

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

S21 (1)(A) LEASEHOLD REFORM ACT 1967

<u>Property</u>	19 VAUXHALL WALK, LAMBETH, LONDON SE11 5JT
<u>Applicant</u>	JOHN ANTHONY STEVENS
<u>Respondent</u>	ANTHONY JAMES EDWARD ARDEN (Missing Landlord)
<u>Hearing</u>	PAPER DETERMINATION
<u>The Tribunal</u>	Mr P M J CASEY MRICS

Determination of Price Payable on Enfranchisement under S9(1) Leasehold Reform Act 1967 (“the Act”)

Background

1. The Applicant is the owner of a long leasehold interest in the property for a term of 99 years from 24 June 1971 at a Ground Rent of £60.00 per annum, with the tenant responsible for all repairs to and for insuring the property.
2. The Applicant wishes to acquire the Freehold Interest in the property under the provisions of the Act but has been unable to trace the Freeholder to serve the requisite notice.

3. Through Capulet Solicitors he accordingly applied under S27 of the Act to the County Court for an Order for the Freehold Interest to be vested in him.
4. On 14 April 2011 District Judge Ostroff sitting in the Lambeth County Court made the Order sought. This required that the purchase price be determined by the Leasehold Valuation Tribunal and the sum so determined together with ground rent arrears for the six year period prior to payment be paid into Court after which a District Judge of the Court would on request execute the Transfer Deed in the form of the draft attached to the Order.
5. Following Capulet Solicitors' application to the Tribunal the Tribunal issued preliminary directions on 18 April 2011 for a paper determination.

The Evidence

6. A report and valuation dated 12 May 2011 prepared by Wilson Dunsin MRICS of Dunsin Surveyors was included in the hearing bundle provided in accordance with the directions.
7. The report gives the Rateable Value of the property as £177 which is well below the limits specified in the Act and the original S9(1) basis of valuation, assuming a fifty year Lease extension at a Modern Ground Rent on the expiration of the existing Lease term, is correctly identified as being applicable.
8. At the valuation date, 7 December 2010, the date of application to the County Court, the existing Lease had 59.55 years unexpired.
9. Mr Dunsin describes the property as being a two storey mid-terrace brick and tile house erected some 40 years ago as part of a small development surrounded by a large local authority housing estate in Vauxhall, a short distance to the East of the Embankment and

the main Waterloo railway line. Tenant's improvements include a recent loft conversion to provide an additional, third, bedroom replacement double glazed windows and modernized kitchen and bathroom.

10. Mr Dunsin's valuation approach to determine the premium payable is to firstly capitalize at 8% the passing ground rent of £60 per annum for the remainder of the existing term then to assess the modern ground rent to be paid under the 50 year lease extension which he then capitalizes in perpetuity before deferring the resultant sum for the existing unexpired term.
11. To arrive at a modern ground rent for the site notionally cleared of the building he adopts what is commonly known as "the standing house approach" by which a percentage of the freehold vacant possession of the whole property is taken as the capital value of the notionally cleared site. This sum is then devalued to give the modern ground rent.
12. From the details of four sales of comparable properties given in his report he determines the entirety value at £430,000. He takes 25% of this sum as the site value and devalues this at 5% to give a modern ground rent of £5,375 per annum. This he capitalizes in perpetuity at 5% before deferring the result for 59.55 years at 5%. The price to be paid for the freehold that he arrives at is £6,625.
13. Mr Dunsin clearly explains his reasoning for each stage of the valuation in the report and cites extensively Lands Tribunal decisions in support of his approach.

Decision

14. The report Mr Dunsin has provided is thorough and well reasoned and the opinions he expresses in it are accepted as fair and proper in all save two respects: the percentage of

the standing house value adopted as the capital value of the site and the capitalization of the modern ground rent in perpetuity.

15. His basis for adopting 25% for the former is based entirely on Lands Tribunal decisions, Lewis V James (1981) and a whole host of others referred to in paragraph 8-10 of Hague on Leasehold Enfranchisement, the majority of which were given as long ago as Lewis, 30 years ago, or even earlier. In the intervening years the rise in residential land values has far outstripped the rise in construction costs with the consequence that the land value element of the value of a house is a significantly higher percentage of the whole today. Decisions of the Upper Tribunal on issues of law or valuation principle are generally to be followed by valuers and LVTs but they do not provide evidence that can be given any weight in other cases as each is determined on its own facts and evidence. Whilst this is a small plot and its immediate surroundings leave something to be desired it is just across the River from Westminster and is convenient for the city. Based on the Tribunal's knowledge and experience of cases determined in recent years the appropriate percentage to adopt for site value is 40%.

16. The second point on which the Tribunal takes issue is the disregard of the so called "Haresign addition". This house will be 150 years old at the end of the assumed 50 year lease extension but there are countless numbers of modest, traditionally built houses throughout the country of similar age or older which continue to provide adequate homes and there is no reason to suppose this one would not. The higher deferment rates commonly used 30-40 years ago may well have rendered the reversion valueless and hence the practice of valuing the modern ground rent in perpetuity but Sportelli has changed that and it is now common in lease extension cases to value distant reversions. The evidence in Mr Dunsin's report suggests a value for the property, disregarding tenant's improvements,

of £320,000 which should be deferred at the Sportelli house rate of 4.75% as it is not a reversion to the capitalized modern ground rent as in Mansal Securities and other appeals referred to by Mr Dunsin.

17. The Tribunal accordingly determines the purchase price of the freehold interest in 19 Vauxhall Road in the sum of £11,360. The Tribunal's valuation is attached.

P M J CASEY MRICS

Chairman

Dated 27 June 2011

**Determination of Price Payable on Enfranchisement
Section 9(1) Leasehold Reform Act 1967
19Vauxhall Walk, London SE11 5JT**

Valuation Date 7 December 2010

Unexpired Term 59.55 years

A Capitalization of Passing Ground Rent

Per annum	£60	
YP 59.55 years at 8%	12.3722	£742

B Calculation of S15 Modern Ground Rent

Freehold VP value developed to full potential	£430,000	
Site value at 40%	£172,000	
Modern ground rent per annum @ 5%	£8,6000	
Capitalized for 50 years @ 5% and deferred 59.55 years @ 5%	1.004	£8,634

**C Reversion to Freehold VP value disregarding
Tenant's improvements**

Deferred 109.55 years @ 4.75%	£320,000	
	0.0062	£1,984
		£11,360