

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

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATION UNDER SECTION 26 OF THE LEASEHOLD REFORM,
HOUSING AND URBAN DEVELOPMENT ACT 1993**

Applicant: 45 Hartington Road Limited

Respondent: The Estate of Theodore Raymond John
Mules Brown deceased

Re: 45 Hartington Road' Ealing London W13
5QL

**Date of Tenant's Application
to the County Court:** 29th November 2004

Date of Court Order : 1st April 2005

Application date: 13th April 2005:

Hearing date: 23rd August 2005 (Paper determination)

Date of Inspection 23rd August 2005

Valuation date: 23rd August 2005

Members of the Leasehold Valuation Tribunal:

Mr P L Leighton LLB (Hons)
Mr W J Reed FRICS
Mr R A Potter FRICS

Date of Tribunal's decision: 2nd September 2005

1.0 Introduction

- 1.0.1 This is an application for enfranchisement of the freehold of the property at 45 Hartington Road Ealing London W13 by the leasehold owners of the ground floor first and second floor flats at the premises under the auspices of a limited company called 45 Hartington Road Limited. The property is registered at HM Land Registry Title No MX 179183
- 1.0.2 The Applicants made an application to Brentford County Court on 29th November 2004 for a vesting order under Section 26(1) of the 1993 Act on the grounds that the landlord, Theodore Raymond John Mules Brown now deceased was a missing landlord and his successors could not be traced.
- 1.0.3 On 1st April 2005 District Judge Plaskow ordered the Applicant to draw up a draft conveyance in a form to be approved by the court to acquire the freehold of the property known as 45 Hartington Road London W13 and that the freehold property be vested in the Applicant on such terms as may be determined by the Leasehold Valuation Tribunal for the London Rent Assessment Panel pursuant to Sections 26(1) and 27(1) of the 1993 Act and in accordance with section 27 of the Act.
- 1.0.4 The Applicant's solicitors requested that the Tribunal consider the application based on written representations and it was decided that it was not necessary for the Applicants to attend. The Applicants lodged a bundle of documents together with a report from a valuer Mr Clive Briggs MRICS. of Buntings Chartered Surveyors Limited.

Inspection

- 2.1 The Tribunal decided to inspect the property together with the comparable properties referred to by Mr Briggs in his report
- 2.2 The property is a late Victorian semi-detached 3 storey house which has been converted into 3 flats situated in a quiet residential street close to West Ealing main line railway station. The street was subject to permit parking
- 2.3 The Tribunal carried out an external inspection, which revealed that the property was structurally sound .with a slate roof which was in good condition

The external decorations appeared variable being very good at ground floor level and poor on the second floor. The windows on ground and first floor were traditional sash frames while the windows on the second floor appeared to be upvc.

- 2.4 The Tribunal looked at a property cited as comparable at 35A Hartington Road. It was the ground floor flat of a house, which appeared to be identical to the subject property. The other properties were Flats 15 and 16 Hastings House, two flats in a 1930s purpose built block of flats. Although these flats were in the neighbouring street they were quite different in character from the subject property and the Tribunal did not consider them to be particularly helpful in assessing a value for the subject property.

Leases

- 3.1 Andrew James Taplin and Elizabeth Bovill are joint leaseholders of flat 1 the ground floor flat on a lease for 99 years from 25th March 1984 at a rent of £50 rising to £100 after 33 years and £150 per annum after 66 years.
- 3.2 Peter Smith is the leaseholder owner of flat 2 on the first floor of the premises on a lease of 99 years from 18th May 1984 at ground rents identical to those of Flat 1
- 3.3 Paul Rapacioli is the leasehold owner of the flat 3 on the second floor of the premises on a lease for 99 years from 18th May 1984 at ground rents identical to those of flats 1 and flat 2.

4.0 Valuation

- 4.1 As this was an absent landlord case and since the application was made before 28th February 2005 the valuation date was the date of the hearing namely 23rd August 2005 being the date on which the Tribunal sat to determine the enfranchisement price and to approve the terms of transfer.
- 4.2 In his Valuation Report dated 20 August, and amended on 27 September 2004, Mr Briggs has adopted a yield rate of 9% both for capitalisation and deferment and the Tribunal agrees that this is an appropriate rate for the property.
- 4.3 Mr Briggs in valuing the freehold interest valued the flats as follows -

Flat 1 ground floor flat with access to the garden	£225,000
Flat 2 first floor flat (smaller)	£205,000
Flat 3 (upper flat, larger than flat 2 but poorer layout)	<u>£210,000</u>
Total	£640,000

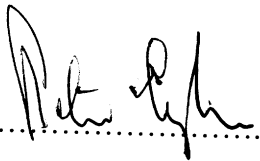
- 4.4 He has based these values on his own knowledge of the area and the comparable sales. Flat 35A Hartington Road was sold on 10th February 2003 for £225,000 with the benefit of a long lease, but he does not specify the actual length of the lease. Flats 15 and 16 Hastings House achieved prices of £188,500 and £182,500 in October and December 2004 respectively. Mr Briggs has adjusted both these sales on the basis of poorer “location “
- 4.5 The Tribunal suspects that Mr Briggs actually means “configuration” since they are flats in a purpose built block. The location in fact is similar to that of the subject property in that it is simply round the corner. The Tribunal acknowledges, however, that the flats in the 1930s purpose built block are inferior in character and value to the subject property
- 4.6 The Tribunal considers the best evidence is the sale of Flat1 to Mr Taplin in October 2003 for £218,000. Mr Briggs had increased that purchase price to £225,000 (an increase of about 3%) as representing the value of that flat at his valuation date in August/September 2004 and as part of his total valuation of £640,000. The Tribunal has determined that the correct valuation date in this case is the date on which it sat to consider the Application, 23 August 2005, and to reflect the general increase in value of properties of this type between August/September 2004 and August 2005 the Tribunal made a further adjustment of 2% to produce a total capital value for the three flats of £652,800, which it rounded to £653,000.
- 4.7 With regard to the existing lease values Mr Briggs has adopted a relativity of 97% for unexpired terms of 78years which produced on his calculation a value for the existing leases of £620,000.
- 4.8 .For this he relies upon the decision of the LVT in the case of 32 Studley Grange Road Hanwell W7 (LON/ENF/1161/04) where on an unexpired term of 79 years the Tribunal fixed relativity at 97%, although it was clear that in doing so that it had adopted a relativity at the top end of the range of the decisions presented before it.

- 4.9 The Tribunal accepts that in the post Act world it is difficult to obtain open market values of short leases and there is a tendency to cite LVT decisions. The general line of authorities adopted by the courts and the Lands Tribunal is that little or no weight should be attached to individual LVT decisions, if indeed they are admissible at all.
- 4.10 Mr Briggs also referred to the Beckett and Kay Graph of Graphs 2005, which he stated was not helpful in his view since it related to central London properties.
- 4.11 The Tribunal has considered the available evidence and adjusting the Studley Grange Road decision to take account of the slightly shorter leases and applying its own knowledge and experience concludes that the appropriate figure for relativity should be set at 95% which would produce an existing leasehold value of £620,350
- 4.12 Accordingly the marriage value for the property is £29,544 and the Tribunal therefore determines the premium payable for the purchase of the freehold at £17,880. The detailed valuation is set out in the Appendix

5.0 The Terms of the Transfer

- 5.1 The Tribunal has not been sent a transfer (Form TR1) for approval. If any transfer is submitted the Applicants are reminded that the conveyance is granted with limited title guarantee and the tile should carry the statement required by Section 34(10) of the 1993 Act to the effect that the conveyance is made pursuant to Chapter 1 of the 1993 Act.

Chairman



Dated 2nd September 2005

Appendix

45 Hartington Road, London, W13 8QL

Determination of the price to be paid by the nominee purchaser in accordance with Section 32 and Schedule 6 of the Leasehold Reform, Housing and Urban Development Act 1993, as amended, for the purposes of Section 27(5) of the Act, as at 23 August 2005 – the date of the determination by the Leasehold Valuation Tribunal.

A. Value of the landlord's freehold interest (Sched. 6 para 3)

Ground rents 23/8/2005 to 17/5/2017 YP 11.75 yrs @ 9%	£150 pa <u>7.0718</u>	£1,061
Ground rents 18/5/2017 to 17/5/2050 YP 33 yrs @ 9%	£300 pa <u>10.4644</u> £3,139	
PV £1 11.75 yrs @ 9%	<u>0.3635342</u>	£1,141
Ground rents 18/5/2050 to 17/5/2083 YP 33 yrs @ 9%	£450 pa <u>10.4644</u> £4,709	
PV £1 44.75 yrs @ 9%	<u>0.0211577</u>	£100
Reversion to freehold with vacant possession, excluding value of tenants' improvements PV £1 77.75 yrs @ 9%	£653,000 <u>0.0012314</u>	<u>£804</u>
Value of the landlord's freehold interest		3106

B. Marriage Value

Value of leasehold interest after enfranchisement, excluding value of tenants' improvements		£653,000
<u>Less</u>		
Value of freehold interest before enfranchisement	£3106	
Value of leasehold interest before enfranchisement excluding value of tenants' improvements (95%)	<u>£620350</u>	<u>£623456</u>
Marriage value		£29544
50% of marriage value		£14772

C. Any other loss (Sched. 6 para 5)

£nil

D. Price to be paid for the landlord's freehold interest

Value of landlord's freehold interest	£3106
Share of marriage value	£14772
Any other loss	<u>£nil</u>
	£17878
Say	<u>£17880</u>