

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

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATION UNDER SECTION 24 OF THE
LEASEHOLD REFORM, HOUSING AND URBAN
DEVELOPMENT ACT 1993**

Applicants: Damian Peter Hayes
Nadeem Safdar Ali

Respondent: Sinclair Gardens Investments (Kensington) Ltd

Re: 45 & 47 University Road, Colliers Wood,
London SW19 2BU

Application date: 14th May 2004 by Nominee Purchaser

Hearing date: 1st December 2004

Appearances: For the Nominee Purchasers:

Mr C. M. Avery FRICS, FAAV;
Avery Associates, Chartered Surveyors

For the Landlord:
Mr L. A. Nesbitt BSc, FRICS, MCI Arb;
Nesbitt & Mire, Chartered Surveyors

Members of the Leasehold Valuation Tribunal:

Mrs J. S. L. Goulden JP - Chairman
Mr J. R. Humphrys FRICS
Mrs J. Pittaway

Date of Tribunal's decision: 23 December 2004

LON/ENF/1106/04

PROPERTY: 45 & 47 UNIVERSITY ROAD, COLLIERS WOOD, SW19 2BU

1. The Tribunal was dealing with an application under Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993 (hereinafter referred to as "the Act") to determine the price payable on a collective enfranchisement in respect of 45 and 47 University Road, Colliers Wood, London, SW19 2BU (hereinafter referred to as "the subject property")

2. The Tribunal was advised that the subject property was a mid terrace two storey building c 1900 of brick construction beneath a pitched and tile clad roof, comprising two purpose built maisonettes. The garden to the rear was divided for sole use between the respective maisonettes. Neither side considered that it was necessary for the Tribunal to inspect. Photographs of the property were however provided to the Tribunal for its assistance.

3. The issues agreed between the parties were as follows:-

- (a) The values of the two flats with the benefit of the share of the freehold were
 - Ground floor flat (No 47) £170,000
 - First floor flat (No 45) £178,500
- (b) The term of years unexpired
 - Ground floor flat (No 47) 58.5 years
 - First floor flat (No 45) 65.5 years
- (c) The accommodation and floor areas of each flat
- (d) The valuation date was 1 December 2004

HEARING

4. The Hearing took place on 1 December 2004

5. The Applicant tenants, Mr D P Hayes and Mr N S Ali, were represented by Mr C M Avery FRICS, of Avery Associates, Chartered Surveyors. Mr Hayes was the Nominee Purchaser. Mr Avery also gave expert evidence on behalf of the Applicants.

6. The Respondent, Sinclair Gardens Investments (Kensington) Ltd. was represented by Mr L A Nesbitt BSc FRICS MCI Arb, of Nesbitt & Mire, Chartered Surveyors. Mr Nesbitt also gave expert evidence on behalf of the Respondent.

7. The matters which remained in issue between the parties, and which required the determination of the Tribunal were as follows:-

- (a) Yield**
- (b) Relativity**
- (c) Premium**

EVIDENCE

8. Both expert valuation witnesses referred to their proofs of evidence, and to schedules of auction particulars, Leasehold Valuation Tribunal (LVT) and Lands Tribunal (LT) decisions, and the College of Estate Management and Lease research relating to relativity.

(a) Yield

9. Mr Avery, for the Applicants, relied on an auction sales in September 2004 by Allsops relating to 160/162 Casewick Road West Norwood SE27, *"with significant ground rents"*. He was of the view that West Norwood was, *"on balance"* a better location than Colliers Wood. He said *"this indicates a greater need at Colliers Wood for a risk premium, highlighted by the dramatic drop in property prices in Colliers Wood in recent months"*. These sales suggested a yield of 8%. He said that this view was supported by an LVT decision in respect of 85/87 Smallwood Road, Tooting, SW17 (date of decision: 7 May 2003) where a yield on income and deferment of 9% had been determined. He contended for a yield of 12% for income and 9.5% for the reversion. With regard to the percentage for income he said that this was to take account of the small annual ground rents, lack of review within the unexpired term and cost of collection.

10. Mr Nesbitt, for the Respondent, referred to auction sales in October 2004 of ground rent investments by Andrews & Robertson. He said that he had personal knowledge of the seven sales and advised that he had negotiated a further five sales to the tenants. These sales indicated a range of yields from 6.25 to 7.25%. He also referred to two LVT decisions in which he had appeared, in respect of 12 Enderley House, Sylvan Road, SE19 (date of decision: 4 March 2002) and 78 and 80 Howard Road, E17 (date of decision: 10 August 2004) which indicated a yield of 9%. In the second case, there was no evidence at the time to refute the 9% yield but analysis now indicated a lower yield. Mr Nesbitt said *"erring in favour of the Applicants"*, he contended for a yield of 7% for both income and the reversion.

(b) Relativity

11. Mr Avery sought to adduce additional evidence at the Hearing to support his views on relativity, but the Tribunal upheld Mr Nesbitt's objection to its late introduction.

12. Mr Avery referred to the following:-

(a) a College of Estate Management Report of August 2000 which had been commissioned by the Department of Environment Transport and the Regions in order to provide evidence of correlation between market transactions and LVT determinations to see if a relationship could be established. He said that this suggested, for Colliers Wood, a relativity of 90.44% for 58.5 years and 92.71% for 65.5 years. Analysis from Lease suggested 86.5% and 90% respectively.

(b) a Lands Tribunal decision in respect of 57 Shawfield Street, SW3 (date of decision: 16 April 2004).

(c) an LVT decision on 85/87 Smallwood Road, SW17 (date of decision: 7 May 2003) which

was made in the absence of the freeholder. Mr Avery said that this confirmed a relativity of 94% for 70 years unexpired.

13. Having analysed all of these, Mr Avery was of the view that *"the most accurate representation of the decay in Lease value is the Indexed Fitted Curve"* referred to in the College of Estate Management Report, and Colliers Wood would fall in the location definition of *"Rest of England & Wales"*.

14. On that basis, he applied a relativity of 90.44% in respect of the ground floor flat (No 47) and 92.71% in respect of the first floor flat (No 45)

15. Mr Nesbitt referred to the following:-

(a) an LVT decision in respect of 12 Enderley House, Sylvan Road SE19 (date of decision: 4 March 2002) where he had appeared for the landlord. In that case, the Tribunal had determined relativity of 78% in respect of a lease of a single flat with 58 years unexpired.

(b) an LVT decision in respect of 78/80 Howard Road E17 (date of decision: 10 August 2004) where he had appeared for the landlord and which involved enfranchisement of two flats, one of which had a lease with 67 years unexpired. In that case, the Tribunal had determined relativity of 87.8%.

(c) a schedule of his own settlement evidence relating to converted flats.

16. On the basis of the above, Mr Nesbitt applied a relativity of 81% in respect of the ground floor flat (No 47) and 87% in respect of the first floor flat (No 45).

(c) Premium

17. Mr Avery contended for an enfranchisement price of £15,400 and his valuation is attached as Appendix B. Mr Nesbitt contended for an enfranchisement price of £30,585, and his valuation is attached as Appendix C

THE TRIBUNAL'S DETERMINATION

(a) Yield

18. The Tribunal found the analysis of auction transactions by both sides to be of some assistance. These showed a range of yields, but only one, 157 Gleneagle Road SW16, had a fixed ground rent of a modest amount. It is only in that case that the value applied to the reversion by Mr Nesbitt is in excess of the value of the capitalized ground rents. In all the other analyses, there were rising ground rents, and the analyses produce far greater sums for the capitalized ground rents than the reversion.

19. The Tribunal has had regard to the settlement evidence and to other LVT Decisions (Smallwood Road, Enderley House and Howard Road, where yields were agreed or accepted at 9%), but attaches more weight to open market evidence (where valuers' analyses ranged from 6.25% to 8%).

20. It is acknowledged that at the lower end of the market where, in Mr Nesbitt's own evidence which has not been disputed, investors will pay say £5,000 to £7,000 for such ground rents. In all but one case, the analyses were of rising ground rents ranging from a minimum of £400 per annum to a maximum of £1,800 per annum.

21. However, in this case, the ground rent is only £10.50 per annum, fixed in one case for 58.5 years and in the other for 65.5 years, and unlike analyses of most of the auction sales, the main value attributable by both valuers is in the reversions. Accordingly, in the view of this Tribunal, the open market evidence must be treated with caution.

22. Having regard to the very small fixed ground rents and the reversion many years hence, together with the nature and location of the subject property, the Tribunal determines that the yield should be 8.5% for both income and the reversion

(b) Relativity

23. Neither valuer produced open market evidence relating to the sale of short leasehold interest in Colliers Wood or elsewhere. Both valuers relied in part on LVT decisions which indicated relativities of 94% for 70 years, 78% for 58 years and 88% for 67 years.

24. Mr Nesbitt produced his own analysis of some of his agreements in North London ranging from 72% for 53 years to 87% for 66 years.

25. Mr Avery relied on the College of Estate Management research and analysis of LVT decisions, which he considered were supported by Lease's similar analysis.

26. The Tribunal was disappointed at the lack of local evidence and analysis. The Tribunal must value each of these short leases in the no Act world in Colliers Wood.

27. Having regard to the somewhat limited evidence placed before the Tribunal, and the Tribunal's own knowledge and experience, it considers that the 65.5 year lease in Flat 45 would sell for £157,000 and the 58.5 year lease in Flat 47 would sell for £142,500.

28. For analysis purposes, this provides relativities of 88% for Flat 45 and 83.8% for Flat 47.

ENFRANCHISEMENT PRICE

29.. The Tribunal therefore determines the enfranchisement price of the subject property at £25,772 and its valuation is attached as Appendix A

CHAIRMAN.....

DATE.....23/12/04.....

LEASEHOLD VALUATION TRIBUNAL'S VALUATION

Appendix A

**45 and 47 University Road
Colliers Wood
London SW19 2LL**

45 University Road

Valuation of Freeholder's Current Interest	£	£	£
Term			
Ground Rent	10.50		
YP 65.5 yrs @ 8.5%	<u>11.7084</u>	122	
Reversion to Freehold	178,500		
PV £1 for 65.5 yrs @ 8.5%	<u>.0048</u>	857	
		<u>979</u>	979
Marriage Value			
Freehold		178,500	
less:			
Value of freeholder's current interest	979		
Value of existing lease	<u>157,000</u>	<u>157,979</u>	
Marriage Value		20,521	
Freeholder's share @ 50%		<u>10,260</u>	10,260

47 University Road

Valuation of Freeholder's Current Interest			
Term			
Ground Rent	10.50		
YP 58.5yrs @ 8.5%	<u>11.6651</u>	122	
Reversion to Freehold	170,000		
PV £1 for 58.5 yrs @ 8.5%	<u>.0085</u>	1,445	
		<u>1,567</u>	1,567
Marriage Value			
Freehold		170,000	
less:			
Value of freeholder's current interest	1,567		
Value of existing lease	<u>142,500</u>	<u>144,067</u>	
Marriage Value		25,933	
Freeholder's share @ 50%		<u>12,966</u>	12,966

Enfranchisement Price for 45 and 47 University Road**£25,772**

Valuation For Enfranchisement
No. 45 (Upstairs Flat) University Road
Colliers Wood, London SW18

- 1) **Tenant:** Damien Hayes
- 2) **Lease:** Dated: 30th April 1971
Term: 99 years from 30th April 1971
Ground Rent: £10.50 per annum
(65½ years unexpired)
- 3) **Valuation of Freeholder's Current Interest**
(a) Receipt of Ground Rent Income
£10.50 YP 65¼ yrs @ 12%) = x 8.3288 = £ 87
- (b) Reversion to Freehold Value £178,500
PV £1 65¼ yrs @ 9½%yrs x .002683 £ 478
£ 565
- 4) **"Marriage Value"** £178,500
Value of Maisonette with Freehold Interest
Less:
Value of Existing Lease £165,500**
Value of Freeholder 's Current Interest £ 565
----- £166,065
** 92.71% Relativity £ 12,435
- 5) **Other Compensation** £ Nil
No Other Heads of Claim are envisaged, therefore
- 6) **Summary**
(a) Value of the Freeholder's Existing Interest £ 565
(b) Marriage Value £12,435
Freeholder's Share* 50%
----- £ 6,217
(c) Other Compensation £ Nil
£ 6,782
- * Section 127 of the Commonhold and Leasehold Reform Act 2002

Say £6,800

I hereby value the Price payable to the Landlord for the purchase of the Freehold Interest in the sum of £6,800 (six thousand eight hundred pounds)



C. M. Avery FRICS
Avery Associates Chartered Surveyors
119 Briar Avenue, London SW16 3AG

23rd November 2004

Valuation For Enfranchisement
No. 47 (Ground Floor Flat) University Road
Colliers Wood, London SW18

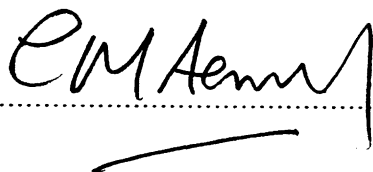
- 1) **Tenant:** Nadeem Safdar Ali
- 2) **Lease:** Dated: 11th September 1964
Term: 99 years from 24th June 1964
Ground Rent: £10.50 per annum
(58½ years unexpired at 24/12/04)
- 6) **Value of Freeholder's Current Interest**
- (a) Receipt of Ground Rent
£10.50 YP 58½ yrs @ 12% = x 8.3223 £ 87
- (b) Reversion to Freehold Value £170,000
PV £1 58½ yrs @ 9½%yrs x .0049513
£ 842
£ 929
- 7) **"Marriage Value"**
Value of Maisonette with Freehold Interest £170,000
Less:
Value of Existing Lease 58½ yrs £153,750**
Value of Freeholder's Current Interest £ 929

£154,679
** 90.44% Relativity £ 15,321
- 8) **Other Compensation**
No Other Heads of Claim are envisaged, therefore £ Nil
- 6) **Summary**
- (a) Value of the Freeholder's Existing Interest £ 929
- (d) Marriage Value £15,321
Freeholder's Share* 50%

£ 7,661
- (e) Other Compensation £ Nil
£ 8,590
- * Section 127 of the Commonhold and Leasehold Reform Act 2002

Say £8,600

I hereby value the Price payable to the Landlord for the purchase of the Freehold Interest in the sum of £8,600 (eight thousand six hundred pounds)



C. M. Avery FRICS
Avery Associates Chartered Surveyors
119 Briar Avenue, London SW16 3AG

23rd November 2004

VALUATION:**Ground floor no. 47****Lease details**

Number of years unexpired	58.5		
Ground rent		10.50	
Capitalisation and discount		7%	
Rate			

Value of extended lease

<i>Value of existing lease</i>	81%			170,000
			137,700	

Value of Freeholder's Interest

Ground rent Reserved	10.50			
YP 58.5 years at 7%	14.0128	147		
Reversion to VP value	170,000			
x PV of £1 until end of term	<u>0.019101</u>	<u>3,247</u>	3,394	<u>141,094</u>

Marriage Value

half share of marriage value				28,906
				<u>x50%</u>
				14,453
value of Freeholder's interest				<u>3,394</u>

Enfranchisement price

				17,847
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First floor no. 45**Lease details**

Number of years unexpired	65.5		
Ground rent		10.50	
Capitalisation Rates		7%	

Value of extended lease

<i>Value of existing leases</i>	87%			178,500
			155,295	

Value of Freeholder's Interest

Ground rent Reserved	10.50			
YP 65.5 years at 7%	14.1158	148		
Reversion to VP value	178,500			
x PV of £1 until end of term	<u>0.011895</u>	<u>2,123</u>	2,271	<u>157,566</u>

Marriage Value

half share of marriage value				20,934
				<u>x50%</u>
				10,467
value of Freeholder's interest				<u>2,271</u>

Enfranchisement price**12,738****Total Enfranchisement Price****30,585**