

Ref LON/ENF/856/03

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

DECISION OF LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER S24 OF THE LEASEHOLD REFORM HOUSING
AND URBAN DEVELOPMENT ACT 1993

Applicant: Mr C Bryce & Ms A Graham

Respondent: Mr K Anand

RE: 19 Kent Road, Chiswick, London W4 5EY

Application to
Tribunal by: Tenant dated 29 May 2003

Heard: 21 October 2003

Mr C Bryce (the tenant)

for the nominee purchaser

Mr K Anand B Com (Hons), CMA

for & on behalf of KLPA & Company

for the landlord

Members of the Leasehold Valuation Tribunal:

Mrs T J Gordon (Chairman)

Mr P M J Casey MRICS

Mrs S F Redmond BSc (Econ) MRICS

Nominee purchaser's section 13 notice dated:

Nominee purchaser's proposed terms of acquisition: £8450

Landlord's section 21 counter-notice dated: 28 March 2003

Landlord's counter proposals: £13000 and costs

Valuation date: 28 March 2003

Participating tenants: Crawford Bryce & Alison Graham

Leasehold Valuation Tribunal's determination: £10,250

Date of Tribunal's decision **14 NOVEMBER 2003**

19 Kent Road, Chiswick W4 5EY

1. This was an application under s.24 of the Leasehold Reform Housing & Urban Development Act 1993 for the acquisition of the freehold of the premises known as 19 Kent Road, Chiswick W4 5EY. Feldman Nicholls, Solicitors, acting for both Lessees, submitted the Application on 22 May 2003.
2. The freehold of the property is held by the Respondent with Title Absolute under Title No NGL 70111.
3. The Applicant Mr Crawford Bryce holds a lease of the first floor flat within the said premises dated 17 June 1982, for a term of 99 years from 25 December 1981, at a ground rent of £75 per annum, held with Title Absolute under Title No NGL 430110. The Applicant Ms Alison Graham holds a lease of the ground floor flat within the said premises dated 6 August 1982, for a term of 99 years from 24 June 1982, at a ground rent of £75 per annum, held with Title Absolute under Title No NGL 432300.
4. At the Hearing on 21 October 2003, the Applicant was represented by Mr Bryce on behalf of himself and Ms Graham; Mr Anand for himself and on behalf of KLPA Estate Management Consultants, attended in person. Mr Anand's first statement to the Tribunal was an objection that Mr Bryce had no written authority to appear for both nominee purchasers. Mr Bryce confirmed that he had full authority to act for Ms Graham in all matters relating this application. The Tribunal adjourned for a short while to consider this objection, and after due consideration of the Statute, not being tied by the strict rules of evidence required in Court, concluded that there was no bar to the acceptance of Mr Bryce's representation on behalf of both nominee purchasers. The Hearing accordingly proceeded.
5. Mr Bryce said he had himself no expert knowledge and provided no evidence, but wished merely to rely on the valuation dated 16 April 2003 prepared by B C Sworn FRICS of Sworn & Co, Estate Agents and Chartered Surveyors, and submitted to the Respondent on 24 April 2003 by Feldman Nicholls, Solicitors. Mr Anand said however that he did have the necessary expertise, having previously appeared before the Leasehold Valuation Tribunal; and he was a Chartered Management Accountant, and had the management of an extensive family property portfolio; he was 'qualified by experience.' In addition he wished to rely on the valuation dated 3 September 2003 prepared by R G Little FRICS, of Robert Little

Associates. The Tribunal pointed out to the parties their difficulty in placing great reliance on this evidence without the surveyors' presence before us, and thus the opportunity to cross examine or question the experts concerned.

6. Mr Bryce formally submitted Mr Sworn's valuation in evidence. The purchase price proposed was £8450. He asked the Tribunal to note the agreement for a lease extension on a comparable: the first floor flat, 20 Kingscote Road, Chiswick, referred to by Mr Sworn, at the price of £4800. No date was provided with this reference. He confirmed that he had made no improvements to his flat, and believed that neither had his co-nominee purchaser in the ground floor flat.

7. Mr Anand put in Mr Little's report, which proposed a sale figure of £14000. Copies of a certain amount of correspondence between valuers and solicitors was provided. Two comparables for the sale of the freehold of buildings containing two flats were suggested, being 16a and 28 Montgomery Road, a street fairly close to the subject property and indicated on a map. 16a was sold for £12000 and completed in December 2002, having been agreed the previous July. No 28 was completed in September 2003 at £12500. In both cases the leases were similar to the subject flats, though the landlord was obliged to maintain and insure under the landlord's covenants; no copies of the leases were provided. These sale figures were not 'plucked out of the air' but carefully considered, though Mr Anand said that no breakdown of the component parts of the valuations had been prepared or agreed.

8. Commenting on Mr Sworn's use as a comparable for yield of a Leasehold Valuation decision on 110 Sunnyhill Road, Streatham, Mr Anand said that this was far away from Chiswick, Mr Sworn's own area, and was of no importance; Chiswick was a sought after area and his own valuer had researched it well. Upon the Tribunal mentioning the Delaforce effect, Mr Anand did not agree that buyers would be disposed to settle at higher figures to avoid the costs and inconvenience of going to a Tribunal hearing. As to yield, he considered that 6% was the correct percentage to apply, being that used on the Grosvenor Estates; he said Chiswick was a prime location.

9. The Tribunal inspected the property in the afternoon following the Hearing.

a) The subject property, in a tree-lined residential road without parking restrictions, was a two storey bay fronted terraced house, c.1890, converted into two flats. There were large sash windows to the front, and the property appeared in good condition, with a slate roof, and a flat roof over the rear extension. We inspected internally only the first floor flat, which comprised a kitchen/diner at the rear, a good bathroom, double bedroom, and living room, with central heating throughout. The ground floor flat, to which we did not have access, appeared similar though with a different layout. The garden belonged to this lower flat.

b) We inspected externally No 16 Montgomery Road, and No 28; both of these terraced houses appeared to be of similar age to the subject, though at No 28 there was a large second floor dormer window, indicating another floor and possibly larger accommodation.

10. No evidence was provided by either party as to the valuation date to be adopted. Despite the apparent concurrence between the parties' valuers, who had both referred to the 14 April 2003 as the valuation date, the Tribunal found that in accordance with the provisions of Schedule 6 (1)(a) of the Act, the valuation is to be at the date of the Landlord's Counter Notice. Accordingly the valuation date is 28 March 2003.

11. The evidence of the two comparables in Montgomery Road were helpful. Notwithstanding the Respondent's comments, the Tribunal are of the opinion that the case of *Delaforce v Evans*, 1970, will have had a certain impact on the considerations paid in these cases.

12. Neither party brought any comparable evidence to support their opinion of the leasehold values. Mr Sworn stated an existing lease value for the ground floor flat of £220,000, and with a share of the freehold £227,700; for the first floor flat, an existing lease value of £200,000, and with the freehold £207,000. Mr Little proposed an existing lease value of £202,350 on each flat, and £213,000 with the freehold. Like Mr Sworn, the Tribunal found that on the whole, the ground floor flat was a slightly more desirable property, with its own garden; but we considered that the differential between the two was only £10,000; and having fully considered all the evidence, and using our own knowledge and experience: and having decided that the effect of the 1993 Act upon properties in this location was only minimal, we determined our existing leasehold valuations at £210,000 and £200,000 respectively.

13. Both valuers had derived the freehold value by reference to relativity derived from details of previous LVT and LT decisions, and in Mr Little's case using graphs. As to relativity, Mr Sworn suggested it was 97%; Mr Little proposed 95%. These are full repairing, full insuring leases, and bearing in mind that the provisions in these leases virtually give full control of the properties to the lessees already, the Tribunal determined that the relativity in this case, to reflect the unexpired term of 78 years, should be 96%. The total freehold value is therefore £427,000.

14. As to yield, the Tribunal noted Mr Anand's comment in regard to the LVT decision on 110 Sunnyhill Road, Streatham and agreed with him that this being in a different location, the decision was not helpful. But Mr Little's yield rate of 6% is far more commonly associated with prime central London properties; he has overstated the attractiveness of Chiswick as an investment location. The Tribunal determined the appropriate yield for both capitalisation of the passing ground rent, and the deferment of the reversion, at 7.5%.

15. The price for the purchase of the freehold is therefore £10250, and the Tribunal's valuation is attached hereto. In addition the nominee purchasers will be liable for the Landlord's reasonable costs in accordance with s.33 of the Leasehold Reform Housing & Urban Development Act 1993. In the event that the parties are unable to agree these costs, the parties are at liberty to apply to the Tribunal for their determination.

Chairman.....*Ussie Thordon*.....Dated.....*12th November 2003*.....

LEASEHOLD REFORM, HOUSING & URBAN DEVELOPMENT ACT 1993
VALUATION FOR FREEHOLD ENFRANCHISEMENT

19 KENT ROAD, CHISWICK, LONDON W4

Valuation date: 28/3/03

Unexpired term at Valuation Date: average 78 years

Ground floor flat 99 years from 24/6/82 - 78 years 3 months unexpired

First floor flat 99 years from 25/12/81 - 77 years 9 months unexpired

Current value of ground floor flat - £210,000

Current value of first floor flat - £200,000

Total current value - £410,000

Freehold value at relativity of 96% - £427,083

say £427,000

1. Value of Freeholder's current interest

	£	£	£
For remainder of term:			
Current ground rent - 2 x £75 p.a.	150		
YP 78 years @ 7.5%	<u>13,2860</u>	1,993	
Reversion to freehold	427,000		
deferred 78 years @ 7.5%	<u>0.0035493</u>	1,515	3,508

2. Marriage value

Value of freehold reversion 427,000

Less existing value:

Freeholder's current interest 3,508

Leaseholders' current interest
78 years unexpired

410,000 413,508

Gain on marriage 13,492

50% of marriage value attributed to lessor

6,746
10,254

Enfranchisement price

say **£10,250**