

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

**APPLICATION UNDER SECTION 48 OF THE LEASEHOLD REFORM, HOUSING
AND URBAN DEVELOPMENT ACT 1993**

Applicants: Ms E M Smith

Respondents: Mr N S Gill

Re: First Floor Flat, 42A Vant Road,
Tooting, London SW17 8TJ

Hearing date: Tuesday, 15th August 2006

Appearances for Applicant: Mr C Avery FRICS
of Avery Associates Chartered Surveyors

Appearances for Respondent: None

Members of the Leasehold Valuation Tribunal:

Mrs C A Lewis FCI Arb

Mr D D Banfield FRICS

Mr P Tobin FRICS MCI Arb

42A VANT ROAD, SW17 8TJ

A. Introduction

1. This was an application by the lessee, Ms E M Smith. The Applicant has been lessee of the premises since February 2006. The previous lessee had served notice under Section 42 of the 1993 Leasehold Reform, Housing and Urban Development Act, stating a premium of £4,000 payable to the Respondent lessor for the grant of a 90 year extension to the existing lease of 78.97 years. She had assigned her beneficial interest in the notice to the Applicant on 12 January 2006, on a conditional sale of the existing lease.
2. The Applicant holds the property on a lease dated 1 April 1986 granted for a term of 99 years from 1 January 1986.
3. The lease provided for ground rents of –
 - (1) £75 per annum for the first 33 years;
 - (2) £150 per annum for the next 33 years;
 - (3) £225 per annum for the final 33 years.
4. On 10 February 2006, the Respondent's solicitors served a counter notice on the Applicant under Section 45 of the Act, disputing her figure of £4,000 but acknowledging her right to a 90 year extension. The Respondent's figure for an extended lease was £13,500.
5. In a letter dated 11 May, the Applicant referred the matter to the Tribunal.
6. Directions were issued by the Tribunal on 13 June and the hearing set down for 15 and 16 August. The Directions allowed 14 days for either party to apply for amendment of Directions. Neither the Respondent nor his solicitor made any request within the 14 day period.
7. In accordance with the Directions, the Respondent's solicitor was sent the Applicant's statement of case on 5 July.

8. On 24 July, approximately 6 weeks after Directions were issued, the Respondent wrote to the Tribunal requesting that the dates set down for the hearing be changed. The request was copied by the Tribunal to Mr Avery, who had conducted the case for the Applicant, and he objected to any postponement.
9. The Tribunal informed both parties on 2 August that the hearing would take place as arranged.
10. On 7 August, the Respondent wrote to the Tribunal stating that he had been away on holiday from 26 June to the week ending 16 July, and his valuer's holiday had clashed with the hearing dates. He also stated that the Tribunal's Directions had been sent to his solicitors, who had not contacted him before he went on holiday.

B. The Hearing

11. At the hearing on 15 August, Mr C Avery of Avery Associates, Chartered Surveyors, appeared for the Applicant. The Tribunal noted that notwithstanding Mr Gill, the Respondent's absence on holiday, he had not filed a response to the Applicant's statement of case, or provided a valuation to support his figure of £13,500. Neither had he made any written submissions. The Tribunal considered that in the light of non-compliance with the Directions by the Respondent, it was appropriate to continue with the hearing.
12. Mr Avery, provided written evidence and a valuation which he had copied to the Respondent on 14 August. In view of Mr Avery's late submission of this evidence, the Tribunal wrote to Mr Gill allowing him a further 14 days for any comments he wished to make on this evidence.
13. In Mr Avery's written valuation, he made reference to a comparable property at number 67 Vant Road, a similar 2-bedroom converted flat in a Victoria terrace house. He said it had been well converted and modernised and he averred that it had been sold for £239,950, with completion taking place just before the hearing. After making adjustments for differences in the time of the

sale and the subject's valuation date, with allowance for improvements he arrived at a purchase price of £4,000. This was based on yield and deferment rates of 7½%, which he supported by reference to other Tribunal decisions, with which he had been personally involved. The relativity between the existing and extended leases was 97.27%. Mr Avery's valuation is attached as Appendix B.

14. In a letter dated 21 August but not received in the Panel until 30 August, Mr I K McMellin MRICS of John Whiteman & Company responded on behalf of Mr Gill. He contended that the adjustments made for improvements were excessive and suggested that some £2,500 only should be deducted in respect of the replacement double glazed windows. He further considered that an allowance should have been made to the purchase price of the existing lease to reflect the "no Act world" and in arriving at £231,500 as the unimproved long leasehold value, he cited the additional value attributable to the subject being semi-detached rather than terraced and made an allowance of 2.5% for the 8 month growth between the sale of the comparable and the subject. Mr McMellin considers that the relativity should be 92% giving a short leasehold value of £212,980. Applying a yield and deferment of 6.5% he arrived at a premium of £10,981.

C. The Tribunal's Decision

15. The Tribunal inspected the subject property on the afternoon of the hearing, and the exterior of the comparable at number 67, which was as described by Mr Avery and provided a useful comparable. They considered Mr McMellin's proposed 6.5% to be too low for a property in this location and preferred the yield and deferment rates proposed by Mr Avery. However, they took the view that his adjustments for differences in timing and tenants' improvements were too high. Furthermore, they were not convinced by his suggestion that two identical properties, one with a term of just under 80 years and the other more than 125 years, would have exactly the same value in the open market.

16. After consideration of all the evidence, the Tribunal find that the value of the subject flat in unimproved condition, with the existing lease would be £225,750. With relativity at 96%, the extended lease value would be £235,150.
17. The Tribunal therefore determine that the amount of the premium to be paid by the Applicant for the extension of the lease in accordance with the Act is £5,800, as shown in the attached Appendix A.

Chairman *CA Lewis*

Date *11th December 2006*

JG

Leasehold Reform and Urban Development Act 1993**Appendix A****42a Vant Road, Tooting, London SW17 8TJ****Non contentious matters**

Valuation Date	12th January 2006
Lease terms	99 years from 1 January 1986
Ground rent	£75 for first 33 years £150 for next 33 years £225 for last 33 years
Unexpired term	78.97 years

Determined by Tribunal

Yield	7.5%
Deferment rate	7.5%
Value of existing lease	£225,750
Relativity	96.0%
Value of extended lease	£235,150

Freeholders interest

Rent reserved			£75	
YP	12.97 yrs	7.5 %	8.11452971	£609
Reversion to			£150	
YP	33 yrs	7.5 %	12.10742099	
x PV	12.97 yrs	7.5 %	0.391410272	£711
Reversion to			£225	
YP	33 yrs	7.5 %	12.10742099	
x PV	45.97 yrs	7.5 %	0.035987601	£98
Reversion to Freehold value			£235,150	
x PV	78.97 yrs	7.5 %	0.003308823	<u>£778</u>
				£2,196

Marriage value**Marriage value**

Value of extended lease			£235,150	
Freeholder's interest after			<u>£0</u>	
			£235,150	
Less				
Freeholder's existing interest			£2,196	
Lessee's existing interest			<u>£225,750</u>	<u>-£227,946</u>
Marriage value				£7,204
Freeholder's share @		50 %		<u>£3,602</u>

Premium**Say****£5,798**
£5,800