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LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF LEASEHOLD VALUATION TRIBUNAL
ON THE APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: The Trustees of the Eyre Estate

Respondent: Mrs C S Nelson

RE: 27 Springfield Road, St John's Wood, London NW8

Date of Tenant's Notice: 28 January 1994

Application to Tribunal dated: 11 June 1996

Heard: 4 February 1997

Appearances:

Mr D Nelson, Nelsons, Solicitors

Mr K G Buchanan BSc ARICS, Conrad Ritblat & Co Ltd

for the Tenant

Mr G E Pemberton, Lee & Pembertons, Solicitors

Mr J E C Briant BA ARICS, Daniel Smith

Mr T Statesbury BSc Hons

for the Landlord

Members of the Leasehold Valuation Tribunal:

Mrs S E Denman CBE LLM (Chairman)

Mr D R Stevens FRICS FRVA

Mr P S Roberts DipArch RIBA

Date of Tribunal's decision 21 APR 1997

1. This application is made under section 21 of the Leasehold Reform Act 1967 ("The Act"), by the landlord Trustees of the Eyre Estate, for the determination of the price to be paid for the freehold interest in the house, garage and gardens at 27 Springfield Road, NW8 ("the subject property"). The tenants hold under a lease dated 13 September 1943 for a term of 94½ years from 25 March 1938, at an initial rental of a peppercorn during the first half year and £50 per annum thereafter. Notice of claim was served by the tenant, Mrs C S Nelson, on 28 January 1994, and the landlord admitted the tenant's right to the freehold on 14 February 1994. In accordance with the provisions of the Act the date of valuation is 28 January 1994, at which date the unexpired term was approximately 38½ years.

2. The landlords were represented at the hearing by Mr J E C Briant BA, ARICS with assistant Mr T Statesbury BSc(Hons), of Messrs Daniel Smith. He called Mr G E Pemberton, Solicitor, to address the Tribunal on the matter summarily covered at paragraph 6 below. The tenant was represented by her husband, Mr D Nelson, Solicitor, and he called on valuation, Mr K G Buchanan, BSC ARICS of Messrs Conrad Ritblat. The parties submitted a prepared statement of facts agreeing:

- Description, location and floor areas of the property.
- Its rateable value and lease terms.
- That there were no improvements which affect value.
- That marriage value should be shared equally.
- That the capitalisation and deferment rate was 6%.

In addition, largely the same comparables were identified, though strength of reliance placed upon them varied.

3. Applicants Evidence and Valuation

Reading from a proof of evidence, Mr Briant said that the only real issues remaining

between the parties were the property's freehold vacant possession value and its existing leasehold value; on the latter, the gap was small. In proposing £97,777 as the value of the freeholder's present interest, Mr Briant referred to two settlements on houses at 35 Loudoun Road and 30 Marlborough Place, which he claimed enabled a pattern to be formed, applicable to the enfranchisement of houses in the locality, with an unexpired term of approximately 40 years. His interpretation of the components to which those valuations equated, supported a differential of 65% between freehold and leasehold values for the subject property. In valuing the freehold interest at £925,000, he observed that there had been a rise in sale prices since the valuation date in January 1994, but he had chosen comparables subject to transactions as close as possible to that date. These had been adjusted not only to allow for advantages or disadvantages of size, location and the like, over the subject property, but also to incorporate that upward trend. The comparables thus applied were 8 St John's Wood Park, 43 Springfield Road and 28 Carlton Hill, all sold freehold between November 1992 and September 1993 for £1,025,000, £800,000 and £875,000 respectively. He supported his proposed value of the existing leasehold interest at £600,000 by reference to comparables sold in the same road at 6, 40, 44 and 17 Springfield Road, all, save for the last, sold with just over 40 years unexpired.

5. Mr Briant then called Mr G E Pemberton, Solicitor of the firm acting for the Landlord Trustee in respect of work on this Estate. By written statement, he said that a draft transfer in the form used by the Estate for freehold sales had been sent to Solicitors for the tenant in June 1995. They had only recently had indication of acceptance of the terms in the draft transfer but the tenant was arguing also for the inclusion of two further obligations to be binding upon the landlord Trustees, and which they were not willing to accept. The Tribunal then received the written statement presented in reply by Mr Nelson, defending and exploring the basis for the restrictions sought to be imposed by Mrs Nelson on the Eyre Estate upon acquisition of the freehold. In so far as this might be a matter going to the substantive issue of valuation before them, the Tribunal did not find it necessary or appropriate to entertain this application in respect of the form of the conveyance.

6. Respondent's Evidence and Valuation

Mr Buchanan, reading from his proof of evidence, accepted the agreed facts and confirmed the freehold and leasehold values as the main issue. In using the generally identified comparables, he said that he perceived the property market as remaining static for the period during 1992 and 1994, and had therefore made no upwards adjustment for market movement. In addition, he did not agree the comparative judgements about quality and location made by Mr Briant to adjust the prices to the subject property and found some of the percentage leaps inexplicable. In the case of 8 St John's Wood Park and 28 Carlton Hill, he questioned their use as comparables at all, finding 'size, style and location too different. As to the properties in Springfield Road, itself, he underlined that they were far from identical, rendering it difficult to use them in support of any one figure. He settled upon open market leasehold value for the subject property at £575,000 and freehold at £825,000, choosing as his best evidence for the latter, the sale of 43 Springfield Road in November 1992 for £800,000.

7. Mr Buchanan's Valuation was as set out below:

27 SPRINGFIELD ROAD, LONDON NW8

Valuation as at 28th January 1994

Under the provisions of the Leasehold Reform Act 1967 Section 9(1)c as amended by
the Leasehold Reform Housing and Urban Development Act 1993

1. Value of Freeholders Interest

Term

Ground Rent	£50 pa	
YP 38½ yrs @ 6%	£14.89	£744

Reversion

Unimproved Freehold vacant possession value		£825,000
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PV £1 38½ yrs @ 6%	.106	<u>£87,450</u>
		£88,194

Marriage Value

Unimproved Freehold vacant possession value		£825,000
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Less (i) Freeholders Interest		£88,194
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(ii) Unimproved Leaseholders Interest		£575,000
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Marriage Value		£161,806
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Freeholders share at 50%		<u>£80,903</u>
		£169,097

In my opinion, the price payable for the Freehold under Section 9(1)c of the Leasehold Reform Act 1967 as amended should be determined at £169,097.

8. Inspection

Inspection confirmed the property to be well located in a quiet, attractive, residential road of primarily similar superior, detached dwellings, the majority in equally good external decorative order. With the agreed accommodation areas, we were glad to be able, by internal inspection of the subject property, to benefit from actual appreciation of the nature, quality and layout, in particular of top and ground floor accommodation. Main rooms on the latter floor were of handsome size and proportion, overall circulation space generous and the South facing rear garden large and pleasantly open. We viewed the exterior and situation of main comparables referred to, but also briefly viewed the properties at 30 Marlborough Place and 35 Loudoun Road, drawn upon for settlement evidence by Mr Briant.

9. Decision and Reasons

The Tribunal found the most persuasive evidence of value drawn from transactions in respect of properties in Springfield Road itself. External inspection of these properties confirmed that, above the broad similarities, there were enough differences of style, construction and appearance to suggest caution in the application of sale results. As to movements in the market, though there are accelerating signs of exceptional rise in values for such large family houses in prime residential areas, we have been mindful of the 1994 date of valuation in this case, when those trends were less pronounced. We received with considerable reserve, the settlement evidence advanced by Mr Briant, who identified the component parts of each settlement on a basis not agreed with the lessee's representatives and readily admitted that such settlement outcomes frequently involve the lessees making a 'commercial decision', sometimes in the face of contrary advice from their advisors. We believe that these circumstances can import elements into price paid, which are explicitly or implicitly provided against in the legislation. We were more receptive to his views of the differential of 65% between leasehold and freehold values of such property, with approximately 40 years unexpired. This is in contrast to the differential suggested in the evidence of Mr Buchanan, who also underestimated the extent to which the market for property in such areas is never quite 'static'.

10. Valuation

Having carefully considered all the evidence, in the light of their knowledge and experience, the Tribunal made the following valuation:

Valuation and Determination

Present Interest

<u>Ground Rent</u>	£50	
YP 38.7 years @ 6%	<u>14.92</u>	£746
Reversion	£895,000	
PV £1 in 38.7 years @ 6%	<u>0.104896</u>	<u>£93884</u>
		£94630

Lessors Share of Marriage Value

Value of freehold interest in possession	£895,000	
(i) Value of lessees interest	£600,000	
(ii) Value of lessors current interest	<u>£94,630</u>	<u>£694,630</u>
Gain on marriage value	£200,370	
Allow 50% to lessor		<u>£100,185</u>
		£194,815
Enfranchisement Price		Say £195,000

11. Accordingly, the Tribunal determined that the sum to be paid for the freehold interest in 27 Springfield Road, London NW8 is £195,000 (One hundred and ninety five thousand pounds).

Chairman.....*Sybil Denman*.....

Date.....**21 APR 1997**.....