

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case No: CHI/00MS/OLR/2006/ 0058, 0059 & 0060

Decisions of the Leasehold Valuation Tribunal on an application under Section 48 of the Leasehold Reform, Housing and Urban Development Act 1993

Applicants

Miss A G Lanham Flat 1
Mrs I L Scutt Flat 3
Miss Y A Osmolka Flat 4

Respondent

Sidewalk Properties Limited

Re:

Flats 1, 3 & 4 Priestwood Close,
Thornhill, Southampton

Date of Applications

20th June 2006

Date of Inspection

15th September 2006

Date of Hearing

15th September 2006

Venue

Wells Place Centre, Eastleigh

Appearances for Applicants

C L Beamish MBA FRICS MIRPM

Appearances for Respondent

W D J Gillespie MSc FRICS (as expert
only)

Members of the Leasehold Valuation Tribunal:

M J Greenleaves
R A Wilkey FRICS FICPD
P D Turner-Powell FRICS

Chairman
Valuer Member
Valuer Member

Date of Tribunal's Decision: 25th September 2006

Introduction.

1. For the purposes of this decision and reasons:
 - a) The decision and reasons apply to each Applicant and her Flat individually save where otherwise stated.
 - b) "Applicant" applies to each Applicant.
 - c) "the Flat" includes the separate garage

Decision

2. The premium payable by the Applicant to the Respondent for a new lease of the Flat at Priestwood Close, Thornhill, Southampton to be granted under Section 56 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act")
 - a) is the sum of £8,220
 - b) on the same terms as those of the existing lease as they applied at the date of the Applicant's Notice of Claim ("Notice of Claim") dated 15th October 2005, but
 - c) under that Section, for a term expiring 90 years after the term date of the existing lease and at a peppercorn rent
3. The costs payable by the Applicant to the Respondent under Section 60 of the Act are:
 - a) Valuation fees (including related expenses): £400
 - b) Legal fees: £150 + VAT

Reasons.

4. Introduction.
5. By her Notice of Claim the Applicant had claimed a new tenancy under Section 56 of the Act, proposing a premium as follows

Flat 1	£5,850
Flat 3	£5,800
Flat 4	£5,850

- a) but otherwise on the terms of the existing lease other than the term of years and rent provided by Section 56.
- b) By Counter-Notice dated 20th September 2005 the Respondent accepted the Applicant's proposals save that it proposed:
 - i) a premium of £14,750
 - ii) a new term of 125 years from 25th December 2005

- iii) A new ground rent of £150 per annum doubling every 25 years
 - iv) The Applicant to pay the Respondent's costs of £695
 - c) The parties subsequently agreed:
 - i) The valuation date is 15th October 2005
 - ii) The term of the existing lease is 99 years from 25th December 1961 at a ground rent of £15 per annum without review, payable quarterly.
 - d) The matters which remained to be determined by the Tribunal were:
 - i) The yield for capitalising the ground rent
 - ii) The deferment rate
 - iii) The unimproved long leasehold value of the Flat
 - iv) The unimproved existing leasehold value of the Flat
 - v) The Respondent's costs in respect of the premium valuation of the Flat
 - vi) The Respondent's cost in respect of legal fees
6. Inspection

- a) The Tribunal inspected the Flat in the presence of Mr Beamish and the Applicant (the Applicant did not attend inspection of the garage).
- b) The Flat is situated in a residential area, Priestwood Close comprising a number of separate blocks of ground and first floor flats and a separate block of garages. Priestwood Close was built about 40 years ago and appears to be in good condition for its age and character
- c) Flats 1 and 4 are on the ground floor; Flat 3 is on the first floor. Each of the flats is similar in size and layout, comprising living room, 2 bedrooms (the second bedroom in Flat 3 being rather larger), kitchen and bathroom.
- d) Improvements carried out by the Applicant or a previous Lessee:
 - i) Flat 1: kitchen and bathroom fittings throughout, double glazing, central heating and patio doors
 - ii) Flat 3: kitchen and bathroom fittings throughout, double glazing, central heating, porch
 - iii) Flat 4: kitchen and bathroom fittings throughout, double glazing, central heating, porch, patio doors, rewiring and fencing
- e) The garages are in a separate block arranged around a common courtyard whose surface is in poor condition.
- f) Mr Beamish also showed the Tribunal, externally, Nos 2, 9, 23 and 32 Priestwood Close and 29, 30, 37 and 40 Woodland Close, (Woodland Close backing on to Priestwood Close).

7. Hearing

- a) The hearing was attended by Mr Beamish and each of the Applicants. Mr Gillespie appeared as expert only for the Respondent.
- b) The Tribunal had previously received papers, submissions and other documents from the parties.

8. Evidence for the Applicants

- a) Mr Beamish gave evidence for the Applicant on the basis of his expert opinion and submission date 6th September 2006, subject to his amending letter of 14th September 2006 to the Tribunal. He felt that the minor differences between the three Flats were not of significance and he treated them all as having the same value.
- b) He had considered the implications of the Cadogan cases; he had prepared his valuation on the basis of the market evidence referred to in his Report and had considered other Tribunal decisions.
- c) In respect of capitalisation rates, he considered that a rate of 10% was appropriate in this case. Unlike most other enfranchisement cases he said that the ground rent was low and expensive to collect and administer and there were now restrictions on forfeiture of leases which significantly reduced the value of the reversion to a landlord. On this basis he felt that 10% was justified.
- d) He found no reason why the deferment rate should be different from the capitalisation rate
- e) On the basis of all the evidence available to him, including in particular transactions relating to 30 and 36 Woodland Close and 23 and 32 Priestwood Close he considered that allowing for price adjustment on the Nationwide Property Index, improvements and other factors set out in his submission, the reversionary value is £111,500. (In his valuation he had considered the correct figure to be £121,000, but had reviewed that in the light of evidence from the transactions concerning 36 Woodland Close and 32 Priestwood Close). This produced a "relativity" of 91%.
- f) Similarly, he considered in the light of evidence referred to in his written submission that the value of the Flat with the current lease is £101,500.
- g) From these conclusions he calculated the premium payable for the Flat to be £5,343.
- h) Costs. Mr Beamish considered that the application for costs of £695 included fees for negotiation which was not allowable under the Act. He submitted the valuation had not been done by Mr Gillespie; it had been done "from the desk" with perhaps a look at the outside of the Flat. The valuation for which costs were payable should be prior to the date of the Counter-Notice – 15th December 2005. [He did not, however, ask Mr Gillespie any questions about this.]

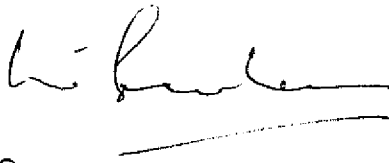
9. Evidence for the Respondent.

- a) Mr Gillespie gave evidence on the basis of his written valuation advice dated 6th April 2006 and his witness statement dated 4th September 2006.
- b) Yield. He had considered the Cadogan cases and presented evidence of yields from auctions which was the method of sale of the vast majority of ground rents. He had also considered Tribunal decisions in the Eastern and Southern areas. On the basis of this evidence he submitted the all risks yield should be 7.5%.
- c) He considered the unimproved long leasehold value of the Flat for the purposes of the Act is £121,000 particularly on the basis of 2 Priestwood Close having sold in June 2006 for £133,000. He had applied the Nationwide index and arrived at a figure of £128,230 for October 2005. From this he deducted £7,000 for central heating and double glazing leaving a sum of £121,230.
- d) He considered, taking into account decisions on relativity suggesting an average of 87%, that the unimproved existing lease value of the Flat to be in the range of £95,000 and £101,000
- e) Valuation Costs. He had set out his costs calculation in his witness statement. He had carried out 4 inspections on the same day – the 3 subject properties and one other – and divided the travelling costs accordingly. He claimed £739.58 for each Flat.
- f) Legal Costs. £695 per Flat was claimed but he had no information as to its calculation.

10. Consideration.

- a) The Tribunal considered all the expert evidence, both written and as given at the hearing. It also took into account its inspection of the Flat and of the comparables to which it had been referred and also took into account its own knowledge and experience.
- b) Yield. The Tribunal found that it was appropriate to apply one rate for both capitalisation and deferment. It noted and accepted Mr Beamish's evidence concerning the present ground rent. However, it also took into account that the present lease, at valuation date, had about 55 years to run so that any investor would expect the lessee in the near future to be seeking a lease extension for which a premium would be taken. The Tribunal considered that for this reason and taking into account the weight of the evidence and its own expert knowledge the appropriate rate in this case is 8%.
- c) Value of Applicant's interest with a new lease. the Tribunal considered all of the comparables to which it had been referred. It considered that the most relevant evidence was that of 2 Priestwood Close as this was adjacent to the Flat and it provided up to date evidence having been sold in June 2006 for £133,000. Applying the Nationwide Index produces a figure for October 2005 of £128,230. From that the Tribunal deducted £7,500 for improvements leaving a net sum of £120,730. The Tribunal rounded this to £121,000.
- d) Relativity. The Tribunal considered a relativity of 88% was appropriate producing a value of the present lease of £106,500.

- e) The Tribunal made the calculation set out in the Schedule accordingly.
- f) Valuation costs. The Tribunal found that such costs allowable under the Act could be incurred after the date of the Counter-Notice. However, it considered that because of the similar nature of the all 3 flats and that the relevant lease terms are identical, there would be much duplication of valuation work to be done. The Tribunal therefore allowed £400 per Flat.
- g) Legal costs. The Tribunal had no evidence as to the work done or to be done. Taking into account its own knowledge and experience and that duplication would also apply to these costs, the Tribunal considered £150 + VAT per Flat would be reasonable.



M J Greenleaves (Chairman)

A member of the Southern
Leasehold Valuation Tribunal
appointed by the Lord Chancellor

The Schedule

Diminution in Value of Landlord's interest

Present Interest		
Ground Rent	15.00	
YP for 55 years @ 8%	<u>12,319</u>	185
Reversion to capital value	121,000	
PV £1 in 55 years @ 8%	<u>0.0145109</u>	<u>1,755</u>
Present value of Landlord's interest		1,940

Marriage Value

Tenant's interest with new lease	121,000	
Landlord's interest with new lease	<u>0</u>	121,000
Tenant's interest with 55 year lease	106,500	
Landlord's interest with 55 year lease	<u>1,940</u>	<u>108,440</u>
Marriage value		12,560
Marriage value @ 50%	<u>6,280</u>	6,280
<u>Premium payable</u>		<u>£8,220</u>