

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

Property: Flats 42 –52, Grasmere Way, Linslade,
Leighton Buzzard, Bedfordshire

**Applicant
Nominee Purchaser:** Southcott Management Company Ltd, C/o
Messrs Taylor Walton, 28-44 Alma Street,
Luton

**Applicant
Nominee Purchaser's Solicitors:** Messrs Taylor Walton, 28-44 Alma Street,
Luton

Applicant's Valuer: Mr TJ Jones Dip VEM MRICS,
Freeth Melhuish, The Courtyard,
77/79 Marlowes, Hemel Hempstead,
Hertfordshire, HP1 1LF

**Respondent
Reversioner and Freeholder:** Business Flats Ltd., James Farm, Henley in
Arden, Warwickshire B95 5RA

Respondent's Solicitors: Putsman.wlc, Britannia House, 50, Great
Charles Street, Birmingham B3 2LT

Respondent's Valuer: Mr KF Davies FRICS

Case number: CAM/00KF/OLD/2004/012

Tribunal: Mr JR Morris LLM (Chairman)
Miss M Krisko BSc(Est Man) BA FRICS
Mr J Dinwiddy FRICS

Valuation Date: 17th March 2005

The Application

1. This is an application to the Tribunal under Section 24 of the Leasehold Reform Housing and Urban Development Act 1993 (1993 Act) to determine matters in dispute in respect of the exercising of the right to a collective enfranchisement.
2. An undated Initial Notice was served on the Respondent proposing the purchase by the Applicant of Premises under section 1 (1) and 1(2)(a) of the

1993 Act marked on an annexed plan for the sum of £27,000 and requiring the Respondent to serve a Counter Notice under section 21 of the 1993 Act by 27th April 2004. The Schedule to the Notice indicates that all Tenants of the flats in the Premises are qualifying and are participating in the proposed acquisition of the freehold and a schedule is attached.

3. A further undated Initial Notice was served on the Respondent proposing the purchase by the Applicant of Premises marked on an amended annexed plan under section 1 (1) and 1(2)(a) of the 1993 Act for the sums of £26,000 and £1,000 respectively and requiring the Respondent to serve a Counter Notice under section 21 of the 1993 Act by 9th November 2004. The Schedule to the Notice indicates that all Tenants of the flats in the Premises are qualifying and are participating in the proposed acquisition of the freehold and a schedule was attached.
4. A Counter Notice pursuant to section 21 of the dated 1993 Act dated 20th October 2004 was served on the Applicant in response to Directions and in respect of both Initial Notices.
In the Counter Notice the respondent:
 - Admitted that the Applicants were entitled to exercise the right to collective enfranchisement under the 1993 Act
 - Admitted the Applicants' right to acquire the Specified Premises under section 1(1) which was edged red on the plan annexed to the Initial Notices
 - Stated that the Respondent did not own the property, which the Applicant sought to purchase by virtue of section 1(2)(a) which was edged blue and hatched yellow on the plan annexed to the Initial Notices.
 - The Respondent made a counter proposal of a purchase price of £40,000 for the Specified Premises under section 1(1)
5. In correspondence prior to the Hearing the Respondent had raised objections to the validity of the Initial Notice. The Tribunal has no jurisdiction to determine the validity of the Notices. Application must be made to the Court under section 22 of the 1993 Act for a determination on this matter. As the Respondent raised no objection to this Application, the Tribunal deemed the Respondent to have waived any defects to the Initial Notices and proceeded with determination.

Hearing and Inspection

6. An inspection of the exterior of the whole Subject Property and of the interior of one of the flats was made on the 17th March 2005. The subsequent hearing was attended by Mr Jones the Applicant's Surveyor and Mr Davies the Respondent's Surveyor and Mr Smith a Director of the Respondent

The Subject Property

7. The Subject Property is a purpose built three-storey block of six flats (two on each floor) constructed circa 1970 of brick under a tile roof. There are open

grounds, which are not part of the demise, laid mostly to lawn. To the other side of the block there is a driveway shared by a similar block of maisonettes, which leads to a garage block and forecourt to the side of the site. Each maisonette is allocated a garage. There is no access security system such as an entry phone or buzzer.

8. The Subject Property is situated on a road of residential properties in Linslade about a mile from the centre of Leighton Buzzard.
9. Access to the 1st and second floor flats is from a common hallway. The ground floor flats have their own direct access. Each flat comprises a hall, living room, kitchen, three bedrooms and bathroom with wc. The double-glazed windows are tenant's improvements. Originally the flats had no central heating. The kitchen and bathroom would now be dated were it not for the Tenants' improvements.

The Valuation Date

10. In correspondence the parties were uncertain as to the valuation date and whether the provisions of section 126 of the Commonhold and Leasehold Reform Act 2002 would apply in the present case. Although Section 126 of the Commonhold and Leasehold Reform Act 2002, which effectively states that the valuation date is the date of the Initial Notice, came into force on the 28th February 2005 it only relates to Initial Notices served after that date.
11. Therefore the valuation date is as proscribed in Schedule 6 Part 1 paragraph 1 Leasehold Reform, Housing and Urban Development Act 1993 which states that "the valuation date" means-
 - (a) the date when it is determined, either by agreement, or by a leasehold valuation tribunal ...what freehold interest in the leasehold premises is to be acquired by the nominee purchaser
12. As the parties had not agreed the freehold interest to be acquired before the Tribunal hearing, the date of the hearing is the valuation date as that will be when the Tribunal will make the determination.

Agreed Matters

13. The following matters were agreed:
 - All six properties are held on leases for terms of 99 years commencing on 29th September 1970. A copy of a lease was provided the terms of which were agreed by the parties to be the same as contained in the leases of the qualifying tenants although the lease itself referred to another flat on the estate.
 - Flats 44, 48, 50, 52 are subject to a fixed ground rent of £15.00 per annum. Flat 42 is subject to a fixed ground rent of £150.00 per annum. Flat 46 is subject to an annual ground rent of £300 per annum subject to a stepped increase to £450.00 per annum in 32 years time.

- The yield is agreed at 7.5% for the term and the reversion elements of the valuation.
- The unexpired term was agreed at the hearing to be 64.5 years for each flat

Matters in Issue

14. The Matters in issue to be determined by the Tribunal are:

- Extent of the Subject Property to be purchased
- Market value of the freehold interest in the flats.

The Tribunal noted the parties were very close in respect of relativity at 95.83% for the Applicant and 93.03% for the Respondent and the Tribunal asked them if they were able to arrive at an agreed figure but the Respondent's Surveyor did not feel able to do so.

The Extent of the Property to be Purchased

Applicant's Case

15. The Applicant's Surveyor stated that he understood the Respondent's to be owners of the land edged blue and hatched yellow on the plan attached to the Initial Notice.

Respondent's Case

16. The Respondent's Surveyor stated that the Respondent purchased the freehold of the Subject Property together with adjacent blocks of flats at auction on the 31st October 2002 for £27,000. The extent of the property purchased was as stated in the Land Registry Entry Title number BD229027, a copy of which was provided. The Property Register for this Title describes the property purchased as comprising the blocks of flats including the Subject Property referred to as the Specified Premises under section 1(1) and edged red on the plan attached to the Initial Notice but does not include the land which the Applicants seeks to purchase under section 1(2)(a) and edged blue and hatched yellow on the plan attached to the Initial Notice.
17. The Respondent's Surveyor referred the Tribunal to Land Registry Entry Title number BD183030, a copy of which was provided. The Property Register describes the land comprised in this Title as being the freehold land around the block of flats and included the additional land that the Applicant wished to purchase under section 1(2)(a) which was edged blue and hatched yellow on the plan annexed to the Initial Notices. The Title did not include the property to which Title number BD229027 related.
18. The Proprietorship Register for Land Registry Entry Title number BD 229027 stated that the freehold land comprised in the Title was held by the Respondent. The Proprietorship Register for Land Registry Entry Title number BD183030 stated that the freehold land comprised in the Title was held by Abbott Limited.

19. The Property Registers of the Land Registry Entry Title numbers BD229027 and BD183030 state that the land comprised in Title number BD229027 has the benefit of the rights contained in a Deed dated 12th May 1970 made between (1) Shipman's (Ashby) Limited (2) Page-Johnson Construction Limited and (3) Alec John Sidney Harrison over the land comprised in Title number BD183030. The rights granted allow the Respondent, as the current owner of the land comprised in Title number BD229027, together with the tenants of the blocks of flats, as authorised in the leases, for all purposes connected with the use and enjoyment of the land to pass and repass for access and egress with or without vehicles over and along the roadways and foot paths situate on the land and allow the laying and maintenance of sewers and services across the land comprised in Title number BD183030.
20. The Charges Registers of the Land Registry Entry Title numbers BD229027 and BD183030 also reserves similar rights contained in a Transfer dated 24th June 1983 made between (1) Shipman's (Ashby) Limited (2) Wilbro Properties Limited for the benefit of adjoining or adjacent land.

Determination as to the Extent of the Property to be Purchased

21. The Tribunal found that the Respondent only owned the Specified Premises under section 1(1) and edged red on the plan attached to the Initial Notice and did not own the additional land under section 1(2)(a) and edged blue and hatched yellow on the plan attached to the Initial Notice. However the Respondent did have the benefit of rights of access and egress over the land subject to similar rights of others.
22. The Tribunal therefore determined that the extent of the land to be purchased is coloured red on the plan attached hereto (**Appendix 1**) which relates to the 'footprint' of the building marked with a number 2 and the garages marked 4, 5, 6, 7, 8 and 9 on the Title Plan of the Land Registry Title number BD229027.
23. The Tribunal also determined that the Transfer shall include all the rights contained in the Deed dated 12th May 1970 made between (1) Shipman's (Ashby) Limited (2) Page-Johnson Construction Limited and (3) Alec John Sidney Harrison as referred to and set out in the Property Register of the Land Registry Title Number BD229027 and shall reserve all the rights contained in the Transfer dated 24th June 1983 made between (1) Shipman's (Ashby) Limited (2) Wilbro Properties Limited referred to and set out in the Charges Register of the Land Registry Title Number BD229027.

Market Value of the Freehold Interest in the Flats

24. The parties submitted written valuations that indicated agreement on all matters except:
 - The open market value of the existing lease and
 - The open market value of the extended lease

Applicant's Case

25. In assessing the value of the existing lease the Applicant's Surveyor referred the Tribunal to the following comparables evidence having been gathered either from the selling agents or, in the case of 89, 58, 67 and 113 Grasmere Way, from the Land Registry Internet site:
- 83 Grasmere Way, which was under offer at £105,000
 - 105 Grasmere Way, which was a completed sale in February 2005 at £104,000. These properties were constructed at about the same time as the Subject property and are likely to have 99-year leases.
 - 113 Grasmere Way is currently on the market at £122,500 but a potential sale has just fallen through. This property was sold on 25th February 2004 for £108,000.
 - 89 Grasmere Way sold for £114,500 on 16th July 2004
 - 58, Grasmere Way sold for £115,000 on 10th May 2004
 - 67 Grasmere Way sold for £115,000 on 31st March 2004
- The Applicant's Surveyor was not prepared to specify an allowance that may be made for either improvement to the Subject Property or differences between the terms of the leases for the Subject Property and the comparables. Based upon this evidence he submitted that the value of each flat subject to the existing lease would be valued at £115,000.
26. The Applicant's surveyor sought to assess the extended lease value by reference to the sale of comparable properties on 99-year leases. He referred the tribunal to the following comparables:
- 19 Delamere Gardens, Leighton Buzzard a two bedroom modern flat with an unexpired lease term of 98 year was sold in July 2004 for £120,000
 - 6 Springside Leighton Buzzard a two bedroom flat with an unexpired lease term of 70 year is for sale with an asking price of £120,000
 - 174 Grasmere Way is a two bedroom freehold terrace house for sale at £126,500
- 174 Grasmere Way was included to illustrate that in the surveyor's opinion a freehold property would attract a higher price than a leasehold flat and therefore its price was confirmatory evidence of his assessment. Based upon this evidence Applicant's Surveyor assessed the value of each flat subject to an extended lease would be valued at £120,000.
27. The Applicant's Surveyor's calculations are set out in **Appendix 2** of these Reasons.

Respondent's Case

28. The Respondent's Surveyor gave evidence based upon his written valuation report. He submitted that there were three ways of approaching the valuation of the flats on a freehold basis:
- 1) Actual market evidence
 - 2) The use of uplift from negotiated settlements
 - 3) The use of relativity graphs

29. He stated that it would appear from decisions of the Leasehold Valuation Tribunals sitting in Birmingham that the view is that relativity tables are only applicable to the London area.
30. Whereas he had been able to find actual market evidence of comparable properties in relation to a valuation for the existing lease he had not been able find such evidence for extended leases. The Respondent's Surveyor referred to the Leasehold Valuation Tribunal decision relating to Flat 49 Chadbrook Crest, Richmond Hill, Edgbaston, Birmingham where the Tribunal stated that in the absence of open market sales on a extended lease the Tribunal accepted the value of the extended lease must be determined by the application of a percentage uplift to the value of the existing lease. The Respondent's Surveyor stated that he had not been able to find details of any flats with an extended lease and had adopted an uplift of 7.5% based upon a schedule of negotiated settlements produced by Edward Rutledge in the LVT case mentioned.
31. The Respondent's Surveyor referred the tribunal to three comparable properties as follows:
- 30 Grasmere Way a flat in the adjacent block was sold for £122,000 and is identical to the flats in the subject property.
 - 113 Grasmere Way is a flat being offered for sale at £122,500 that is smaller than 30 Grasmere Way having 543 square feet whereas 30 Grasmere Way has an area of 679 square feet. 113 also only has a car port where as 113 has a garage which can be secured.
 - 83 Grasmere Way has been sold subject to contract for £110,000 however the kitchen needs improvement.
 - 172 Grasmere Way is a terrace house which was sold on 9th July 2004 for £139,000
- The Tribunal were referred to 172 Grasmere Way to illustrate that freehold property would, as suggested by the Applicant's Surveyor, attract a higher price than a leasehold but if in good condition would be more than the Applicant's comparable of £126,500 for 174 Grasmere Way. Based upon this evidence he had valued the existing lease at £120,000 to which he had applied the uplift of 7.5%.
32. The Respondent's Surveyor submitted that the enfranchisement price was therefore £34,058 and his calculations are set out in **Appendix 3** of these Reasons.

Determination of the Market Value of the Freehold Interest in the Flats


33. In respect of the existing lease the Tribunal considered the comparables submitted by the parties. There was very little detail given about these properties as to their condition and no information as to the lease terms or whether the leases had been extended. All the comparable flats except 30 Grasmere Way appeared to have smaller living rooms or one room less and had car ports not garages. 30 Grasmere Way appeared to be superior in size to the flats in the Subject Property with a garage, which has a roof space, double-glazing and an upgraded kitchen. The Tribunal considered all the relevant comparables which showed on average a sale price of £111,000. The Tribunal

made an allowance in the values for a no Act world and for the extra space and advantages of the subject properties coming to a figure of £118,000 each for the unimproved value of the short leases.

34. With regard to the value of an extended lease of the Subject Property the houses were an indication of the increased value that may result from the purchase of the freehold however they were of guidance only. The flats referred to were helpful comparables but very little detail was given. The only extended lease offered was by Mr Jones however only a photograph was submitted without Agent's particulars so there was no indication of size and quality. The properties referred to also appear to be significantly closer to the station. Of the long lease comparisons one was only for a period of 70 years. Therefore the Tribunal did not consider that a case was made for uplift by reference to comparables.
35. The Tribunal agreed with Mr Davies that relativity tables for London were not appropriate.
36. The table for negotiated settlements showed an uplift of between 7.00% and 7.5%. However as they are negotiated settlements there is a 'Delaforce' effect which indicates that the uplift tends to be higher as tenants have a greater incentive to accept a higher figure in order to come to an agreement rather than make an application to a Tribunal with its incumbent costs. The Tribunal therefore ascertained an uplift of 6.5% (93.9% relativity).

Determination

37. The Tribunal determined that the price payable for the Freehold interest in the property is **£30,000** in accordance with the valuation attached at **Appendix 4**.
38. Leave is granted to either party to refer back to the Tribunal in respect of costs under section 60(1) if they cannot be agreed

.....JR Morris (Chairman)

Appendices

Appendix 1

Initial Notice Plan amended by Tribunal

Appendix 2

Applicant's Surveyor's Valuation

Appendix 3

Respondent's Surveyor's Valuation

Appendix 4

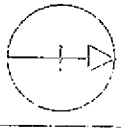
Tribunal's Valuation

Appendix 1 - Initial Notice Plan amended by Tribunal

ED228027



REDFORDSHIRE : SOUTH BEDFORDSHIRE

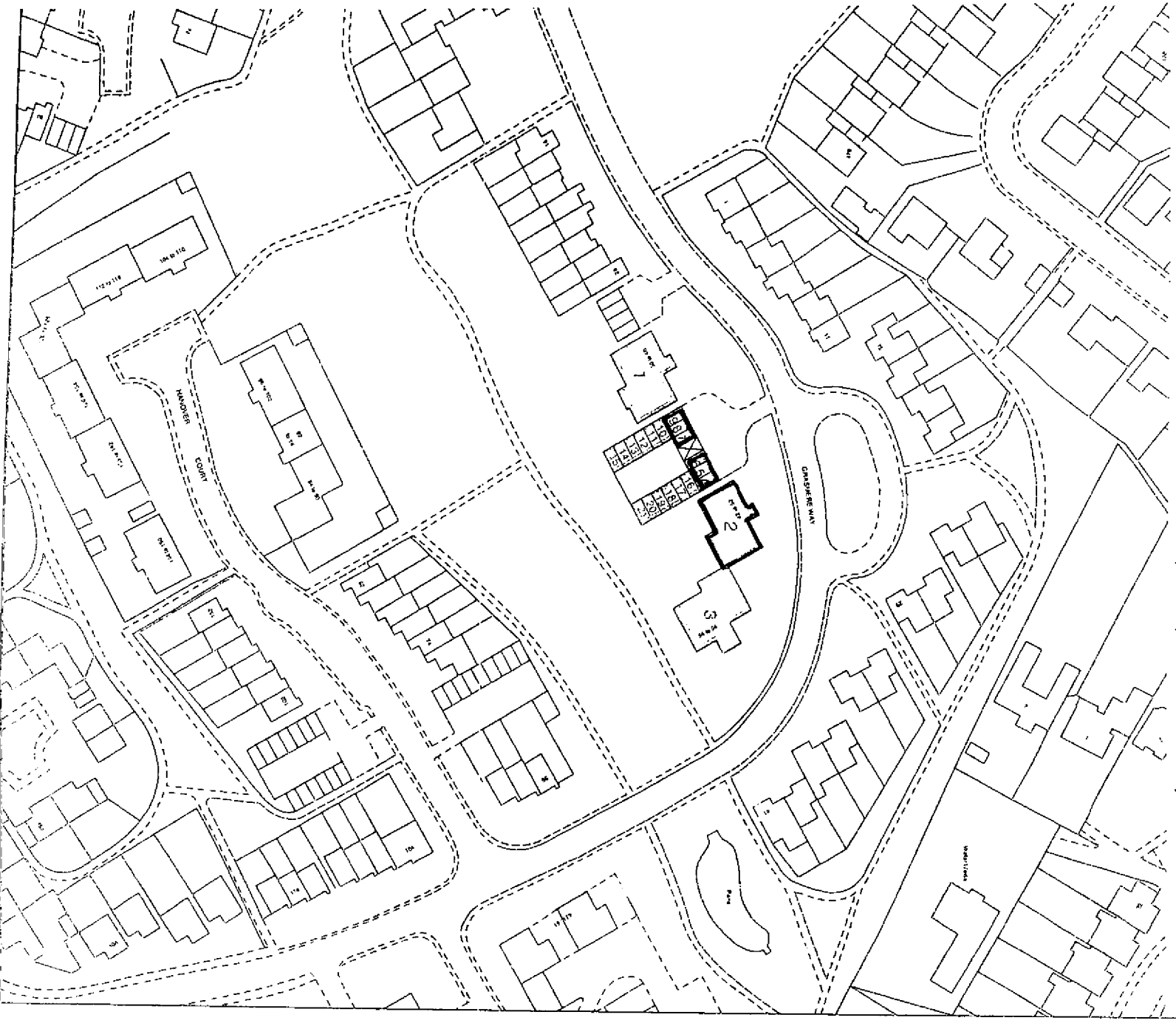


DRAINAGE SURVEY MAP REFERENCE:

SPN02852

SCALE 1:1250

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Appendix 2 - Applicant's Surveyor's Valuation

Flats 42 – 52 (inclusive), Grasmere Way, Linslade

Summary of Existing Lease

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All 6 leases have 65 years unexpired

The total current ground rent income is £510 p.a.

The lease to Flat 46 contains provisions for the ground rent to step to £450 in 32 years time

A. Valuation of the Freeholder's Interest in the premises

i) Ground Rent Income

$$£510 \times 7.5\% \text{ years purchase } 65 \text{ years} = £510 \times 13.2122 = £6738.22$$

Flat 46 ground rent rises from £300 to £450 in 32 years time and stays fixed for the remainder of the term (33 years)

$$(£450 - £300) \times \text{years purchase } 65 - 32 \text{ years @ } 7.5\%$$

$$£150 \times \text{YP } 33 \text{ years @ } 7.5\%$$

$$150 \times 12.0174 = £1803$$

$$\text{Deferred } 32 \text{ years @ } 7.5\%$$

$$£1803 \times 0.09188392 = £178.21$$

ii) Reversion

$$£120,000 \times 6 = £720,000$$

$$\text{Deferred } 65 \text{ years @ } 7.5\%$$

$$£720,000 \times 0.0090876 = £6543.07$$

$$\text{Total: } = \underline{\underline{£13,459.50}}$$

B. Calculation of the Freeholder's Share of the Marriage Value

Market Value of each flat sold with new 99 year lease:
(based on comparable evidence)

$$= £120,000$$

Market Value of each flat sold with existing 65 year lease:

$$= £115,000$$

i) Value after enfranchisement

$$£120,000 \times 6 = £720,000$$

ii) Value of existing leases

$$£115,000 \times 6 = £690,000$$

Marriage Value = value after enfranchisement – value of existing leases (tenant's interests)
plus freeholder's interest in premises =

$$£720,000 - (£690,000 + £13,459.50) =$$

$$£720,000 - £703,459.50 = \underline{\underline{£16,540.50}}$$

Payment to Freeholders for Enfranchisement

Freeholder's interest in the premises + (marriage value x 50%)

$$£13,459.50 + (£16,540.50 \times 50\%) =$$

$$£13,459.50 + £8270.25 = \underline{\underline{£21,729.75}}$$

$$\text{Total } \underline{\underline{£21,729.75}}$$

Appendix 3 - Respondent's Surveyor's Valuation

VALUATION OF FREEHOLD INTEREST

TERM

GROUND RENT FLATS 44,48,50 + 52 : £ 60 p.a
GROUND RENT FLAT 42 : £ 150 p.a

£ 210 p.a

YP 64 $\frac{2}{3}$ YRS @ $7\frac{1}{2}\%$

13.209

£ 2773

GROUND RENT FLAT 46
YP FOR 31 $\frac{2}{3}$ YEARS @ $7\frac{1}{2}\%$

£ 300 p.a

11.98

£ 3594

GROUND RENT FLAT 46
YP 33 YEARS @ $7\frac{1}{2}\%$
PV £1 @ 7.5% DEF 31 $\frac{2}{3}$ YEARS

£ 450 p.a

12.10

0.1013

£ 551

£ 4145

£ 6918

REVERSION

6 FLATS @ £120,000 + 7.5%
PV £1 FOR 64 $\frac{2}{3}$ YEARS @ $7\frac{1}{2}\%$

£ 774,000

.0093

£ 7198

£ 14116

MARRIAGE VALUE

OPEN MARKET- LONG LEASEHOLD (£ 774,000)
LESS

PRESENT L/H VALUE 6 @ £120,000 (£720,000)

FREEHOLD INTEREST (£ 14,116)

MARRIAGE VALUE £ 39,884 x 50%

£ 19,942

PURCHASE PRICE: **£ 34,058**

Appendix 4 - Tribunal's Valuation

LVT VALUATION

42-52 GRASMERE WAY, LEIGHTON BUZZARD, BEDFORDSHIRE, LU7 8QN

Date of valuation: 17th March 2005.
 Leases: All for 99 years from 29th September 1970.
 Remaining term: 64.5 years
 Yield: 7.5% (agreed by the parties)
 Existing lease value: £118,000
 Extended lease value: £125,670
 Uplift: 6.5%

Term

Ground Rent £15 pa each - Flats 44, 48, 50 and 52	
Ground Rent £150 pa - Flat 42	
YP 64.5 years 7.5% £210 pa 13.208	£2774
 Ground Rent £300 pa - Flat 46	
YP 31.5 years 7.5% £300 pa 11.966	£3590
 Ground Rent £450 pa - Flat 46	
YP 33 years 7.5% £450 pa 12.1074	
Def. 31.5 years 7.5% 0.1025	£ 558

Reversion

Extended lease values:	
£125,670 x 6	£754,020
def. 64.5 years 7.5% 0.00943	<u>£7110</u>

Landlord interest	£14,032
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Marriage value

Extended lease value	£754,020	
Less existing lease value	£708,000	
Less landlord's interest	<u>£ 14,032</u>	
	£ 31,988	
	50%	<u>£15,994</u>
		£30,026
Enfranchisement value	say	<u>£30,000</u>