

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

**APPLICATION UNDER SECTION 48 OF THE LEASEHOLD REFORM,  
HOUSING AND URBAN DEVELOPMENT ACT 1993**

**Applicant: MS TANYA GHOURASSI**

**Respondents: FINAL BRIEF LIMITED**

**Re: 375 CHINGFORD ROAD, WALTHAMSTOW  
LONDON E17 5AF**

**Hearing date: TUESDAY 31 OCTOBER 2006**

**Appearances for Applicant: MR O'KEEFFE OF BUY YOUR FREEHOLD  
LTD**

**Appearances for Respondent: MR SHAPIRO OF MOSS KAYE  
PEMBERTONS**

**Members of the Leasehold Valuation Tribunal:**

**MRS B. HINDLEY**

**MR J. AVERY**

**MR D. WILLS**

**DATE OF DECISION: 8 NOVEMBER 2006**

1. This is an application under Section 48 of the Leasehold Reform Housing and Urban Development Act 1993 to determine the price payable for an extended lease of the subject property.
2. Prior to the hearing there had been no negotiation between the parties and when their respective statements were exchanged the only matters on which the parties did not differ were the valuation date and the deferment rate.
3. At the commencement of the hearing the parties also agreed, because of the low, fixed ground rent, the value of the term as £126.
4. During the course of the hearing Mr Shapiro conceded that the location of the subject property, on a main road, meant that it was not as well situated as the comparable properties on quieter roads that he was offering as comparable and that, consequently, he should reduce his extended lease value from £185,000 to £180,000.
5. Because of various errors made in both original valuations and because of other changes the Tribunal asked for revised valuations to be prepared and these are now attached at Annex 1 and Annex 2 respectively.
6. Accordingly, the starting point for the Tribunal was as set out below:

	App.	Rep.
Valuation Date	13 February 2006	
Unexpired Term	66.62 years	
Deferment Rate	5%	
Value of term	£126	
Existing lease value	£147,250	£156,600
Extended lease value	£161,045	£180,000
With share of freehold	£162,655	£180,000
Price payable	£10,113 50p	£15,251

7. The representatives described the subject premises as a ground floor, three room, kitchen and bathroom/WC, maisonette in a purpose built terrace of similar properties forming part of a very large estate (the Warner) built in the early years of the twentieth century.
8. Mr O'Keeffe calculated £161,045 as the value of the extended lease from his assessment of a short lease value which he had, in turn, apparently derived from sales of two 85 year leases – 365 and 419 Chingford Road. He chose to disregard the sale of a lease term identical to the subject – 381 Chingford Road, at £175,000. He had also sought the advice of local estate agents who had told him that the going rate for such flats, modernised and with 66 years unexpired, was £155,000 - £165,000.
9. His conclusion was that £160,000 'felt right'. He said that this also reflected his opinion that the difference between a 66 year lease in the Act world and a long lease was 3.9%.
10. From this figure he then deducted £5000 for improvements which fell to be disregarded, leaving £155,000. He reduced this figure further by 5% to reflect the 'no Act world requirement'. Accordingly, he achieved £147,250 as the value of the existing lease.
11. Adopting a relativity of 90.5% he achieved a share of freehold value of £162,655 which was 1% more than his long leasehold value of £161,045.

12. Originally he had argued for a relativity of 91.7% which, he claimed, was derived from evidence in the market. However, after challenge at the hearing, he did not pursue this claim.
13. Mr Shapiro said that there had been three (he subsequently agreed four) recent previous Leasehold Valuation Tribunal decisions relating to very similar flats on the same Estate. He produced a table of results showing relativities of between 88% and 89%. He also produced graphs representing a range of analyses all of which tended to show relativities below 88%. Accordingly he adopted 87%.
14. He produced short particulars of sales within the last month of similar properties on the Estate. 56 (wrongly described as 36) Winns Terrace and 82 Winns Avenue had both sold for £215,000, the former with a share of the freehold and the latter on a long lease. 68 (wrongly described as 78) Diana Road, with a 66 year lease, had sold for £178,000. 15 Theydon Street, with a 78 year lease, had sold for £185,000.
15. He concluded from these transactions, taking into account an increase in value since the valuation date, location, lease length and improvements, that the extended lease value of the subject was £180,000 and the existing lease value (at 87%) was £156,600.
16. The parties agreed that no benefit would be derived from an inspection of the interior of the subject flat but, after the hearing, the Tribunal inspected the exteriors of all the comparables mentioned above, with the exception of 15 Theydon Street which was some distance from the subject, whereas all the others were very close.
17. The Tribunal found the subject maisonette to be located on a busy road with a bus lane immediately in front of the property, with consequential parking restrictions.
18. Mr O'Keeffe's comparables were all on Chingford Road with number 381 being almost adjacent to the subject. Mr Shapiro's comparables were all in quieter back streets, close to Lloyd Park and, in the case of Winns Terrace, having an outlook over that park.
19. From their inspection, and having satisfied themselves that they had correctly identified the offered comparables from the photographs provided, despite being wrongly informed of two of the house numbers, the Tribunal was satisfied, as the parties had indicated at the hearing, that the only significant differences between the properties were location and the extent of any improvements.
20. From the market evidence provided by Mr Shapiro the maisonette, in the best location, had recently sold for £215,000 with a share of the freehold. At the hearing Mr Shapiro had opined that market values had increased by 1% per month since the valuation date and Mr O'Keeffe had not demurred. From this, and the sale prices achieved for the other comparable properties, the Tribunal was satisfied that Mr Shapiro's extended lease value of £180,000 was not too high.
21. With regard to the existing lease value the Tribunal noted that Mr O'Keeffe adduced no persuasive evidence from which to determine a relativity different for the subject property than that which had been determined in other recent Tribunal determinations concerned with the same Estate.

22. The Tribunal also noted that an analysis of the sale price achieved for the 66 year lease of 68 Diana Road might suggest an existing lease value lower than the £156,600 adopted by Mr Shapiro.
23. Accordingly, the Tribunal was persuaded that a relativity of 87%, as contended for by Mr Shapiro, was not too low. In coming to this conclusion the Tribunal disregarded the even lower figure of £147,250, adopted by Mr O'Keeffe, since it was achieved by applying his chosen relativity to his freehold value.
24. The final difference between the parties was whether the extended lease was worth more with a share of the freehold. Mr O'Keeffe considered that a freehold share added 1% to the value. Mr Shapiro's view was that with properties of this value there is no difference between the long leasehold and freehold values. Having regard to the length of the extended lease and the very limited restrictions on the leaseholder's freedom the Tribunal preferred this approach.
25. The Tribunal, therefore, calculated the price to be paid for the new lease as £15,246, as shown at Annex 3.

#### Costs

26. At the hearing the parties asked the Tribunal to determine the valuation and legal costs involved.
27. Mr Shapiro requested legal costs of £594. 05p and conveyancing costs of £287. 87p, both inclusive of VAT, together with valuation costs of £750 exclusive of VAT. The latter, he said, represented his hourly rate of £325 per hour and that of his assistant at £150 per hour.
28. Mr O'Keeffe contended for legal costs of £575 - £600 and valuation costs of £500, both exclusive of VAT.
29. The Tribunal noted that in the other recent Leasehold Valuation decisions to which they had been referred, the legal costs had been restricted to £600 and the valuation costs to £500, both exclusive of VAT. In the absence of any supporting evidence for the sums requested by Mr Shapiro the Tribunal saw no reason to come to any different conclusion.
30. As to the draft deed of surrender and regrant provided by Mr O'Keeffe, the Tribunal noted that Mr Shapiro had indicated at the hearing that its production was a matter for the respondents. The Tribunal agreed with this view and proposes that if, unfortunately, the parties cannot agree, written representations may be made to the Tribunal within 28 days of receipt of this determination.
31. Finally, Mr Shapiro asked for costs under paragraph 10 of Schedule 12 of the Commonhold and Leasehold Reform Act 2002. He said that Mr O'Keeffe had not adhered to the Directions and, in particular, had not attempted to negotiate.
32. Mr O'Keeffe's explanation for his delay was that the Sportelli decision had taken time to analyse and that he had also been waiting for market sentiment to emerge.
33. The Tribunal noted that Mr Shapiro had made the same application previously and had been unsuccessful but they considered that, since this was the fifth hearing on the Estate, it was now just and equitable to make an award of costs in the sum of £500. The Tribunal agreed with Mr Shapiro that it is generally incumbent on the parties, particularly when they are represented, to have some

discussion prior to the hearing to identify their differences and possibly to reduce the issues. In this case such discussions, embracing recent decisions on the same Estate, might have influenced the parties' views.

34. The Tribunal was aware that, under the provisions of the Act, such an award fell to be paid by the party against whom it was ordered. However, in their opinion, since the onus of complying with the Directions lay on Mr O'Keeffe rather than on his client, it was he who should accept the responsibility.

Chairman

R. T. Handley

Date

8/11/06

375 Chingford Road, London E17 5AF

Leaseholders

Valuation date

13/02/2006

Unexpired Term at Valuation Date (years)

66 62

	Existing No Act World Value	Existing Unimproved Value	Existing Market Value	Long Lease Value	Share of Freehold
375 Chingford Road, London E17 5AF	147250	155000	160000	161045	162655

Capitalisation Rate

8.00%

Reversion Rate

5.00%

Relativity (Existing No Act World compared to Share of Freehold)

90.50%

Uplift (from Existing No Act World to Share of Freehold)

10.50%

No Act World Discount

5%

Uplift to Long lease

3 90%

Uplift from Long lease to freehold

1%

Value of Freeholder's Interest

Ground Rent reserved

10

YP to 1st Review

12.4257794

126 (Agreed at £126 at hearing)

Reversion

162655

PV of £1 until end of term

0.03876958

6306

Long Lease Value

161045

Existing No Act Value

147250

Less Freeholders Interest

6432

Marriage Value

7363

Freeholder's share

3681.5

Leaseholder's valuation

10113.5

**375 Chingford Road, London, E17 5AF**

**INPUT INFORMATION**

	Valuation date	13/02/2006
	Lease term	99 years from 29/09/1973
	Lease expires	28/09/2072
Number of years unexpired	66.62	

**VALUATION**

Rent passing for the unexpired term	£	10.00
Capitalisation rate for term:		7.89%
for reversion:		5.00%

**Value of extended lease** £ 180,000

**Value of existing lease** 87.00% £ 156,600

**Value of Freehold current interest**

Rent reserved	£	10.00		
YP to 1st review	agreed	12.6000	£	126
Reversion to	£	180,000		
PV of £1 to reversion		0.0388	£	6,976
			£	7,102
			£	<b>163,702</b>
			£	<b>16,298</b>
				50%
			£	8,149
			£	<b>7,102</b>
Value of Freehold current interest				

**Price for 90 yr lease extension** £ 15,251

Valuation of 375 Chingford Road, London E17 5AF

Annex 3

Date of valuation	13-Feb-2006
Expiry of leases	29-Sep-2072
Term unexpired at date of valuation	66.63
Deferment Rate	5.0%
PV in 66.63 years	0.0387
Freeholder's share of marriage value	50%
Ground rent	£10
Value of freehold	£180,000
Value of extended lease	£180,000
Value of existing lease	£156,600

Calculation

Diminution in Landlord's interest

Value prior to grant of new lease:

Value of term	(Agreed)	£126
Freehold value with vacant possession	£180,000	
PV in 66.63	5.0%	0.0387
Value of reversion		<u>£6,966</u>
Value of freeholder's present interest		£7,092

Value after grant of new lease

Freeholder's future interest:	Nil
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<u>Diminution in landlord's interest</u>	<u>£7,092</u>
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Marriage value

Tenant's future interest	£180,000	
Tenant's present interest	£156,600	
Landlord's present interest	<u>£7,092</u>	
	<u>£163,692</u>	
Marriage Value		£16,308
		50%
<u>Freeholder's share</u>		<u>£8,154</u>

<u>Price for lease extension</u>	<u>£15,246</u>
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