

**Ref LON/ENF/1611/05**

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

**DETERMINATION  
ON  
APPLICATION UNDER SECTION 27 OF THE LEASEHOLD  
REFORM AND URBAN DEVELOPMENT ACT 1993**

**Premises:** 127 Coleman Road, Camberwell, London SE5 7TF

**Applicants:** Robin & Emma Horn and Rebecca Lalonde  
[*Qualifying Tenants*]

**Representative:** Mr E R Cracknell of Messrs Russell-Cooke  
Solicitors

**Respondents:** Satwany Singh Taak and William McNicholas  
[*Missing Landlords*]

**Meeting:** 18 October 2005

**Inspection:** N/A

**Appearances:** None: the Applicants' Solicitor had requested that the Application be determined without a Hearing and the Tribunal was content for the matter to be dealt with by written representations.

**Members of Tribunal:** Professor J T Farrand QC LLD FCIArb Solicitor  
Mr D L Edge FRICS

1. The Application to the Tribunal dated 13 September 2005 was made in pursuance of a Vesting Order dated 29 June 2005 made by Deputy District Judge Friedman under s.26(1) of the Leasehold Reform, Housing and Urban Development Act 1993. That section relates to claims for collective enfranchisement where relevant landlords cannot be found or identified and enables notice to them to be dispensed with. In consequence of the Order, in effect, all three of the qualifying tenants became the 'nominee purchaser' for the purposes of the 1993 Act.
2. The role of the Tribunal under s.27 of the 1993 Act is twofold: *first*, to determine 'the appropriate sum' to be paid into court as the price of enfranchisement; *and second*, to approve the form and terms of transfer of the freehold interest to the nominee purchasers.
3. As to the price, the papers supplied to the Tribunal included a letter, dated 17 December 2004, addressed to the first-named Applicant from Mr Richard Steed of Messrs Cook Steed Associates, which contained a short description of the Premises and a calculation producing an enfranchisement price of £2,100. The letter gave some explanations of the elements in his calculation and a Schedule of Flat Sales was supplied to give comparable support to the values taken into account.
4. However, as neither the letter nor the calculation stated that any different valuation date had been adopted, the Tribunal assumed that it was taken to be as at the date of the letter. This assumption and the date were approximately consistent with what was submitted in the Application (para.10) to the Tribunal on behalf of the Applicants:

“By an initial notice pursuant to Section 13 of the 1993 Act dated 22 December 2004 ("the Initial Notice") the Applicants sought to exercise the right to collective enfranchisement in respect of the Property, and the Applicants have been unable to serve the Initial Notice because the Respondents cannot be found. A copy of the Initial Notice and its covering letter are attached hereto. It is submitted that the date for valuation should be the date of the Initial Notice pursuant to Section 1(8)”
5. Unfortunately, the Tribunal does not accept that this submission is correct. Until amended by the Commonhold and Leasehold Reform Act 2002 (s.126(1) and Schedule 14), the valuation date was defined as “the date when it is determined, either by agreement or by a leasehold valuation tribunal..., what freehold interest in the property is to be

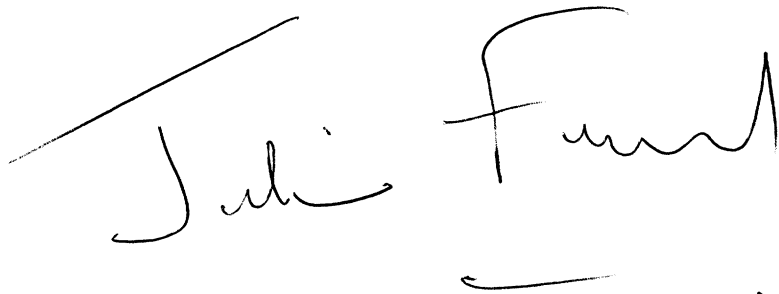
acquired by the nominee purchaser” (para.1(a) of Schedule 6 to the 1993 Act as substituted by the Housing Act 1996). The 2002 Act amendment provided that a valuation should be made at “the relevant date”, which is defined as meaning “the date on which notice of the claim is given under section 13” (s.1(8)). However, this amendment does not apply where the s.13 notice was given or the s.26 application was made before 28 February 2005 (see Commonhold and Leasehold Reform Act 2002 (Commencement No.5 and Saving and Transitional Provision) (Amendment) (England) Order 2005). Here, in fact no s.13 notice was “given” because the landlords were missing but had it been it would have pre-dated the amendment whilst the s.26 application for a vesting order, incidentally dispensing with giving notice, also pre-dated the amendment (the issue date of the Claim Form being 24 February 2004).

6. It follows, in the Tribunal’s view, that the pre-amendment valuation date is applicable. Since the landlords were missing, “what freehold interest” was to be acquired could not be determined by agreement but only by the Tribunal. As to this, it should be appreciated that the Tribunal may determine that the vesting order should relate to lesser interests than those specified in the application for the order (see s.27(2) of the 1993 Act). Consequently, “what freehold interest” is to be acquired can only be regarded as determined as at the date of the Tribunal’s determination which therefore becomes the appropriate valuation date. The principal implication of this conclusion is that ‘marriage value’ must be an element in the calculation.
7. One other aspect of Mr Steed’s calculation concerned the Tribunal. Although he stated in his letter: “The ground rents are fixed at £50 per annum for each flat” and the Premises contain two flats, his calculation only took into account, in valuing the freeholder’s existing interest, one £50 per annum ground rent.
8. Otherwise, the Tribunal was satisfied that the elements in Mr Steed’s calculations should be accepted. Accordingly, the Tribunal’s own valuation adopts Mr Steed’s figures except for making adjustments because of the valuation date being at the date of this determination and because of the ground rent being £100 per annum.
9. The Tribunal did not consider that any amounts required adding to the sum to be paid as being due to the landlord in respect of rents or service charges given the lack of any demand for payment and of any information as to a current address for service of notices (cp s.48 of the

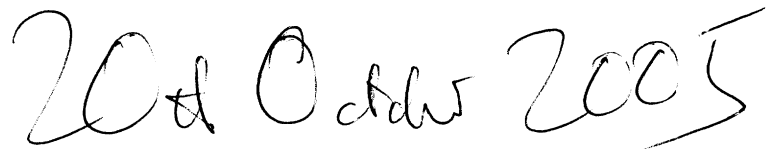
Landlord and Tenant Act 1987). The Tribunal therefore determines for the purposes of s. 27 of the 1993 Act that the appropriate sum to be paid into court by the Applicants as nominee purchasers for a vesting transfer of the freehold interest is **£4,542**. A copy of the Tribunal's valuation is attached.

10. As to the form and terms of the transfer, a draft TR1 was submitted to the Tribunal for approval, as directed, with the papers. The Tribunal was able to approve this draft *except* for four aspects: *first*, it should be stated that the consideration has been paid into Court (box 9 – see s.27(3) of the 1993 Act); *second*, the transferor-landlords should only be expressed to give a limited title guarantee (box 10 - see para.2(2) of Schedule 7 to the 1993 Act); *third*, the declaration of trust should be completed (box 11); *and fourth*, the transfer should be stated as executed, not by the Respondent-missing landlords/freeholders, but by a person designated by the Court (box 13).

**CHAIRMAN**

A handwritten signature in black ink, appearing to read 'Julie Funnell', written over a horizontal line.

**DATE**

A handwritten date in black ink, '20th October 2005', written in a cursive style.

**127 COLEMAN ROAD, CAMBERWELL, LONDON SE5 7TF****VALUATION IN ACCORDANCE WITH SCHEDULE 6 OF THE LEASEHOLD REFORM, HOUSING  
AND URBAN DEVELOPMENT ACT 1993 (AS AMENDED)**

Leases: Both flats - 99 years from 25 December 1985.

Expiry date: Both flats – 24 December 2084.

Ground rent: - £50.00 p.a. fixed for each flat.

Valuation Date: 20 October 2005

Unexpired Term at Valuation Date: - 79.18 years

Long lease value – (aggregate of both flats): - £310,000

Existing lease value - (as at 18 October 2005) @ 98% relativity: - £303,800

**Freeholder's present interest**

Ground Rent -		100	
YP 79.18 years @ 7%		<u>14,219</u>	
			1,422
Reversion to Freehold V.P value	310,000		
Deferred 79.18 years @ 7%		<u>0.004718</u>	
			<u>1,463</u>
			2,885

**Marriage Value**

Freehold reversion	310,000	
<u>Less</u>		
Freeholder's present interest	2,885	
Leaseholders' present interest @ 98%	<u>303,800</u>	
	<u>306,685</u>	
Marriage value	3,315	
Freeholder's share of marriage value @ 50%		<u>1,657</u>
		4,542

Enfranchisement price - **£4,542**