Landlord's interest under existing lease	<u>£ 888</u>	
	£ 4,112	
Marriage Value 50%		<u>£2,056</u>
Premium		£2,944
Add		
6 years ground rent at £45 per annum		£ 270
Total Payable by Applicant		£3,214