

LON/NL/1952/03

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

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 48 OF THE LEASEHOLD
REFORM HOUSING AND URBAN DEVELOPMENT ACT 1993**

Applicant: Mr M Howe

Respondent: Gloria Faith Davies Carpenter, Cynthia Honour Davies Young, Victoria Gay Davies Sharpe

RE: 58 Prescott Avenue, Petts Wood, Orpington
Kent, BR5 1AF

Application to Tribunal by Tenant dated 22 April 2003

Heard: 5 August 2003

Appearances: Mr M Howe

for the tenant

Mr D H Hackett BSc FRICS IRRV of Bigwood Chartered Surveyors

for the landlord

Members of the Leasehold Valuation Tribunal:

Mrs C A Lewis FCI Arb (Chairman)
Mr C White FRICS
Mr S F Redmond MRICS

Tenant's section 42 notice dated: 7 November 2002

Landlord's section 45 counter-notice dated: 8 January 2003

Valuation date: 8 January 2003

Leasehold Valuation Tribunal's determination: £15,464

Date of Tribunal's decision: 13 October 2003

58 PRESCOTT AVENUE

This was an application under Section 48 of the Leasehold Reform and Urban Development Act 1993 to determine the premium payable by the tenant for a new lease under the Act.

The parties had agreed the form of the lease but there was no Statement of Agreed Facts before the Tribunal.

The Applicant, Mr Michael Howe, currently occupies the premises under a lease dated 20 December 1956, for a term of 99 years from the 29 September 1956 at a fixed ground rent of £8.50 per annum.

Inspection

The Tribunal made an inspection of the property. It is a two bedroom ground floor maisonette of brick and tile construction with a private garden immediately to the rear, and that part of the front garden immediately to the front of the property. The maisonette comprises a small entrance hall and passage, a front room with bay window, galley kitchen, bathroom, small living room, rear double bedroom and a good sized rear living room with doors to the garden. Some night storage heaters have been installed which are now fairly dated.

Evidence

Mr Howe, the Applicant, appeared in person at the hearing. He submitted a report which was a final version of others which he had submitted previously, and included comments on a valuation which had been prepared by Messrs Sinclair Jones, dated 11 February 1999. He also gave verbal evidence and claimed that the premium payable was £7,567.80. His only comparable evidence was hearsay, and related to No 42 Prescott Avenue, which he said had sold for £120,000 in the spring of 2002 with a 99 year lease and a ground rent of £100 per annum. He said that the property had a better state of modernisation than his. By his calculation of relativity he arrived at a figure of £107,000 for the short lease value. He used a yield rate of 8% and arrived at a resulting premium of approximately £7,567.8.

Mr Hackett, for the Respondent, gave evidence and took the Tribunal through his valuation to which he made some amendments. He based his valuation primarily on No 70 Prescott Avenue, which was under offer on 15 July 2003 through a local estate agent at £155,000 with a 99 year lease from 2003 at a rising ground rent of £100 per annum. He said that No 70 was in quite poor condition, but was described in the sales particulars as having gas central heating, most double glazing, carpets and curtains. In his opinion the price would have been £160,000 if it had been sold without the ground rent and with a longer lease.

Mr Hackett said that he had been unable to find any market evidence of a short lease, and considered that the relativity between long lease and short lease value was 75%. This resulted in a short lease value of £120,000. He said that valuations had not changed between November 2002 and July 2003, and he had made no adjustments for

THE FOLLOWING ASSUMES THE RENTAL LEASE VALUE OF THE UNIMPROVED PROPERTY AT A

Regarding relativity, Mr Hackett argued that a 25% differential was required to reflect the difficulty of obtaining finance for properties with leases of less than 60 years, and the fact that building societies will not lend on properties with leases of under 50 years. He valued the short lease at £120,000. Mr Howe did not offer evidence in support of his figure of 12% which he considered appropriate to the particular market for this type of property amongst older purchasers who he felt would not be constrained by the need to borrow large sums.

While the Tribunal would prefer open market evidence to support the valuation of the short lease value of the property it recognised that any such evidence would have to be carefully considered in respect of the requirement to ignore the effect of the Act. Neither party offered comparable evidence. The Tribunal was of the opinion that although there would be some difficulty in obtaining mortgage finance, a relativity of 80% was appropriate for a relatively low value, small unimproved maisonette in this type of locality. They accordingly determined a value of £112,800.

The Tribunal adopted a single yield of 8% which they considered appropriate for a long term investment of this nature with a small fixed ground rent.

The resulting premium was £15,464.

The Tribunal Valuation is attached at Appendix A.

Fees

Mr Hackett agreed that £350 + VAT for the valuation was a normal charge, and similarly £400 + VAT for Solicitors.

In the event of a dispute between the parties they are at liberty to apply back to the
Leasehold Valuation Tribunal.

CHAIRMAN.....

DATE.....10 October 2003

VALUATION OF PREMIUM FOR NEW LEASE
58 PRESCOTT AVENUE, PETTS WOOD, ORPINGTON, KENT BR5 1AF

Date of valuation is Date of notice - 8/1/03
Lease of 99 years from 29/6/56 ends 28/9/2055
Period unexpired - 51 years and 9 months
Ground Rent - £8.50 p.a.
Yield - determined at 8% single rate
Long Lease value - determined at £141,000
Short Lease value - determined at £112,800 (80% relativity)

	£	£	£
Diminution in value of Freeholder's interest			
Ground Rent	8.50		
Years purchase for 51 years and 9 months @ 8%	12.2670	104	
Reversion to freehold in possession	141,000		
deferred 51 years 9 months @ 8%	<u>0.0186</u>	<u>2,623</u>	
Diminution in value of Freeholder's interest			2,727

Calculation of Marriage Value

Value of proposed interests:			
Value of freehold interest after extension of lease	nil		
Value of leasehold interest after extension of lease		141,000	
Less value of existing interests:			
Value of freehold interest before extension of lease	2,727		
Value of leasehold interest before extension of lease	<u>112,800</u>	<u>115,527</u>	
Marriage value		<u>25,473</u>	
50% marriage value attributed to landlord		say	<u>12,737</u>
			<u>15,464</u>

PREMIUM PAYABLE £15,464