

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

**Case No: CHI/45U/LOCE/2006/0016**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON A REFERRAL FROM GUILDFORD COUNTY COURT (CASE No. GU301114)  
LEASEHOLD REFORM HOUSING AND URBAN DEVELOPMENT ACT 1993**

**Property:** 34 Croft Road, Godalming, Surrey GU7 1DD

**Applicants:** Colin Young (1)  
Shaun Groves (2)  
(Tenants)

**Respondent:** John Henry William Burgess  
(Landlord)

**County Court Application:** 24 March 2003

**Received By Tribunal:** 14 February 2006

**Directions:** 15 February 2006

**Inspection:** 21 April 2006

**Decision:** 12 June 2006

**Tribunal Members**

Ms J A Talbot MA Solicitor  
Mr B H A Simms FRICS

**Summary of Decision**

the amount payable by the tenants for the freehold interest in the property 34 Croft Road Godalming Surrey GU7 1DD is **£2,213**.

**Case No: CHI/43UL/OCE/2006/0016**

**Property: 34 Croft Road, Godalming, Surrey GU7 1DD**

### **Application**

1. This application was commenced on 24 March 2003 by Richard Pietrowski & Co, solicitors for the Applicants, in Guildford County Court, for an order dispensing with service on the Respondent of an initial Notice under Section 13 of the Leasehold Reform Housing and Urban Development Act 1993 ("The 1993 Act"), and an order vesting the freehold in the Applicants under Section 26(1) of the 1993 Act, upon such terms and at such price as may be determined by a Leasehold Valuation Tribunal under Section 27 of the 1993 Act.

### **Background**

2. Nearly one year later, on 11 February 2004, permission to dispense with service was given as the Respondent's whereabouts were unknown despite attempts to trace him. After another year, by an order dated 17 February 2005, the application was to be transferred to the Leasehold Valuation Tribunal for a valuation of the property. It is not clear why these preliminary steps took such a long time. Because of some apparent administrative confusion, the matter did not actually reach the Tribunal office at Chichester until 14 February 2006.
3. Directions were issued the following day, on 15 February 2006, requiring that various documents should be produced, along with a valuation, by 17 March 2006. These Directions were varied to extend the deadline to 18 April but were not complied with by the time of the Tribunal's Inspection on 21 April. A further extension was given to 28 April as the Applicants did not request a hearing.
4. On 2 May the Applicants supplied their valuation which was duly considered by the Tribunal. Further information was requested from the solicitors, including Office Copy Entries of the freehold title and confirmation of how the Applicants intended to hold the legal interest, as required by the Form of Transfer. This information was finally received by 10 June 2006.

### **Inspection**

5. The members of the Tribunal inspected the property on 21 April 2006, accompanied by Mr Young, tenant of the ground and first floor maisonette, and Mr Groves, tenant of the lower ground floor flat. The property comprises a semi-detached house built about 100 years ago which has been converted into two self-contained flats. The building is of brick with a pitched, slate covered roof. It is conveniently situated a short walk from the town centre and station.
6. The property is set on steeply sloping ground. Flat 34a is approached at street level from Croft Road and has a side entrance leading to a hall and kitchen/living room on the ground floor. From the hall is a steep staircase leading to a small landing, a living room at the front and a bedroom at the rear. Through the bedroom is a bathroom with a panelled bath, bidet, pedestal washbasin and low level W.C.
7. Flat 34b is approached from the side pathway at lower ground floor level. Because of the sloping ground the entrance is at the rear ground level. On this floor the entrance leads straight into a living room from which leads a kitchen with a breakfast room addition at the rear. From the living room is a small lobby and a front bedroom with an en-suite shower room with low level W.C. and shower cubicle. Natural light to this room is from a well area at the front. Stairs lead from the lobby to an upper floor with a small landing and a further bedroom at the rear leading to a bathroom with panelled bath, pedestal washbasin and low level W.C. Both flats have gas-fired central heating with water filled radiators. There is mains electricity and drainage.

8. The windows in Flat 34b have not been replaced but Mr Groves has re-fitted the kitchen. He had also constructed the breakfast room addition, re-arranged the W.C. leading from the lower ground floor bedroom and added the shower area. This was originally a large cupboard with an unconnected W.C. The upper floor bathroom had been re-fitted.
9. The rear garden is shown on the lease plans as demised half to Flat 34a and half to Flat 34b and is steeply sloping. However, an arrangement has been made whereby Mr Groves attends to the garden, which he has improved by adding paths, paved terracing and planting. The original path runs the full length of the West boundary.
10. Mr Groves advised that when the leases were granted there was a narrow pedestrian access to the rear of the garden. Subsequently about 20 years ago, following the demolition of a small factory, vehicle access was provided and each flat now has a parking space at the end of the rear garden. Mr Groves has arranged his garden to allow parking for additional cars. Mr Young has no rear garden with his flat but he has one parking space at the rear and his lease for Flat 34a includes the small front garden.

### **Consideration**


11. We first considered the extent of the freehold title to be conveyed. We noted that the lease plans do not include the pathway to the side of the property giving access to the garden and the parking spaces at the rear. It appears from the freehold title plan that this is part of the freehold title. It is clear from the plans that the path is within the west boundary of the property and does not encroach on the neighbouring land. It is not used by anyone else apart from the tenants themselves.
12. We are required to approve the form of transfer. On requesting the information as to how the tenants, being individual owners of different flats, intended to hold the freehold interest, we were informed by their solicitors that this would be as tenants in common in equal shares.
13. We then considered the question of the appropriate valuation date. We noted with some concern that this Application was issued in Guildford County Court on 24 March 2003. There have been significant delays in referring this case to the LVT, though why is a mystery, as the process should be straightforward.
14. Since the issue date, the provisions of the Commonhold and Leasehold Reform Act 2002 have come into force, to the effect that the valuation date in enfranchisement cases is to be the date of the Application. Formerly, the valuation date was often the subject of argument before the LVT.
15. In this case it seems reasonable and just to adopt the application date of 24 March 2003 as the valuation date in this case. It is not the tenants' fault that the matter took 3 years to reach the Tribunal. They should not be prejudiced by unexplained delays in the court system which would only serve to increase the purchase price. They (and their solicitors) have made every effort to trace the landlord but to no avail. The landlord will therefore not be prejudiced either.
16. The valuation dated 26 April 2006 put forward on behalf of the tenants by Mr D N Harvey MRICS, did not specify the chosen valuation date. We have assumed that he intended the date of his report to be the appropriate date.
16. We found Mr Harvey's valuation helpful but we were unable to follow his maths. He did not provide a calculation, but from his text we deduced various errors. We attach our attempt to reproduce Mr Harvey's valuation at Appendix A. There is a small discrepancy with the capitalisation of ground rent, our calculation being £1,857 against his £1,859, but this is probably due to rounding.

17. More significant is Mr Harvey's error when capitalising the reversion, as he uses the current values of the flats at £324,000 whereas he should have used the value of the flats with unrestricted leases. We also noted that a 1% addition produces a figure of £327,240 not £327,500, although this may also result from rounding. The multiplier (Present Value of £1 [PV]) to defer the reversionary value for 77 years at 8% is 0.002669. Applying this multiplier to Mr Harvey's value of £324,000 does not give his figure of £952, the correct figure would have been £865.
18. Mr Harvey adopts a yield of 8% based on his general knowledge and experience. He offers no comparables. He refers to recent auction sales and Lands Tribunal decisions but gives no details. We accept that there has been strong pressure to reduce yields following the decision in *Arbib v Earl Cadogan (Arbib)* but this was a Lands Tribunal case decided on specific evidence for houses in central London. The market in Godalming bears no similarity to the market for properties in *Arbib*. The subject property comprises only two flats with modest ground rents. It would not be an attractive investment and we concur with Mr Harvey and adopt a yield of 8% throughout.
19. Mr Harvey does not state his valuation date but he uses 77 years unexpired on the leases fixing the valuation date at 24 June 2006. As discussed above, we have determined the valuation date at 24 March 2003 so adjustments have to be made to the valuation to take account of this. The unexpired term of the leases at the valuation date increases to 80 years 3 months. Schedule 6 para.4(2A) Leasehold Reform Housing and Urban Development Act 1993 (as amended) provides that where the unexpired term exceeds 80 years any marriage value is to be ignored. In this case therefore there should not be any addition for marriage value.
20. In order to calculate the reversion, the values of the flats at the valuation date need to be assessed. We are satisfied that Mr Harvey has reached a reasoned valuation of the flats at his valuation date. In order to adjust these values to the earlier valuation date we have had regard to the indexes published by the Halifax and Nationwide. The Halifax Index shows a reduction in values between the relevant dates of 29.88% and the Nationwide Index a reduction of 25.31%. We applied an average of these two figures at 27.6%. The resulting values are for 34A £105,704 and 34b £128,872.
21. Although marriage value is not to be included in our calculation, Mr Harvey was able to distinguish between the value of a flat with a shorter lease, in his case 77 years, and the value of a flat with a very long lease. He made an upward adjustment of 1%. Having made the adjustment in valuation date the difference is not so great however we consider that there should be some differential and we have applied 0.5%.
22. Our resulting valuation is attached at Appendix B and produces a purchase price of £2,213. As the landlord cannot be traced no question of costs arises.

#### **Determination**

23. The Tribunal therefore determines that the amount payable by the tenants for the freehold interest in the property 34 Croft Road Godalming Surrey GU7 1DD is **£2,213**.

**Dated 12 June 2006**

  
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**Ms J A Talbot MA Solicitor**  
**Chairman**

## Appendix A

## ATTEMPT AT HARVEY CALCULATION

Address 34 Croft Road Godalming

Facts used

Value of existing lease	34a	£146,000	
	34b	£178,000	£324,000
Value of long leases (1% uplift)	34a	£147,577	
	34b	£179,923	£327,500 (Mr Harvey's total)

Valuation date	24/04/06			
yield	8.00%			
Unexpired term at valuation date	77	years		
Ground Rent	£100.00	for	11	yrs
increasing to	£200.00	for	33	yrs
increasing to	£400.00	for	33	yrs

Value of landlord's interest

Capitalise ground rents for current term				
YP	8.00%	11 years	Ground rent	£100.00
				<u>7.13896</u>
				£713.90
YP	8.00%	33 years	Increase to	£200.00
				11.51389
x Pv	8.00%	11 years	<u>0.42888</u>	<u>4.93811</u>
				£987.62
YP	8.00%	33 years	Increase to	£400.00
				11.51389
x Pv	8.00%	44 years	<u>0.03383</u>	<u>0.38956</u>
				£155.82
				£1,857

Plus Landlord's reversion				
			£324,000	(Mr Harveys figure)
x Pv	8.00%	77 years	<u>0.002669</u>	<u>£865</u>
				(Mr Harvey says £952)
Value of landlord's existing interest			£2,722 (Mr Harveys says £2,811)	

Landlord's share of marriage value

Value of new extended leases	34a	£147,577	
	34b	£179,923	
	Total	£327,500	
Less			
Value of landlord's existing interest (see above)		£2,722	
Value of existing leases	34a	£146,000	
	34b	£178,000	
	Total	<u>£324,000</u>	<u>£326,722</u>
Marriage value		£778	
Landlord's share of marriage value at 50%		£389	(Mr Harveys says £344)
Compensation		nil	
Price payable		<u>£3,111</u>	(Mr Harveys says £3,155)

## Appendix B

**LVT DECISION****Address 34 Croft Road Godalming Surrey****Facts used**

Value of existing leases May 2006	34a	£146,000	
	34b	£178,000	£324,000
Value of existing leases March 2003 (less 27.6%)	34a	£105,704	
	34b	£128,872	£234,576
Value of very long leases (uplift 0.5%)	34a	£106,233	
	34b	£129,516	£235,749

Valuation date	24/03/03			
yield	8.00%			
Unexpired term at valuation date	80.25	years		
Ground Rent	£100.00	for	14.25	yrs
increasing to	£200.00	for	33	yrs
increasing to	£400.00	for	33	yrs

**Value of landlord's interest**

Capitalise ground rents for current term					
			Ground rent	£100.00	
YP	8.00%	14.25 years		<u>8.32534</u>	£832.53
			Increase to	£200.00	
YP	8.00%	33 years		11.51389	
x Pv	8.00%	14.25 years		<u>0.33397</u>	
				<u>3.84533</u>	£769.07
			Increase to	£400.00	
YP	8.00%	33 years		11.51389	
x Pv	8.00%	47.25 years		<u>0.02635</u>	
				<u>0.30335</u>	<u>£121.34</u>
					£1,723
Plus Landord's reversion to very long lease in possession				£235,749	
	x Pv	8.00%	80.25 years	<u>0.002078</u>	<u>£490.00</u>
<b>Value of landlord's existing interest</b>					<b>£2,213</b>

**Landlord's share of marriage value**

No marriage value added (more than 80 years unexpired)	nil
Price to be paid	<b><u>£2,213</u></b>