

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

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATION UNDER SECTION 26 OF THE LEASEHOLD REFORM,
HOUSING AND URBAN DEVELOPMENT ACT 1993**

Applicants	Mr Andrew Daggers Mr Gerald James Aughney Mr Joel Cavan Butler Ms Jillian Watts
Represented by	Colman Coyle Solicitors
Respondent:	Mr Peter Humphries
Re:	106/106A Teesdale Street London E2 6PU
Date of Tenant's Application to the County Court:	12 January 2005
Date of Court Order:	29th March 2005
Application date:	29th March 2005
Date of Determination:	23rd August 2005
Valuation date:	23rd August 2005
Appearances:	None

Members of the Leasehold Valuation Tribunal:

**Mr P L Leighton LLB(Hons)
Mr W J Reed FRICS
Mr R A Potter FRICS**

Date of Tribunal's decision: 2nd September 2005

1.0 Introduction

- 1.0.1 This is an application for enfranchisement of the freehold of the property at 106/106A Teesdale Road Bethnal Green London E2 by Mr Andrew Daggers Mr Gerald James Aughney Mr Joel Cavan Butler and Ms Jillian Watts the leasehold owners of the basement and ground floor maisonette and the first and second floor flats at the premises. The freehold title is registered at HM Land Registry under Title No EGL 223444
- 1.0.2 The Applicants made an application to Bow County Court for a Vesting Order under Section 26(1) of the 1993 Act on the grounds that the landlord, Peter Humphries was a missing landlord and could not be traced.
- 1.0.3 On 29th March 2005 District Judge Beattie ordered that the freehold of the property known as 106/106A Teesdale Road Bethnal Green London E2 be vested in the Applicant on such terms as may be determined by the Leasehold Valuation Tribunal for the London Rent Assessment Panel pursuant to Sections 26(1) and 27(1) of the 1993 Act and in accordance with section 27 of the Act.
- 1.0.4 The Applicants' solicitors Messrs Colman Coyle lodged a bundle of documents together with a Report and Valuation prepared by Mr M D L Green B Sc FRICS of Copping Joyce, Chartered Surveyors.
- 1.0.5 The Applicants, through their Surveyors, had requested that the matter be dealt with by way of written representations.
- 1.0.6 The Tribunal sat on 23 August 2005 to consider the application, to determine the enfranchisement price, and to approve the terms of transfer

2.0 the Property

- 2.1 The property is situated just south of the Hackney Road and west of Cambridge Heath Road in an established residential area in inner East London. It is a four-storey building fronting directly on to the street and consists of lower ground and ground floor maisonette with flats on the first and second floors. There is a small yard at the rear of the property with a gate opening to a rear access road

3.0 The Report

- 3.1_ Mr Green's Report included a description of the property and of its location, full descriptions of the maisonette and of the first and second floor flats, a schedule of the accommodation with the measurements of the principal rooms, the gross internal floor areas, details of the leases and his valuation of the freehold interest, as at 29 March 2005, at £3,200, based on a yield of 10% and unexpired terms of 109 years.
- 3.2 The Report also included coloured photographs of the front and rear elevations of the property, of the rear yard, of Teesdale Street and of the redevelopment site opposite.
- 3.3 In view of the amount of detail which had been included in the Report, the lengths of the unexpired terms of the leases and the amount of the enfranchisement price, the Tribunal decided that it was not necessary for it to inspect the property.

4.0 The Leases

- 4.1 The first Applicant holds the second floor flat under the terms of a 125 years from 25th March 1989 at a rent of £150 per annum. The second Applicant holds the basement and ground floor maisonette on the terms of 125 years from 25th March 1989 at an initial rent of £100 per annum rising to £350 per annum. The third and fourth Applicants hold the first floor flat on the terms of a lease for 125 years from 25th March 1989 at a rent of £25 per annum.. As a result each of the leases has a period in excess of 109 years unexpired

5.0 Valuation

- 5.1 As this was an absent landlord case and since the application was made before 28th February 2005 the valuation date was the date of the hearing namely 23rd August 2005 being the date on which the Tribunal sat to determine the enfranchisement price and to approve the terms of transfer. and not 29th March 2005 as stated in the letter from Colman Coyle the Applicants' solicitors in their letter of 10th August 2005 and adopted by Mr Green in his valuation

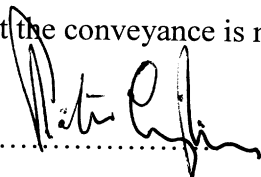
[Section 126 of the Commonhold and Leasehold Reform Act 2002, which came into force on 1 March 2005 by virtue of The Commonhold and Leasehold Reform Act 2002 (Commencement No.5 and Saving and Transitional Provision) (Amendment) (England) Order 2005, provides that the valuation date relating to the collective enfranchisement of flats will be the date on which the notice under s.13 of the 1993 Act is given by the tenants' where the notice is served after 28 February 2005 . Where the landlord is missing and cannot be found, the valuation date will be the date of the tenants' application to the County Court for an Order under s.26 of the 1993 Act where that application is made after 28 February 2005].

- 5.2 Mr Green correctly states that under the 2002 Act there is no marriage value in respect of an unexpired term over 80 years. Accordingly it is only necessary to capitalise the freeholder's interest which has been done correctly in Mr Green's report. in accordance with Schedule 6 paragraph 3 of the 1993 Act.
- 5.3 Mr Green had valued the freehold interest in the property as at 29 March 2005 at £3,200, based on a yield of 10% and an unexpired term of 109 years.
- 5.4 The Tribunal agreed the yield at 10%, but adjusted the valuation to take account of the later valuation date. Accordingly, for the purposes of s.27(5) of the Act the value of the landlord's freehold interest is determined by the Tribunal in the sum of £3,250. Details of the valuation are set out in the Appendix.

6.0 The Terms of the Transfer

- 6.1 The Tribunal approves the transfer (Form TR1) submitted by the Applicants save that the conveyance is with limited title guarantee and the transfer should carry the statement required by Section 34(10) of the 1993 Act to the effect that the conveyance is made pursuant to Chapter 1 of the 1993 Act.

Chairman



Date 2nd September 2005

Appendix

106 and 106A, Teesdale Street, London E2 6PU

Determination of the price to be paid by the nominee purchaser in accordance with s.32 and Schedule 6 of the Leasehold Reform, Housing and Urban Development Act 1993, as amended, for the purposes of s.27(5) of the Act, as at 23 August 2005 - the date of the determination by the Leasehold Valuation Tribunal.

A. Value of the landlord's freehold interest (Sched. 6 para 3)

Ground rents 23/8/2005 to 24/3/2014 YP 8.5 yrs @ 10%	£275 p a <u>5.5469</u>	£1,525
Ground rents 25/3/2014 to 24/3/2039 YP 25 yrs @ 10%	£375 p a <u>9.0770</u>	
	£3404	
PV £1 8.5 yrs @ 10%	<u>0.4453025</u>	£1,516
Ground rents 25/3/2039 to 24/4/2064 YP 25 yrs @ 10%	£475 p a <u>9.0770</u>	
	£4312	
PV £1 33.5 yrs @ 10%	<u>0.0410996</u>	£177
Ground rents 25/3/2064 to 24/3/2114 YP 50 yrs @ 10%	£525 p a <u>9.9148</u>	
	£5,205	
PV £1 58.5 yrs @ 10%	<u>0.0037933</u>	£20
Reversion to freehold with vacant possession, excluding value of tenants' improvements	£605,000	
PV £1 108.5 yrs @ 10%	<u>0.0000323</u>	<u>£20</u>
Value of landlord's freehold interest		£3,258

B. Marriage Value (Sched.6 para 4)

£nil

(Section 128 of the Commonhold and Leasehold Reform Act 2002 amended paragraph 4(2) of Schedule 6 of the Leasehold Reform, Housing and Urban Development Act 1993, and inserted paragraph 4(2A) which provides that the marriage value is to be ignored where at the relevant date the unexpired term of a lease held by a participating tenant exceeds eighty years.

"The relevant date" is defined in s.1(8) of the 1993 Act as the date on which notice of the claim is given under s.13, or, where the landlord cannot be found, in s.27(1)(b), as if the applicants had, at the date of their application [for a vesting order under s.26] given notice under s.13 of their claim to exercise the right of collective enfranchisement in relation to the premises in respect of which the order is made.

An application was made in the Bow County Court on 12 January 2005 at which date the lease had more than 109 years unexpired.

No marriage value is therefore payable by the nominee purchaser)

C.	Any other loss (Sched.6 para 5)	£nil
D.	Price to be paid for the landlord's freehold interest	
	Value of landlord's freehold interest	£3,258
	Marriage value	£nil
	Any other loss	<u>£nil</u>
		£3,258
	Say	£3,250