

SOUTHERN LEASEHOLD VALUATION TRIBUNAL

Re : Lynton Court 40 St Aubyns Hove BN3 2DT
Case no: CHI/00ML/OCE/2004/0033

BETWEEN:

Lynton Court (Hove) Ltd

(Applicant /Nominee Purchaser)

And

Maxiwood Ltd

(Respondent /Landlord)

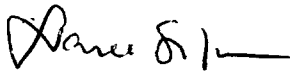
DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

- 1 This is an application pursuant to s 24 of the Leasehold Reform Housing and Urban Development Act 1993 (the Act) by the Nominee Purchaser (the Applicant) for the determination of the price to be paid for the freehold of the above property and the terms on which the property is to be vested in the Applicant . The Tribunal was also asked to determine the extent of the property to be included in the freehold transfer.
- 2 The members of the Tribunal inspected the property on 8 July 2004. The property is a large detached Victorian house situated in a quiet residential road close to the sea-front. It has been converted into 10 flats of varying sizes on four floors (basement, ground , and two upper floors) . The Tribunal was able to inspect the interior of one flat on each floor as well as the exterior and common parts of the building. Some of the flats had been re-furnished and those that we inspected were in reasonable or good condition as was the exterior .The common parts appeared to be in good decorative order. There is no lift or off street parking at the property.
- 3 A hearing took place at Hove Town Hall on 8 July 2004. The Applicant was represented by Mr A Pridell FRICS. The Respondent was represented by Ms Haggerty of Counsel.
- 4 The issue of the extent of the land to be included in the purchase was resolved by agreement between the parties at the inspection and the Tribunal was not required to determine this matter. The only matter on which the parties sought a determination was the price to be paid by the Applicant.
- 5 The main issue in dispute which potentially affected the price was the possible development of the roof area to provide two extra flats. The Respondent had obtained planning permission for this development but that permission has now expired. A further application had been submitted by the Respondent following the Applicant's notice of intention to purchase. At the time of the hearing the pending application had not been determined by the local planning authority.

- 6 The Tribunal heard evidence from Mr Pridell in accordance with his written proof of evidence. He submitted that a yield of 7.5% was appropriate in this case and referred the Tribunal to recent decisions of the London and Southern Tribunal which supported this contention. He provided the Tribunal with valuations of the individual flats and his calculations of the value of the reversionary interest. His view was that marriage value should be assessed at ½% per year below 80 years. The appropriate date on which the valuation should be made was 13 February 2004. He contended that the development of the roof area would have no value. The Applicant did not intend to undertake that development (if permission was granted) and the proposed development was not financially viable. The Respondent had not produced any construction estimates nor an engineer's report to demonstrate that the present structure was capable of supporting another storey.
- 7 For the Respondent we heard from Mr Gray, expert for the Respondent who gave evidence in accordance with his written proof. He conceded that a yield of 7.5% might be applicable but preferred a figure of 7%. He gave examples of a number of local properties which had benefited from roof conversions including some which had recently been sold with development potential but without current planning permission. His argument therefore was that the roof area had a value of around £50,000 which should be taken into account in the calculation of the price irrespective of the state of the pending planning application.
- 8 In respect of the flats themselves Mr Pridell and Mr Gray had agreed valuations (see Appendix 8 of Mr Pridell's evidence and the joint statements of the expert witnesses).
- 9 Having heard the evidence the Tribunal retired to consider the matter and decided as follows.
- 10 The date of the valuation is 13 February 2004. This date had been agreed by the parties.
- 11 Marriage value should be 3% for all flats. (The parties' estimates varied between 2%-3.5%).
- 12 Compensation was agreed by both parties not to be payable.
- 13 There were no additional terms relevant to the transfer to the Applicant.
- 14 The Tribunal from its own experience of property in the Brighton and Hove area considered that 7% was an appropriate yield figure to use in the calculation of the reversionary interest.
- 15 The Tribunal accepted the valuations of the individual flats as agreed by the parties' surveyors.
- 16 The Tribunal considered carefully both parties' representations in relation to the possible development of the roof area, together with the plans supplied by the Respondent. Having inspected the property they concluded that the

development of that space would be extremely difficult and expensive. Apart from the plans which had been prepared for the Respondent's pending planning application, no evidence had been adduced to demonstrate that the proposed development was feasible or financially viable. The Respondent had failed to utilise the previous permission and had not made an application to renew it. The pending planning application had been submitted only after the Applicant had made its request to purchase the reversion. The Tribunal takes the view that the application was purely speculative since the Respondent in acknowledging the Applicant's right to purchase would not itself be able to implement any permission, if it were to be granted. There was no evidence that prior to the Applicant's application to purchase the freehold the Respondent seriously intended to develop the roof area. For these reasons the Tribunal prefers Mr Pridell's evidence on this point to that of Mr Gray and finds that the roof area has a nil value in calculating the value of the reversion.

- 17 The Tribunal worked through its own calculations for the value of the reversionary interest (the calculations are set out in Schedule 1 to this document) and decides that the sum which the Applicant is to pay for the acquisition of the freehold interest in the property is £ 37,400.



Frances Silverman
Chairman
30 July 2004

Appendix
(Tribunal's calculations)

Lynton Court,
40 St.Aubyns,
Hove.

Valuation of leasehold interest.

Part A. - Flats 1A-1D. 4&6. Value of un-expired leasehold interests £917 500

Valuation of freeholders interest				
Ground rental income				
Ground rents 2004-2013		£425		
Y.P. 9 years at 7.0%		6.5152		
			2769	
Ground rents 2013 - 2046		£850		
Y.P. 33 years at 7%	12.7538			
P.V £1 9 years at 7%	0.5439337			
		<u>6.9372</u>		
			5879	
Ground rents 2046-2079		1600		
Y.P. 33years at 7%	12.7538			
P.V.£1 42 years at 7%	0.0583286			
		<u>0.7439</u>		
			1190	
Reversion to capital value				

Adjusted to F/H + 3%	945025.0			
P.V. £1 75 yrs at 7%	0.0062545			
			5911	
			15,767	
Marriage Value				
Agreed Value. Unimproved				
L/H Interest	917 500			
Value of virtual F/H add 3%			945025	

Less

Value unimproved L/H		917 500		
Value F/H interest		<u>15 767</u>		
			<u>933 267</u>	
Total Marriage Value			11 758	
Agreed share at 50%				<u>5879</u>
				21 646

Part B. – Flats 2, 3, 5, 7.

Value un expired L/H Interest Agreed	<u>745 000</u>			
Value of F/H Interest				
Capitalisation of G.R. Income				
G/R 2004 - 2012		£200		
Y.P 8 years at 7 %		5.9713		
			1194	
G/R 2012-2045		£400		
Y.P 33 years at 7%	12.7538			
P.V £1 8 years at 7%	0.5820091			
		<u>7.4228</u>		
			<u>2969</u>	
G/R 2045-2078		450		
Y.P. 33 years at 7%	12.7538			
P.V £1 41 years at 7%	<u>0.0624116</u>			
		<u>0.796</u>		
			<u>358</u>	
			4521	
Value of Reversion				
Reversion to capital value				
Adjusted to F/H + 3%	767 350			

P.V £1 74 years at 7%	<u>0.0066927</u>			
			<u>5135</u>	
				9656
Marriage Value				
Value unimproved L/H +				
Value of Virtual F/H + 3%			767 350	

Less

Value of unimproved				
L/H interest	745 500			
Value of F/H. Interest	<u>9 656</u>			
			<u>755156</u>	
			12 194	
F/H share at 50%				<u>6097</u>
				<u>15792</u>
Add part A				<u>21646</u>
				37438
			Say	37 400

SOUTHERN LEASEHOLD VALUATION TRIBUNAL

Re : Lynton Court 40 St Aubyns Hove BN3 2DT
Case no: CHI/00ML/OCE/2004/0033

BETWEEN:

Lynton Court (Hove) Ltd

(Applicant /Nominee Purchaser)

And

Maxiwood Ltd

(Respondent /Landlord)

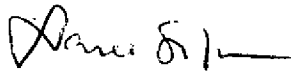
DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

- 1 This is an application pursuant to s 24 of the Leasehold Reform Housing and Urban Development Act 1993 (the Act) by the Nominee Purchaser (the Applicant) for the determination of the price to be paid for the freehold of the above property and the terms on which the property is to be vested in the Applicant . The Tribunal was also asked to determine the extent of the property to be included in the freehold transfer.
- 2 The members of the Tribunal inspected the property on 8 July 2004. The property is a large detached Victorian house situated in a quiet residential road close to the sea-front. It has been converted into 10 flats of varying sizes on four floors (basement, ground , and two upper floors) . The Tribunal was able to inspect the interior of one flat on each floor as well as the exterior and common parts of the building. Some of the flats had been re-furnished and those that we inspected were in reasonable or good condition as was the exterior .The common parts appeared to be in good decorative order. There is no lift or off street parking at the property.
- 3 A hearing took place at Hove Town Hall on 8 July 2004. The Applicant was represented by Mr A Pridell FRICS. The Respondent was represented by Ms Haggerty of Counsel.
- 4 The issue of the extent of the land to be included in the purchase was resolved by agreement between the parties at the inspection and the Tribunal was not required to determine this matter. The only matter on which the parties sought a determination was the price to be paid by the Applicant.
- 5 The main issue in dispute which potentially affected the price was the possible development of the roof area to provide two extra flats. The Respondent had obtained planning permission for this development but that permission has now expired. A further application had been submitted by the Respondent following the Applicant's notice of intention to purchase. At the time of the hearing the pending application had not been determined by the local planning authority.

- 6 The Tribunal heard evidence from Mr Pridell in accordance with his written proof of evidence. He submitted that a yield of 7.5% was appropriate in this case and referred the Tribunal to recent decisions of the London and Southern Tribunal which supported this contention. He provided the Tribunal with valuations of the individual flats and his calculations of the value of the reversionary interest. His view was that marriage value should be assessed at $\frac{1}{2}\%$ per year below 80 years. The appropriate date on which the valuation should be made was 13 February 2004. He contended that the development of the roof area would have no value. The Applicant did not intend to undertake that development (if permission was granted) and the proposed development was not financially viable. The Respondent had not produced any construction estimates nor an engineer's report to demonstrate that the present structure was capable of supporting another storey.
- 7 For the Respondent we heard from Mr Gray, expert for the Respondent who gave evidence in accordance with his written proof. He conceded that a yield of 7.5% might be applicable but preferred a figure of 7%. He gave examples of a number of local properties which had benefited from roof conversions including some which had recently been sold with development potential but without current planning permission. His argument therefore was that the roof area had a value of around £50,000 which should be taken into account in the calculation of the price irrespective of the state of the pending planning application.
- 8 In respect of the flats themselves Mr Pridell and Mr Gray had agreed valuations (see Appendix 8 of Mr Pridell's evidence and the joint statements of the expert witnesses).
- 9 Having heard the evidence the Tribunal retired to consider the matter and decided as follows.
- 10 The date of the valuation is 13 February 2004. This date had been agreed by the parties.
- 11 Marriage value should be 3% for all flats. (The parties' estimates varied between 2%-3.5%).
- 12 Compensation was agreed by both parties not to be payable.
- 13 There were no additional terms relevant to the transfer to the Applicant.
- 14 The Tribunal from its own experience of property in the Brighton and Hove area considered that 7% was an appropriate yield figure to use in the calculation of the reversionary interest.
- 15 The Tribunal accepted the valuations of the individual flats as agreed by the parties' surveyors.
- 16 The Tribunal considered carefully both parties' representations in relation to the possible development of the roof area, together with the plans supplied by the Respondent. Having inspected the property they concluded that the

development of that space would be extremely difficult and expensive. Apart from the plans which had been prepared for the Respondent's pending planning application, no evidence had been adduced to demonstrate that the proposed development was feasible or financially viable. The Respondent had failed to utilise the previous permission and had not made an application to renew it. The pending planning application had been submitted only after the Applicant had made its request to purchase the reversion. The Tribunal takes the view that the application was purely speculative since the Respondent in acknowledging the Applicant's right to purchase would not itself be able to implement any permission, if it were to be granted. There was no evidence that prior to the Applicant's application to purchase the freehold the Respondent seriously intended to develop the roof area. For these reasons the Tribunal prefers Mr Pridell's evidence on this point to that of Mr Gray and finds that the roof area has a nil value in calculating the value of the reversion.

- 17 The Tribunal worked through its own calculations for the value of the reversionary interest (the calculations are set out in Schedule 1 to this document) and decides that the sum which the Applicant is to pay for the acquisition of the freehold interest in the property is £ 37,400.



Frances Silverman
Chairman
30 July 2004

Appendix
(Tribunal's calculations)

Lynton Court,
40 St.Aubyns,
Hove.

Valuation of leasehold interest.

Part A. - Flats 1A-1D. 4&6. Value of un-expired leasehold interests £917 500

Valuation of freeholders interest				
Ground rental income				
Ground rents 2004-2013		£425		
Y.P. 9 years at 7.0%		6.5152		
			2769	
Ground rents 2013 - 2046		£850		
Y.P. 33 years at 7%	12.7538			
P.V £1 9 years at 7%	0.5439337			
		<u>6.9372</u>		
			5879	
Ground rents 2046-2079		1600		
Y.P. 33years at 7%	12.7538			
P.V.£1 42 years at 7%	0.0583286			
		<u>0.7439</u>		
			1190	
Reversion to capital value				

Adjusted to F/H + 3%	945025.0			
P.V. £1 75 yrs at 7%	0.0062545			
			5911	
			15,767	
Marriage Value				
Agreed Value. Unimproved				
L/H Interest	917 500			
Value of virtual F/H add 3%			945025	

Less

Value unimproved L/H		917 500		
Value F/H interest		<u>15 767</u>		
			<u>933 267</u>	
Total Marriage Value			11 758	
Agreed share at 50%				<u>5879</u>
				21 646

Part B. – Flats 2, 3, 5, 7.

Value un expired L/H Interest Agreed	<u>745 000</u>			
Value of F/H Interest				
Capitalisation of G.R. Income				
G/R 2004 - 2012		£200		
Y.P 8 years at 7 %		5.9713		
			1194	
G/R 2012-2045		£400		
Y.P 33 years at 7%	12.7538			
P.V £1 8 years at 7%	0.5820091			
		<u>7.4228</u>		
			<u>2969</u>	
G/R 2045-2078		450		
Y.P. 33 years at 7%	12.7538			
P.V £1 41 years at 7%	<u>0.0624116</u>			
		<u>0.796</u>		
			<u>358</u>	
			<u>4521</u>	
Value of Reversion				
Reversion to capital value				
Adjusted to F/H + 3%	767 350			

P.V £1 74 years at 7%	<u>0.0066927</u>			
			<u>5135</u>	
				9656
Marriage Value				
Value unimproved L/H +				
Value of Virtual F/H + 3%			767 350	

Less

Value of unimproved				
L/H interest	745 500			
Value of F/H. Interest	<u>9 656</u>			
			<u>755156</u>	
			12 194	
F/H share at 50%				<u>6097</u>
				<u>15792</u>
Add part A				<u>21646</u>
				37438
			Say	37 400