

LON/ENF/1948/06

Leasehold Valuation Tribunal for the London Rent Assessment Panel

**Decision of the Leasehold Valuation Tribunal on an Application under Section 27(1)
of the Leasehold Reform, Housing and Urban Development Act 1993**

Property: 16 Kingwood Road, London SW6 6SR

Applicants: Mr Charles Henry Warner Holloway and Mrs Georgina Alice Holloway

Respondent: Mr Guillermo Corres-Seijo

Appearances: Paper hearing

Transferred from County Court: 9 June 2006

Hearing dates: 24 August 2006 adjourned to 5 October 2006

Members of the Leasehold Valuation Tribunal:

Mrs J. McGrandle BSc MRICS MRTPI
Mrs H. Bowers BSc (Econ) MRICS MSc

Date of Tribunal's decision: ~~24~~ October 2006

The Tribunal's Decision

1.0 Background

1.1 On 26th January 2006 the Applicants, Charles Henry Warner Holloway and Georgina Alice Holloway, submitted a claim under S.26 of the Leasehold Reform, Housing and Urban Development Act, 1993 to West London County Court.

1.2 On 9th June 2006 District Judge Fraser ordered:

“2. The freehold of the property 16 Kingwood Road, London SW6 be vested in the Applicants on satisfaction of the terms decided by the Leasehold Valuation Tribunal in accordance with section 27(1) of the Leasehold Reform Housing and Urban Development Act 1993.

3. The matter be transferred to the Leasehold Valuation Tribunal for the purpose of assessing the value of the said freehold and other terms of the transfer and thereafter back to the West London Court for the purpose of execution of the transfer by a District Judge of the Court on the terms decided by the Leasehold Valuation Tribunal.”

1.3 On 21st June 2006 the Applicants through their solicitors, Swabey and Co., applied to the Tribunal for a determination of the terms on which the freehold was to be granted.

2.0 Property:Lease

2.1 The subject property, 16 Kingwood Road, is a house divided into two flats, a lower flat on the ground floor and an upper flat on the first and mansard floors. The lower flat comprises two bedrooms, lounge, kitchen and bathroom and the Tribunal were informed that this flat had a floor area of 507 sq.ft. The upper flat is a maisonette on two floors comprising three bedrooms, two bathrooms (one en suite), kitchen and reception room and the Tribunal were advised that the floor area is 632 sq.ft. Tenants' improvements were stated to amount to bathroom/kitchen fitments. Floor plans were provided.

2.2 The applicants hold the lower flat for a term of 99 years from 25 December 1988 at a ground rent of £100 pa for the first thirty-three years, £200 pa for the next thirty-three years and £400 pa for the final thirty-three years. They hold the upper flat for a term of 99 years from 25 December 1988 with similar ground rent provisions.

2.3 At the date of valuation, 9 June 2006, the unexpired term was therefore 81.5 years.

2.4 The lower flat was bought by the Applicants in April 2004 for £270,000 and the upper flat in January 2003 for £357,500.

3.0 Issues

- 1) Unimproved freehold value of each of the flats
- 2) Relativity
- 3) Yield

4.0 Inspection

4.1 The Tribunal made an external inspection of the property on 5 October 2006 and found it to be located in an established residential area of Fulham in a pleasant tree-lined street. The street contained on the north side a typical terrace of 2-storey 1910 gable-fronted houses and on the south side a substantial 4-storey block of mansion flats, the block being somewhat shabby. The subject property had had a mansard extension and externally was in good decorative order. A number of the comparable properties quoted by the Applicants' agent, both flats and houses, were inspected externally.

5.0 Evidence

5.1 A valuation – but no report – dated 17 March 2006 prepared by SJ Price BSc FRICS of Price Partnership SW6 on behalf of the Applicants proposed a premium of £4,532 based on the following values:

	Unimproved existing l/h interest	Unimproved virtual freehold interest
	£	£
Ground floor flat	312,000	320,000
First floor flat	360,000	370,000

5.2 Mr Price had reached his freehold reversionary values by valuing the existing leasehold interests and then assuming they represented a relativity of 97.5%

5.3 The Tribunal subsequently requested from Mr Price a valuation report and this was produced on 26 September 2006.

5.4 In support of his capital values Mr Price quoted six transactions of houses in the vicinity which were sold between December 2005 and August 2006 for prices ranging from £530,000 to £635,000 and eight leasehold transactions (including one flat under offer) of flats in the vicinity which were sold between January 2006 and August 2006 for prices ranging between £340,000 and £427,000. The unexpired terms of these flats ranged from 82 years to 149 years.

5.5 It was Mr Price's view that the aggregate of the reversionary value of the flats - £690,000 - comprising £320,000 for the lower flat and £370,000 for the upper flat exceeded the reversionary value of the property as a house (less the cost of conversion) which he placed @ £635,000.

5.6 In support of his relativity of 97.5%, Mr Price quoted eight lease extensions or freehold enfranchisements with which he had been concerned.

5.7 No evidence was offered in support of the proposed yield of 8%.

6 Decision

Unimproved virtual freehold value

6.1 On the basis of the comparables offered the Tribunal accepted Mr Price's view that the value of the property as a single dwelling less the cost of conversion would not exceed the sum of the virtual freehold values of the two flats. They therefore concentrated on the comparable flats, rather than houses, put forward by Mr Price, while acknowledging that the first floor flat would be more valuable than the ground floor flat.

Ground floor flat.

6.2 Taking the comparable evidence of 5 Maplethorpe Street which sold for £360,000 with an unexpired term of 100 years and 18 Frith Gardens which sold for £350,000 with an unexpired term of 90+ years and uplifting 1% for virtual freehold and then discounting for improvements, the Tribunal has reached a figure of £340,000 for the unimproved virtual freehold interest.

First floor flat

6.3 Undertaking a similar exercise on the basis of the comparable evidence of 46 Kingwood Road which sold for £370,000 with an unexpired term of 120 years and 32 Lambrook Terrace which sold for £389,000 with an unexpired term of 120 years, the Tribunal has reached a figure of £380,000 for the unimproved virtual freehold interest of the first floor flat, making a total of £720,000 for the aggregate of both flats.

Yield

6.4 Mr Price gave no evidence in support of his yield of 8%. Although Kingwood Road is by no means Prime Central London, in the Tribunal's experience, and bearing in mind particularly the recent decision in *Sportelli, (Cadogan and Anor.v Sportelli and Anor. 2006)* a yield of 6% is appropriate for this area of Fulham.

7.0 Decision

Premium

7.1 The Tribunal's decision, determining a premium of £11,200, is attached as Appendix 1.

Ground rent

7.2 The Tribunal has to determine under s.27 (5) (b) of the 1993 Act whether any sums, other than the premium, are due to the transferor.

7.3 By letter dated 20 July 2006 Swabey and Co submitted that no arrears of ground rent should be payable. Evidence was given by the applicants that from the respective dates of acquisition of their leasehold interests - January 2003 for the upper flat and May 2004 for the lower flat – no ground rent had been demanded. Under Section 166 of the Commonhold and Leasehold Reform Act 2002 a tenant under a long lease is not liable to make payment of rent under a lease unless the landlord has given him notice relating to the payment. As no notice has been given, no rent is payable in the circumstances. The amount payable under section 27(5) (b) of the Act is therefore nil.

Terms of transfer

7.4 Swabey and Co forwarded to the Tribunal a draft transfer. The draft is approved.

CHAIRMAN..... *J. McManis*

DATE..... *24 October 2006*

Appendix 1

16 Kingwood Road

Landlord's Present Interest

Term 1

Rent

YP 15.5yrs @ 6%

\$200

9.90905

\$1,982

Term 2

Rent

YP 33 yrs @ 6%

PV of £1 in 15.5 yrs @6%

14.2302

0.405456

\$400

5.769

\$2,308

Term 3

Rent

YP 33 yrs @ 6%

PV of £1 in 48.5 yrs @6%

14.2302

0.059272

\$800

0.84345

\$675

Reversion

\$720,000

PV of £1 in 81.5 years @ 6%

0.0086647

\$6,238

\$11,203

Premium Payable Say

\$11,200