

Ref. No. LON/LVT/1635/03

**LEASEHOLD VALUATION TRIBUNAL
for the
LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 21 OF
THE LEASEHOLD REFORM ACT 1967**

Applicant: Sally Head

Respondent: Logwalk Limited

Re: 19 Hearne Road, Chiswick, London W4

Application to the Tribunal by Sally Head: 19 August 2003

Hearing date: 13 January 2004

Appearances: Mr. I.J. Ailes BSc, FRICS, Dip. Rating of J.C. Francis & Partners Limited
for the Applicant

Mr. T.J.L. Harrison FRICS, IRRV of Lester Harrison & Partners
for the Respondent

Members of the Leasehold Valuation Tribunal: Mr. P.D. Wulwik LLB (Chairman)
Mrs. E. Flint DMS, FRICS, IRRV
Mr. I. Mohabir LLB

Date of notice of tenant's claim: 10 March 2003

Date of notice in reply to tenant's claim: 6 May 2003

Landlord's proposed price: £169,740

Tenant's proposed price (as amended) £118,125

Agreed valuation date: 10 March 2003

Leasehold Valuation Tribunal's determination: £137,250

Date of Tribunal's decision: 26 January 2004

19 Hearne Road, Chiswick, London W4

A. Introduction

1. This is an application by the Applicant tenant to determine the enfranchisement price payable for the freehold of the property at 19 Hearne Road, Chiswick, London W4 under Section 9(1C) of the Leasehold Reform Act 1967 (as amended).
2. The Applicant is the tenant of the property under a Lease dated 22 May 1985 for a term from 29 September 1985 to 29 September 2044 at a current ground rent of £3,500 per annum subject to review on 29 September 2019 in accordance with the provisions of Section 15(2) of the Leasehold Reform Act 1967, the Lease being granted as an extension to the original lease under the 1967 Act. The Respondent Logwalk Limited is the present freeholder.
3. The property comprises an end of terrace two storey house built about 1895. There is a parking space at the side for one car, and a small partly paved rear garden.
4. On 10 March 2003 the tenant gave notice of her claim to acquire the freehold of the property under the 1967 Act. On 6 May 2003 the landlord Logwalk Limited served notice in reply admitting the tenant's right to acquire the freehold. On 19 August 2003 the tenant issued the present application to determine the enfranchisement price payable for the freehold of the property. The tenant's application proposed a price of £90,000.
5. On 21 October 2003 the Tribunal gave preliminary directions.

B. Hearing

6. The hearing took place on 13 January 2004. The Applicant tenant was represented by Mr. I.J. Ailes BSc, FRICS, Dip. Rating of J.C. Francis & Partners Limited. The Respondent landlord was represented by Mr. T.J.L. Harrison FRICS, IRRV of Lester Harrison & Partners.

7. The parties had agreed a statement of facts including the following matters:-

- (1) The parties had agreed that the basis of the valuation was to be in accordance with Section 9(1C) of the 1967 Act (as amended).
- (2) The valuation date was 10 March 2003.
- (3) The unexpired term was 41.55 years as at that date.
- (4) The appropriate yield was 7%.
- (5) The freehold vacant possession value (ignoring tenant's improvements) was £425,000.
- (6) The current modern ground rent would be £11,900 per annum.
- (7) The value of the landlord's current interest was £104,486.
- (8) Marriage value was to be shared 50/50.

8. The matters in dispute were the following:-

- (1) The purchase price and in particular the value of the tenant's current interest.
- (2) The amount of the valuer's fee for the freeholder.
- (3) The amount of the Solicitors' costs for the freeholder.

9. The experts gave evidence in accordance with their respective proofs of evidence, which they supplemented in their oral evidence. Mr. Ailes for the tenant proposed an

enfranchisement price of £118,125, that the valuer's fee payable to the freeholder should be £720 plus VAT and that their Solicitors' costs should be £450 plus VAT, together with a disbursement of £8 for office copy entries. Mr. Harrison for the landlord proposed an enfranchisement price of £169,740, a valuer's fee of £1,000 plus VAT and Solicitors' costs of £850 plus VAT, together with the disbursement of £8.

C. **Inspection**

10. The Tribunal inspected the subject property at 19 Hearne Road on 13 January 2004.
11. The property is situated in an area of primarily Victorian built housing known as Strand on the Green, with Hearne Road being just off the road Strand on the Green. It is on the north bank of the River Thames, close to Kew Bridge. Hearne Road is predominantly residential, with limited commercial user.
12. The subject property itself is a late Victorian two storey end of terrace house, with single bay on the ground floor. The property is of conventional construction with solid brick main walls and a pitched slate roof. There is space at the side of the property for parking one vehicle, and a small partly paved garden at the rear. The condition of the property externally was fair.
13. On the ground floor, the front and rear reception rooms were interconnecting. The rear reception room was open plan with the kitchen area. There was a single storey ground floor lean-to construction at the rear, used partly as a utility room and otherwise

enclosing an external WC. On the first floor, there were three bedrooms. The third bedroom at the front was quite small. The bathroom and upstairs WC were combined.

14. The property comprised quite a small three bedroomed property, looking somewhat larger from the outside.
15. The Tribunal also inspected externally 13 Hearne Road. This is a mid-terrace property of the same age. There appeared to be a replacement slate roof. There was a small front garden. The external condition of the property was good. From the outside, 19 Hearne Road appeared to be a larger property.

D. Decision

(1) The value of the tenant's current interest

16. Mr. Ailes for the Applicant tenant started with the agreed freehold vacant possession value of the property of £425,000. He was of the opinion that the value of the tenant's current interest was 69% of the freehold vacant possession value, giving a figure of £293,250. He considered that the freeholder's valuer was double counting because in his view the value of the high ground rent was already reflected in the capitalised value of the ground rent income of £78,935. To reflect his view that the freeholder's valuer was double counting and also his view that to get the deal done it would be necessary to share the profit 50/50, Mr. Ailes made a further deduction from the figure of £293,250 of 50% of the ground rent capital value of £78,935 viz. £39,467, giving an adjusted value of the tenant's current interest in the sum of £253,783.

17. In relation to his relativity percentage of 69%, Mr. Ailes stated that he would have started with the College of Estate Management relativity tables, which he accepted would be somewhat out of date. He had regard primarily to the relativities derived from a number of previous Tribunal decisions in Central London. The relativity of 26 Cheyne Walk, London SW3 was only 50.11% since in the lease there was a particular covenant which required the basement of the property to be occupied by a caretaker and that materially affected the value of the lease.
18. Mr. Ailes acknowledged that he was not particularly comfortable with the relativity of 69% and considered that it could be a little optimistic. He was content for the percentage to be adjusted by the Tribunal as it thought fit.
19. Mr. Ailes accepted that he had not seen any previous Tribunal decision approach the matter in the way he had done with regard to the further deduction of 50% of the ground rent capital value.
20. Mr. Harrison for the freeholder stated that the relativity tables indicated a figure to the order of 67.5% for a 41.55 year term. The Savills Index showed 67.96% and the John D. Wood & Co. (1996) / Gerald Eve relativity table gave a figure of 67.2%. For a location away from Central London, he considered that the percentage should be slightly lower. He adopted a lower price of £190,000 for the tenant's interest to attract purchasers. He considered that even that figure might be too generous to the tenant, but had adopted it in his calculations. He had not made any further deduction from the figure of £190,000.

21. The Tribunal make the observation that the table of previous decisions produced by Mr. Ailes related to properties in Central London with a range of freehold values between £990,000 and £5,550,000. In the Tribunal's view, the location of Central London and the high value properties involved are a rather different market from the subject property in its West London location, however desirable the area of Strand on the Green might be.
22. The Tribunal acknowledge that in the absence of market evidence of the value of the tenant's current short leasehold interest, relativity tables such as those referred to by Mr. Harrison assume a greater role. However, in the case of the subject property there is a high ground rent of £3,500 per annum, with a further review due on 29 September 2019 and with the parties agreeing that the current modern ground rent would be £11,900 per annum. While a high ground rent may be less significant for high value properties in Central London, a purchaser of the short lease of the subject property in its West London location would be influenced in his bid by the high ground rent payable and the fact that the ground rent was subject to review in 16 years' time.
23. The Tribunal consider that the proper way to approach the matter is to reflect the high ground rent in the percentage adopted for relativity purposes. While the Tribunal accept that on the evidence a relativity to the order of 67.5% might be appropriate for a property in Central London with an unexpired term of 41.55 years, the percentage is too high for the subject property in West London with a high ground rent. The Tribunal consider that in the circumstances the appropriate relativity between freehold and existing short lease value should be 60%, giving a value of £255,000 for the tenant's current interest in the property.

24. With regard to the further deduction of 50% of the ground rent capital value made by Mr. Ailes, the Tribunal have not previously seen such an approach adopted by other Tribunals. In the Tribunal's view, the further deduction is unwarranted. There is no double counting. The tenant pays a lower capital sum on purchase of the short leasehold interest for having to pay a higher ground rent. It is more valuable to the tenant when he buys the freehold since he no longer has to pay a high ground rent.
25. The Tribunal therefore consider that the tenant's current interest in the property has a value of £255,000.
- (2) The amount of the valuer's fee for the freeholder
26. Mr. Harrison sought a fee of £1,000 plus VAT. He had undertaken 7 hours work in producing his valuation. Based on an hourly charge of £200, the figure would be £1,400. He was prepared to accept a fee of £1,000 plus VAT.
27. Mr. Ailes considered that the fee should be £720 plus VAT, based on 6 hours' work at £120 per hour. The figure of £720 was Mr. Ailes' valuation fee.
28. In the Tribunal's view, the proposed charge of the freeholder's valuer in the sum of £1,000 plus VAT is reasonable. It equates to a little over £140 per hour for 7 hours' work and is less than the hourly charge out rate of £150 per hour which is the sort of level that the Tribunal would have expected to have been charged for the valuation work undertaken.

29. The Tribunal are prepared to accept Mr. Harrison's evidence that there was 7 hours' work involved and that the time spent was reasonable. The Tribunal note that there is not in fact a great deal of difference between Mr. Ailes' figure of 6 hours' work and Mr. Harrison's figure of 7 hours' work.
30. The Tribunal therefore allow the sum of £1,000 plus VAT for the valuer's fee for the freeholder.
- (3) The amount of the Solicitors' costs for the freeholder
31. The freeholder's Solicitors sought a fee of £850 plus VAT and disbursements. There was a disbursement of £8 for office copy entries.
32. The tenant offered £450 plus VAT and disbursements. Mr. Ailes for the tenant drew attention to a Tribunal decision in respect of 17 Sussex Road, New Malden, Surrey (Ref. No. LON/ENF/621/01) where the Tribunal in January 2002 had allowed 2 hours' work and an hourly charge of £180 per hour.
33. There was no evidence before the Tribunal of the number of hours worked by the freeholder's Solicitors, and no satisfactory evidence as to the level of fee earner involved in the work. The freeholder's Solicitors were based in Barnes. Mr. Harrison was unable to assist the Tribunal beyond what was contained in the correspondence in the documents bundle.

34. In the Tribunal's view, the figure of £850 claimed by the freeholder's Solicitors appears excessive, particularly in the absence of any breakdown of the figure charged. The Tribunal reduce the figure to £650 plus VAT and the £8 disbursement for office copy entries. The Tribunal's figure allows approximately 3½ hours work at a charge out rate of £180 per hour.

E. **Determination**

35. The Tribunal determine the enfranchisement price payable by the tenant to be £137,250 in accordance with the Tribunal's valuation annexed to the decision.
36. The Tribunal allow the freeholder a figure of £1,000 plus VAT for the valuer's fee and £650 plus VAT together with the £8 disbursement for office copy entries for the Solicitors' costs.

Chairman *P. Wulwik*
Peter Wulwik

Date: *26 January 2004*

19 Hearne Road Strand on the Green London W4

LON/LVT/1635/03

Extended 50 year lease

| | £ | £ |
|--|----------------|---------------|
| Ground rent | 3,500 | |
| YP 16.55 years @ 7% | <u>9.6234</u> | |
| | | 33,682 |
| Review to modern ground rent | 11,900 | |
| YP 25 years at 7% | 11.65 | |
| x PV of £1 for 16.55 years | <u>0.33</u> | |
| | <u>3.8037</u> | 45,264 |
| Reversion to unimproved freehold value | 425,000 | |
| x PV of £1 for 41.55 years | <u>0.06013</u> | |
| | | <u>25,555</u> |
| Value of Landlord's interest | | 104,502 |

Marriage value

| | £ | £ |
|-------------------------------|----------------|----------------|
| Value of freehold | | 425,000 |
| less | | |
| Landlord's interest | 104,500 | |
| Tenant's interest @ 60% F/hld | <u>255,000</u> | <u>359,500</u> |
| Marriage Value | | 65,500 |
| Marriage Value split 50:50 | | <u>32,750</u> |
| | | <u>137,252</u> |
| Enfranchisement price | | 137,250 |