



**LONDON RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**Case Reference: LO/LON/OOBJ/0CE/2012/0118**

**Premises: 56 Queenstown Road, London SW8 3RY**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER SECTION 24 LEASEHOLD REFORM, HOUSING AND URBAN  
DEVELOPMENT ACT 1993 ('the Act').**

Applicants	Mr P. Davies-Cooke, Mrs C. Davies-Cooke and Mrs K. Finberg (leaseholders)
Representation	Mr C. Bryden (of counsel) instructed by Mr J. Gray of Volks Hedleys (solicitors) with valuation evidence from Mr W. Dunsin of Dunsin Surveyors (chartered surveyors)
Respondent	Mr A. Kaur (landlord)
Representation	Mr C. Edwards of Bells Chartered Surveyors, (acting as advocate and expert witness), instructed by Chiver Easton Brown solicitors, who were not present at the hearing).
Pre-trial review	Standard directions were given on 12 <sup>th</sup> June 2012
Hearing date	4 September 2012
The Tribunal	Professor J. Driscoll, solicitor (Lawyer chair) and Mrs H. Bowers MRICS and Mr A. Manson FRICS
The Decision Summarised	The premium payable for the acquisition of the freehold is the sum of £30,773 (thirty thousand, seven hundred and seventy three pounds)
Date of the decision	25 September 2012

## **Introduction**

1. This application is made under section 24 of the Act in connection with a claim collectively to enfranchise under Part I of the Act. It is made by the applicants who each have a lease of a flat in the subject premises and are the two participating leaseholders. One such applicant is Mr P. Davies-Cooke who is the nominee purchaser in the claim on behalf of the participating leaseholders (section 15 of the Act). The respondent is the owner of the freehold and the landlord under the leases of the two flats held on long leases and of a third flat which is held under a regulated tenancy (Rent Act 1977). Under the Act he is treated as the 'reversioner' (see section 9 of the Act).
2. The building containing the flats was originally constructed as a house and later converted into three flats. A fuller description of the building is at paragraph 22 below. Flat 56A is a ground floor flat held under a long lease which is owned by Mr and Mrs. Davies-Cooke. The first floor flat (Flat numbered 56) is owned by the reversioner and is occupied by a regulated tenant. The second floor flat (Flat numbered 56B) is held on a long lease which is owned by the other participating leaseholder Mrs Finberg (nee Ms Grierson). Originally each flat was rented on regulated tenancies under the Rent Act 1977 and until the 1980s all the flats were unmodernised. The current regulated tenant of Flat 56 is Mr A. Apperley. He attended the hearing of the application and he was also present when the tribunal carried out an inspection of the premises.

## **The claim and the application**

3. A notice was given by the nominee purchaser under section 13 of the Act, claiming the freehold and proposing a premium of £21,342, on or about 7 November 2011. In response the reversioner gave a counter-notice under section 21 of the Act on or about 13 January 2012. In this notice the claim was admitted but the reversioner proposed that the premium to be paid should be the sum of £50,000 and also claimed a leaseback of the first floor flat under section 36 and schedule 9 of the Act.
4. As the parties could not agree on the premium, the nominee purchaser applied to the tribunal under section 24 of the Act on or about 21 May 2012 for a determination. The sole issue is the premium as the parties reached agreement on the terms of the transfer of the freehold and there are no disputes over the terms of the leaseback of the first floor flat to the reversioner.
5. Standard directions were given by the tribunal on 12 June 2012. A hearing took place on 4 September 2012 and we carried out an internal inspection of the subject premises and an

external inspection of properties sales of which the parties relied on as relevant comparable market evidence later that day, after the conclusion of the hearing.

6. The leaseholders attended the hearing where they were represented by counsel and their solicitor. Mr Dunsin their valuer gave evidence on their behalf. Their neighbour Mr Apperley the tenant of the first floor flat also attended. A bundle of documents was prepared by the leaseholder's solicitor. There was no expert evidence from the landlord in the bundle.
7. The landlord did not attend the hearing. However, he was represented by Mr Edwards who appeared in the dual capacities of advocate and expert witness. He handed us his report and gave a copy to the leaseholder's counsel. We adjourned the hearing to enable the leaseholder and their counsel to read the report which they were reading for the first time.
8. The main issue on the disputed premium was the value of leaseholder improvements which under the Act are to be disregarded in assessing the premium.
9. An agreed statement of facts was signed by Mr Dunsin and Mr Edwards dated 22 August 2012. This records that the parties agree on:
  - A description of the building and the accommodation of the three flats
  - The valuation date is 7 November 2011
  - The unexpired lease terms (68.4 years for Flat A and 73.6 years for Flat B) and on the ground rents and their review
  - The deferment rate is 5%
  - The capitalisation rate is 7%
  - Relativity at 91.2% for flat A and 93.9% for flat B
  - Marriage value to be shared 50:50
  - Freehold vacant possession in an improved condition of £335,000 for Flat A and £306,750 for Flat B

### **The hearing**

10. After a short opening Mr Bryden for the applicants called Mr Dunsin to give his valuation evidence. Mr Dunsin is a chartered surveyor and a director in the firm of Dunsin, Surveyors. He spoke to his report which is dated 28 August 2012. He was cross-examined by Mr Edwards and he answered several questions from the tribunal.
11. His evidence is that the value of the improvements should be the sum of £80,000 which should be deducted from the value of each flat. He carried out an inspection of the subject property on 4 July 2011 during which he spoke to Mr Apperley and to a Mrs J. Anstey who was formerly the leaseholder of the ground floor flat. Both of them were able to let him know from personal experience about the poor conditions in the building before the improvements were carried out.

12. Mr Apperley's family were regulated tenants and he himself succeeded to a regulated tenancy of Flat 56 under the provisions in the Rent Act 1977. All three flats were at some stage occupied under regulated tenancies. During the 1980s all three flats (including Flat 56) were improved by developers. In their unimproved state, the toilets were situated outside the building, the flats lacked a bathroom, there was no central heating, the kitchens consisted only of a stove and sink and the plumbing and wiring were of a very basic standard.
13. Mr Dunsin added that in his opinion the works that have been carried out are improvements and they go far beyond the works required under the leaseholder's repairing covenants. Thus they are, in his opinion, relevant improvements in calculating the value of the landlord's interest in the building.
14. To estimate the value of these improvements he had used two approaches. First, by using data obtained from the BICS costs guide he estimates the individual costs of installing a kitchen, bathroom, central heating, electrical, gas and water and other improvements costs £50,000 to which a developer's profit margin of 20% should be added along with a further 50% addition to arrive at the total value of the modernisation works at £90,000 for each flat.
15. His second approach is to look at relevant local property market evidence where he analysed relevant sales of flats with and without relevant improvements. This involved examining recent sales of unmodernised flats compared to sales of comparable flats which have been modernised, adjusting the figures to the dates of the sale compared with the valuation date in this case and for other factors. In this way, he concludes that it supports a reduction for relevant improvements of £80,000 for each flat. (We examine these comparables in our conclusions below).
16. For the landlord, Mr Edwards appeared as both an advocate and as an expert witness. In giving his evidence he spoke to his report dated 3 September 2012. He answered questions from the tribunal and he was cross-examined by Mr Bryden. Mr Edwards is a valuer and a partner in the firm of Bells Chartered Surveyors. His written report is remarkably brief occupying just four pages to which he attached various photographs and his worked valuation. It does not contain any proposed comparable evidence or data or other detailed information showing how Mr Edwards arrived at his conclusions on the premium.
17. In his oral evidence he told us that he based his conclusions on his extensive experience in advising on re-developments of flats and houses and on mortgage valuations. He is sceptical of the way Mr Dunsin approached his valuation by using the BICS guide. According to Mr Edwards many purchasers would prefer to introduce new bathrooms and kitchens and would therefore be inclined to discount this as a factor in negotiating price. Moreover, in his experience, the costs of carrying out improvements (which he accepts were necessary) could have been achieved more cheaply than Mr Dunsin suggests.
18. As to the use of comparable evidence, Mr Edwards' view is that the lower value comparables relied on by Mr Dunsin ignored the likelihood that owner-occupiers as well as investors would

be interested and would compete for unimproved properties. Many younger couples, in his experience, will compete for unimproved properties and undertake the necessary works themselves, or with a builder and will in practice factor in the projected costs of upgrading such properties into their purchase offer. He added that many couples, in his experience, also receive financial support from their parents and will look for properties in an unimproved condition as a way of gaining access into owner-occupation. In summary he concluded that the maximum figure for improvements was £20,000 for each flat.

19. The parties did not call any other evidence, though we should record that Mr Apperley (with the agreement of Mr Edwards and the tribunal) told us that he has lived in the property all of his life and that at the grant of the subject leases, it was lacking in what by contemporary standards the most basic of amenities.
20. Both counsel and Mr Edwards briefly addressed us in closing remarks in which they restated their positions on the value to be attributed to the improvements and the effect on the premium to be paid.

## **Our Inspection**

21. We carried out our inspection on the afternoon of the 4 September 2012 and we started by inspecting the subject property where we met the two leaseholders and Mr Apperley who showed us around their respective flats. We also examined the exterior of the building. The flats are in a reasonable condition in a building in a busy road. We were able to inspect each of the flats. They are in an improved state with fully fitted bathrooms and kitchens. There are a number of shops, bars and restaurants in the road which lent it an attractive feel.
22. The subject property is a three storey inner terrace house that has been divided into three self contained flats. The ground floor flat has the benefit of the front and rear gardens, both these areas are quite small. The accommodation of the ground floor flat comprises a living room with French doors to the rear garden, a kitchen, two bedrooms and a bathroom with WC. The flat has a modernised kitchen and bathroom and central heating. The first floor flat is let on a regulated tenancy. This flat has a small roof terrace. The internal accommodation comprises a living room, two bedrooms, a bathroom with WC and a kitchen. The second floor flat has accommodation comprising a living room, two bedrooms, a kitchen and a bathroom with WC. This flat has modern kitchen and bathroom facilities, central heating and double glazed window units. There is access from the kitchen to a small roof terrace.
23. Later we then carried out external inspections of Flats 26A and 61A Heyford Avenue in the Battersea area but about 2.5 miles from the subject property. We also carried out external inspections of Flats 100A and 83A in Queenstown Road, London SW8 which Mr Dunsin relies on as market evidence (once suitably adjusted) of the current value of comparable ground and first floor flats. Both of these flats are modernised. Our other external inspection was of Flat 210C Stewarts Road, London SW8 which is described as an unmodernised flat.

## Reasons for our decision

24. As the parties agreed on most aspects of the valuation our main task was to determine the figure to be deducted for improvements.
25. Valuation of the premium and other sums payable under an enfranchisement claim are to be determined by reference to section 32 and schedule 6 to the 1993 Act. This requires determining the aggregate of (a) the freeholder's interest in the premises, (b) the freeholder's share of any marriage value and (c) any additional compensation (schedule 6 paragraph 2(1)). Head (c) is not relevant to this valuation.
26. As to head (a) this consists of determining two elements, that is, first the value of the landlord's right to the ground rent income for the terms of the leases and second, the value of the landlord's vacant possession freehold interest in the building at the valuation date deferred for the unexpired terms of the leases. As the parties agree on the freehold value of Flats A and B at the valuation date and on the deferment rate to be applied.
27. Turning to the other element this is the value of the landlord's ground rent income for the unexpired term of the two leases. Here too, the parties are in agreement on the ground rents (and their upwards review during the term of the two leases) and on the capitalisation rate to be applied.
28. Schedule 6, paragraph 3 also provides that the value of the freeholder's interest must be calculated on a number of statutory assumptions including the assumption that 'any increase in the value of any flat held by a participating tenant which is attributable to an improvement carried out at his own expense by the tenant or by any predecessor in title is to be disregarded' (paragraph 3(1)(c)). In other words if the value of any flat is higher than it would have been if the leaseholder (or a predecessor in title) had not carried out improvements at their own expense the landlord should not benefit from this increase in price. Instead it should be reduced from the price that would otherwise be paid.
29. Each valuer has expressed a view on the value that should be given to these improvements. We have summarised their competing approaches in the paragraphs above. Two different approaches are proffered. First, estimating what it costs to carry out the improvements and second, by comparing the differences in the sale price of comparable flat sales of unimproved and improved flats.
30. The valuers agree that the flats in the subject premises were unmodernised until the 1980s and we also note this opinion is supported in the oral evidence given by Mr Apperley at the hearing and in the written statement signed by a former leaseholder and resident Mrs Anstey dated 27 July 2012 (which is included in the bundle prepared on behalf of the applicants).

31. We have a number of observations to be made on the first approach. To be fair to Mr Dunsin he has produced a detailed analysis of how to calculate the value of the improvements. He is correct to refer to the BCIS Housing Repair Cost Guide (that is the third edition published in 2009) which is service provided by the RICS. However, it was not always easy to see how he arrived at the different components of the sum he eventually arrived at and his additions for developer profit and other factors seem from his oral evidence and his answers to questions to be based on speculation in part at least (particularly on the uplifts he proposes to the refurbishment costs). Our concern is that such an approach is not good evidence of what the market value is for the subject flats in an unimproved condition.
32. No disrespect is intended to Mr Edwards remarkably brief written statement but his approach to this was based on his recollection of transactions he is familiar with though he admitted in evidence that many of these took place many years ago. Whilst we accept that he has relevant experience in improving residential properties, his evidence would have been of far more assistance to the tribunal if he had produced a detailed analysis of how he arrived at his figures.
33. On balance we prefer the second approach suggested by Mr Dunsin, which had the advantage of being based on relevant market evidence rather than the first, which is too speculative in our opinion. Mr Dunsin relies on a number of property market transactions which he contends supports his position on the effects of improvements on the premium payable.
34. These include sales of Flats 26A and 61A Heyford Avenue London SW8 for which he provided us with the sales details and which we viewed externally after the hearing. The first described in the sales details as similar to the flats in the subject property in terms of its size and location but as unmodernised and in need of a complete refurbishment. This flat was sold for £250,000 in January 2012 and Mr Dunsin adjusts that sale price for a 1% uplift to the freehold value and for the valuation date to arrive at a price of freehold value of £251,700 at the valuation date. Number 61A is a one bedroom flat with a rear garden in a modernised state which sold on 22 June 2012 for £330,000 which making the same adjustments as for the sale of number 26A produces a figure of £317,230 which making the same adjustments.
35. He also relies on a sale of Flat 210C Stewart Road a two bedroom flat which when sold on 12 June 2012 in an unmodernised condition fetched £240,000.
36. We were also invited to consider comparable evidence of sales of ground and first floor flats. Number 100A Queenstown Road is a two bedroom modernised flat with a garden which sold on 2 April 2012 for £360,000.
37. After making adjustments for floor space and the other adjustments Mr Dunsin concludes that this supports the proposition that comparable market sales evidence of similar ground and first floor flats show that improvements of about £80,000 for each flat should be deducted.

38. Our external inspections of the sales evidence put forward by Mr Dunsin led us to the following conclusions. First, in terms of location the market evidence of flat sales in Queenstown Road which are near the subject property are on the face of it the most relevant evidence and provided appropriate adjustments are made they can be a good guide to freehold vacant values. We conclude that the Stewart Road sale is less useful as the property is in a less pleasant street and situated next to commercial property. The sales in Heyford Road are useful and relevant evidence of the effects of condition on the market value of flats in the area. That said the street is two miles from the subject property and in our opinion in a less attractive location.
39. This leads us to the following conclusions. First, is that the sales evidence of the two flats in Queenstown Road, which are close to the flats in the subject properties is the best market evidence of the values of the two leasehold flats in the subject premises. As to the market approach to the value of improvements we consider that the analysis that Mr Dunsin undertook to reach a view on the market attitude to unimproved flats was a robust method. However, there may have been some elements in the analysis that were not fully accounted for. For example, 61A Heyford Avenue was situated in a more sheltered and attractive location and some part of the price differential between this property and 26A may not have been solely due to the refurbished condition of the former property. Likewise, the price differential between Stewarts Road and Queenstown Road may have included an element of a more superior location for the Queenstown Road properties.
40. Mr Edwards did not produce any comparable sales evidence for us to consider. As a result we have had to rely and be guided by the market evidence provided on behalf of the nominee purchaser.
41. To summarise, we prefer to base our decision on the valuation on the basis of relevant market evidence, but taking some account of factors other than the value of the improvements. This leads us to the conclusion that the sum of £50,000 should be treated as leaseholder improvements to be deducted from the freehold vacant possession values of the flats at the valuation date. (As it happens this is similar to one of the conclusions in the first approach adopted by Mr Dunsin, based only on the cost approach and without any further percentage additions) As we noted earlier in this decision the parties have agreed both the freehold vacant possession value of the flats and the relativities and allowing for the sums for improvements leads us to the conclusion that the value of the vacant freehold possession of the building applying a deferment rate of 5% (and allowing for the fact that the third flat is occupied by a regulated tenancy and will be lease-backed to the current landlord) we arrive at the sum of **£30,773 as the total premium for the enfranchisement price.**
42. Our valuation is appended at to this decision.

**Signed:**

*James Dunsin*



*James Driscoll*  
**James Driscoll (Lawyer Chair)**  
**25 September 2012**

**Leasehold Valuation Tribunal Valuation**

**56, Queenstown Road, Battersea, London, SW8 3RY**

Matters Agreed		56A	56B
Date of valuation:	07/11/2011		
Unexpired term:		68.4 yrs	73.6 yrs
Value of the freehold, vacant possession (improved)		£335,000	£306,750
Deferment Rate	5%		
Capitalisation Rate	7%		
Relativity		91.20%	93.90%

**Matters Determined**

Value of the freehold, vacant possession (unimproved)	£285,000	£256,750
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**56A**

**Term**

Rent 1	£75		
YP 2.4 yrs @ 7%	<u>2.1412</u>		
		161	
Rent 2	£125		
YP 33 yrs @ 7%	12.7538		
Deferred 2.4 yrs @ 7%	<u>0.8501</u>		
		1,355	
Rent 3	£175		
YP 33 yrs @ 7%	12.7538		
Deferred 35.4 yrs @ 7%	<u>0.0912</u>		
		204	
			1,720

**Reversion**

Freehold		£285,000	
PV 68.40 years @ 5%		<u>0.0355</u>	
			<u>£10,117</u>

**Marriage Value**

£11,837

Value of Freehold £285,000

less

Value of Existing Lease £259,920

Value of FH Interest £11,837

Marriage Value £13,243

50% share £6,621

£6,621

**56B**

Term

Rent 1	£100		
YP 7.6 yrs @ 7%	<u>5.7432</u>		
		574	
Rent 2	£150		
YP 33 yrs @ 7%	12.7538		
Deferred 7.6 yrs @ 7%	<u>0.598</u>		
		1,144	
Rent 3	£200		
YP 33 yrs @ 7%	12.7538		
Deferred 40.6 yrs @ 7%	<u>0.0641</u>		
		164	
			1,882

Reversion

Freehold		£256,750	
PV 73.60 years @ 5%		<u>0.0276</u>	
			<u>£7,086</u>

£8,968

**Marriage Value**

Value of Freehold	£256,750		
	less		
Value of Existing Lease	£241,088		
Value of FH Interest	<u>£8,968</u>		
Marriage Value		<u>£6,694</u>	
50% share			<u>£3,347</u>
<b>Total Premium</b>			<u>£3,347</u>
			<b>£30,773</b>