

The Residential Property Tribunal Service

**Southern Rent Assessment Panel
and Leasehold Valuation Tribunal**

**Statement of Reasons for the
Decision of the Leasehold Valuation Tribunal
following an inspection and Hearing
on the 26th June 2003**

Case No:	CHI/43UB/OLR/2003/0003 CHI/43UB/OLR/2003/0004
Members of the Tribunal:-	Mr E R W Dent MA Mrs H C Bowers ARICS Mr B H R Simms FRICS MCIArb
Property:	7 Priory Close Ashley Park Road Walton-on-Thames Surrey KT12 1JR
&	26b Ashley Park Road Walton-on-Thames Surrey KT12 1JP
Applicant:	David Lloyd-Williams Lucy M Penney
Respondent:	Undercrane Ltd c/o Lucas McMullan Solicitors

Reasons for the decision of a Leasehold Valuation Tribunal
in relation to 7 Priory Close and 26B Ashley Park Road
Walton-on-Thames - Hearing 26th June 2003

Introduction

- 1(a) In relation to 7, Priory Close, Walton-on-Thames, the applicant, Mr. David Lloyd-Williams, is the lessee of this first and second floor maisonette. He holds it under a lease ("the first lease") dated 12th September 1966 made between George Wimpey & Co. Ltd. of the one part and Alexander Kinnear Simmons of the other. The first lease demised 7 Priory Close for a term of 99 years from 1st January 1966 at an annual rent of £25 per annum. It is in a form common amongst leases of such property at that time and contains the usual covenants by the parties. The reversion is now vested in Undercrane Ltd, the respondent.
- (b) In relation to 26B Ashley Park Road, Walton-on Thames the applicant, Lucy Margaret Penney, is the lessee of a similar first and second floor maisonette. She holds it under a lease ("the second lease") dated 4th September 1966 and made between George Wimpey & Co. Ltd. of the one part and Michael Alan Williams and Gwendolen Williams of the other. The second lease is in the same form, for the same term and at the same annual ground rent as the first lease. The reversion is now vested in Undercrane Ltd.
2. Both applicants gave notice on 22nd August 2002 to the respondent pursuant to section 42 of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act") of their wish to extend the terms of the respective leases. In each case the respondent served a counter notice on 23rd October 2002 after having received evidence of the respective applicants' titles admitting their rights to new leases. It did not accept that the premium should be £11,300 in each case as the applicants had proposed and its counter proposal in each case was for a premium of £15,300.
3. On 9th January 2003 the applicants made application to the Tribunal to determine the terms of acquisition that were in dispute between the parties. For the reasons that follow we have determined that the price shall be the sum of Fifteen thousand pounds (£15,000).

The Law

- 4 In an application of this nature we are required to determine the price to be paid by the applicants to the respondent for new leases of the respective properties for a term 99 years longer than the present terms granted at a peppercorn rent. This is the effect of Chapter II of Part II of the Act. The valuation criteria that we must follow are those set

out in Schedule 13 of the Act.

Inspections

- 5 We inspected the maisonettes in the presence of the applicants before the hearings on 26th June 2003. They were in all important respects identical, though 7 Priory Road is approached from Priory Road, a cul-de-sac, whereas Ashley Park Road is a busy through road. Each block consists of flats on the ground floor and maisonettes on the first and second floors which contain identical accommodation, namely a living/dining room and tiny kitchen on the first floor and a double and single bedroom and bathroom/W.C. on the second floor, where there is a sizeable storage cupboard. They both have garages in a separate block nearby. Both properties have the use of a large communal garden at the rear. Walton railway station is within easy walking distance. In view of the similarity of the two properties they were treated by both parties as identical. The following report therefore deals with both in the same way.

The agreed matters

- 6 The valuers had exchanged reports before the hearing and had met to agree any aspects of the matter. The agreed points were as follows:-
- a. Valuation date: 22nd August 2002.
 - b. Both maisonettes deemed to have the same value.
 - c. Ground rent fixed £25 p.a.
 - d. Leases 99 years from 1.1.66, i.e. 62.33 years unexpired.
 - e. Yield 10%
 - f. Improvements to be disregarded:-
 - 7 Priory Close Kitchen and bathroom modernised, secondary double glazing and central heating all installed by the applicant.
 - 26B Ashley Park Road None
 - g. 5 Priory Close was sold unmodernised on a long lease in October 2000 for £125,000.
 - h. 1 Priory Close was sold unmodernised for £119,000 on a short lease in May 2002, with a simultaneous lease extension for £15,000 plus landlord's costs. reserving an immediately increased ground rent of £250 rising to £500 then £1,000 p.a.
 - i. 12 Priory Close was sold in March 2002 for £115,000 on a short lease, unmodernised.
 - j. The marriage value was agreed as a 50% share.

Hearing

- 7 Both valuers supplied proofs of their evidence to the Tribunal at the hearing, from which they read, which are summarised below.

Mr. Davis' evidence

- 8 Mr. Davis described his instructions, his qualifications. the papers which he had referred to, the maisonettes and the matters that had been agreed. The factors not agreed were the extended and current lease values.
- 9 "For the Extended Lease Value, in the absence of any sales evidence in the block in the period leading up to the valuation date.....I have used...the figure...adopted for 15 Priory Close in October 2001.....(LVT decision LR93/SY/197) being £135,000. I have uprated this by 11% to £149,850, say £150,000. I justify this by reference to the Land Registry Property Price Index, which analyses all sales which have taken place,..separates flats/maisonettes from the remainder and reports both by postcode and local authority area. I believe this to be more accurate than any of the rival published indexes."
- 10 In an appendix he gave two printouts, showing the relationship between the fourth quarter of 2001 and the third quarter of 2002. That for the KT12 1 Postcode Area showed a 10.97% rise in sale prices for flats and maisonettes. The other, for the whole of Elmbridge Borough, showed a 5.98% rise. These contrasted with a countrywide rise of 19.61%, showing that price rises were slowing down in this area.
- 11 For the Current Lease Value, he had uprated the figure of £115,000 determined by the Tribunal in October 2001 by 10.5% to £127,075 for August 2002. He had taken 10.5% rather than 11% (i.e. 10.97% rounded up) to allow for a shortening by 10 months from 63.25 to 62.33 years.

- 12 His valuation was as follows:-

Current Freehold Value:

Rent received	£25 p.a.		
Y.P. 62.33 years @ 10%	<u>9.9737</u>	£249	
Reversion to	150,000		
P.V. 62.33 years @ 10%	<u>0.0026</u>	<u>390</u>	£639
Marriage Value			
Future freehold	Nil		
Future leasehold	<u>150,000</u>	150,000	
Current freehold	639		
Current leasehold	<u>127,000</u>	<u>127,639</u>	
		<u>22,36</u>	
Take 50% share			<u>11,180</u>
		say	<u>11,819</u>
			<u>£11,800</u>

- 13 The Proof ended with a Statement of Understanding and Truth.

- 14 Commenting on his proof, Mr. Davis said that there had been two LVT decisions relating to properties in this development and it was therefore only necessary to update them. All the flats and maisonettes concerned had the same leases and valuations. The two differences were the length of the leases and the market. There was no new sales evidence since the previous hearing. The Tribunal hearing in June 1999, when there were 66 years unexpired at the October 1998 valuation date, had resulted in a ruling of £4,700 and the June 2002 hearing, with an October 2001 valuation date, produced a figure of £10,300. There had only been a lapse of 10 months between the valuation date of the latest hearing and the valuation date in the present case, during which the market had risen undramatically. It was now slowing down.
- 15 Miss Branscombe commented that Mr. Davis had not made use of the comparables produced in the last case and referred to a misunderstanding by the Tribunal in that case, dealt with in her proof.
- 16 The Tribunal noted that there was no reference in Mr. Davis' presentation to comparables in the area and no reference to the 3 sales, in October 2000, March 2002 and May 2002.

Miss Branscombe's case

- 17 After introducing herself in similar fashion to Mr. Davis, Miss Branscombe described the properties, noting that they were in "a good residential area close to the railway station and convenient for the town centre." Tenants' improvements had to be ignored and the properties valued as though unmodernised, with original single glazed windows and 1960s kitchens and bathrooms. Good repair and decoration had to be assumed.
- 18 After referring to the various matters agreed between valuers, notably the 3 comparables, Miss Branscombe described the sale of flat 5 in October 2000 as the best evidence of long lease value. Updating it using the Nationwide Indices gave £163,000 on the outer metropolitan index and £167,000 on the inner London index. The lease was 999 years as opposed to the 152 years applicable in this case, but a ground rent was reserved. This, in her view, supported a figure of at least £160,000 in August 2002.
- 19 Turning to the sale of flat 1, Miss Branscombe argued that the escalating ground rent would be worth at least £5,000 to the landlord. This, added to the total price of £134,000 and £1,000 for legal expenses would make a total of £140,000 "This was in May 2002. The flat was apparently in very poor condition and no doubt the purchaser would not have undertaken such a complicated transaction unless there was some profit and some allowance for repairs and decorations." Allowing £10,000 for this equated to £158,723 at the valuation date.

- 20 Flat 12 was sold for £115,000 in May 2002 and updating this figure with the indices produced figures of £121,688 or £131,350. The short lease could be valued at from £120,000 from this evidence, but updating the sale of Flat 1 at £119,000, with an extension already agreed and a ground rent, produced a top figure of £125,920. "This more than justifies my figure of £130,000 and easily supports £125,000. (The tenant's surveyor has chosen £127,000 and I could agree this so long as the long lease is taken at, say, £157,500)."
- 21 She had done an alternative calculation (as set out in an appendix) using the figures of £125,000 for a short lease and £155,000 for a long lease, producing a price of £15,326. Both calculations showed a short/long lease relativity of 81%.
- 22 The Tribunal's decision in the case of 15 Priory Close, showing an 85% relativity, was erroneous, as it had misinterpreted a piece of evidence, as she had pointed out in correspondence. Her evidence in that case supported 82%. "I do not consider it appropriate to simply update previous decisions, which were taken on different facts and evidence, and that each case should be looked at afresh."
- 23 Her valuation, (reworded for the purpose of direct comparison with that of Mr. Davis), was as follows:-

Current Freehold Value:			
Rent received	£25 p.a.		
Y.P. 62.33 years @ 10%	<u>9.9737</u>	£249	
Reversion to	160,000		
P.V. 62.33 years @ 10%	<u>0.0026</u>	<u>416</u>	£665
Marriage Value			
Future freehold	Nil		
Future leasehold	<u>160,000</u>	160,000	
Current freehold	665		
Current leasehold	<u>130,000</u>	<u>130,665</u>	
		29,335	
Take 50% share			<u>£14,667</u> <u>£15,332</u>

- 24 Her Proof ended, as had Mr. Davis', with a Statement of Understanding and Truth.
- 25 Elaborating on paragraph 31 of the Tribunal's reasons in the case of 15 Priory Close, Miss Branscombe said that she had valued the improved ground rent at flat 5 at £5,000, whereas the Tribunal had erroneously dismissed it as worthless. When the misinterpretation was accepted, she was told that her only redress was an appeal to the Lands Tribunal (which she decided not to pursue). The Tribunal had come up with a figure for "future leasehold" of £135,000. If she had been questioned on the point, she could have justified £140,000.

26 Mr. Davis raised the following points with Miss Branscombe:-

- (a) Was not her relativity figure vastly out of line with other LVT decisions? She had only looked at relevant cases, though she had dealt with a flat in Southall, with 66½ years unexpired on its lease, where the relativity figure was 90.1% and another in Wallington having 68½ years unexpired with 87.8% relativity.
 - (b) If the Tribunal's figure of £10,300 were accepted, would not a rise of £5,000 be too much? Yes, but it was not accepted.
 - (c) Would she not agree that the latest LVT decision was more comprehensive than the one before? Yes, but she had preferred to look at more recent comparables.
 - (d) Did not decisions outside the Act suffer from the "blackmail effect?" Yes.
 - (e) He noted that the Land Registry index did not take account of small numbers and the KT12 1 index, showing a rise of 11%, was less accurate than the Elmbridge index, with a rise of 6%.
- 27 The Tribunal asked whether Miss Branscombe had looked at any local evidence outside the block. The answer was no, because of the difference of situation, condition of properties etc.
- 28 Mr. Davis summed up his case, asking the Tribunal to decide what was fair and reasonable. He noted that:
- (a) Price rises had been slowing down at the valuation date and had now stopped.
 - (b) The local indices suggest only 11% or 6% rises.
 - (c) Nothing had changed in the block except length of leases and market conditions.
 - (d) A rise of 15% over 10 months, from £10,300 in October 2001 to £11,800 in August 2002, was about right, though at the top of the range.
- 29 Miss Branscombe argued that her method of calculation was more accurate than that of Mr. Davis. She relied on actual evidence. His reliance on indices was "a contrivance."

Decision

30 The Tribunal looked closely at the approaches proposed by the parties. Whilst the Land Registry Property Price Index, proposed by Mr. Davis, seems very robust, when we applied the indices to the comparable sales evidence, the resulting answer was not sensible. Therefore we decided to adopt the more familiar Nationwide Index to the sales data. Adopting the method suggested by Miss Branscombe, we considered that if there is some open market evidence of transactional sales, this must be far

more preferable to previous decisions, such as the decision in LR93/SY/197, where there was acknowledged to be an error as a result of a valuation flaw in the analysis of a sales transaction. Rather than to compound the error, it would be better to look at evidence afresh.

31 With the benefit of its combined knowledge and experience, the Tribunal could find no flaw in Miss Branscombe's figures for future and current leasehold values, namely £160,000 and £130,000, or in her calculations. Her valuation arrives at a figure that is close to the figure paid for a lease extension outside the remit of the Act for 1, Priory Close at £15,000. In all the circumstances this figure appeared to the Tribunal to be fair and reasonable.

A handwritten signature in black ink, appearing to read 'E.R.W. Dent', with a stylized, flowing script.

(E.R.W. Dent)
Chairman