

**LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL**  
**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN**  
**APPLICATION UNDER SECTION 9(1C) OF THE**  
**LEASEHOLD REFORM ACT 1967**

**In the matter of 23A Eaton Square, London SW1**

**Applicant: The Grosvenor Estate (freeholder)**

**Respondent: Mrs Suzanne Adler**

**Intermediate landlord: Sterling Finance Company Limited**

**Date of tenant's notice and valuation date: 20 August 1997**

**Date of application: 22 July 1998**

**Date of hearing: 1 and 2 June and 2 July 1999; inspection 26 July 1999**

**Appearances:**

**Mr S Burrell (counsel)**

**Mr P E W Scoble (Boodle Hatfield, solicitors)**

**Mr I MacPherson MA FRICS (Gerald Eve, chartered surveyors)**

**Mr G Pope FRICS FSV A**

**for the applicant**

**Mr T Bannister (counsel)**

**Lord Francis Russell BSc ARICS ASVA**

**Mr S Marr-Johnson (Marr-Johnson & Stevens, chartered surveyors)**

**Mrs S Adler (tenant)**

**for the respondent and the intermediate landlord**

**Members of the leasehold valuation tribunal:**

**Lady Wilson**

**Mr B H Hord CBE FRICS**

**Mr O Miller**

**Date of the tribunal's decision: 18 October 1999**

## **Background**

1. 23A Eaton Square is a substantial house, built about 1825 and now listed grade 2\*, with a gross internal floor area of 5508 square feet. It is situated to the south-east of Eaton Square and has its entrance on the busy Eccleston Street. The house has a 70 foot frontage and is essentially on three floors, although, because it appears to have been formed by combining earlier separate accommodation, the part of the house to the northern side of the main entrance is on lower ground, ground and one upper floor and that to the southern side is on ground, first and second floors. The accommodation includes a barrel vaulted drawing room, a dining room, study, nine bedrooms, three bathrooms, conservatory and roof terrace.
  
2. The freehold and first two head leasehold interests are owned by different entities within the Grosvenor Estate ("Grosvenor"), and it is agreed that these are to be treated as a single interest. Sterling Finance Company Limited ("Sterling") holds an intermediate lease dated 30 March for a term of 99 years expiring on 25 December 2035 with, thus, 38.25 years unexpired at the valuation date, at a rent of £120 per annum throughout the term. Mrs Adler ("the tenant") holds an underlease dated 22 June 1994 for a term of 23 years from 25 December 1993, with approximately 19.25 years unexpired at the valuation date, at a rent of £120 per annum throughout the term.
  
3. It is agreed that the statutory basis of valuation for the enfranchisement price is under section 9(1C) of the Leasehold Reform Act 1967, that Grosvenor's loss of rental income is to be capitalised for 38.25 years at 6.5%, that the value of Grosvenor's reversion is to be deferred at 6%, that the value of Sterling's reversion is to be deferred at 7%, and that the tenant should receive 50% of the marriage value.

4. According to the valuation of Mr Ian MacPherson for Grosvenor, a copy of which is attached to this decision as appendix A, the premium should be £1,285,100, and according to the valuation of Mr Simon Marr-Johnson for the tenant, a copy of which is appendix B to this decision, the premium should be £721,481.

5. The issues are:

- (i) the value of the unimproved freehold,
- (ii) the value of the tenant's existing interest,
- (iii) the value of Sterling's present interest, and
- (iv) the apportionment of the price between Grosvenor and Sterling.

6. On 26 July 1999 we inspected the property, and we externally inspected all the comparables relied on by Mr Pope for Grosvenor and by Lord Francis Russell for the tenant and for the intermediate landlord.

### **Decision**

#### **(i) The value of the unimproved freehold**

For Grosvenor, Mr George Pope said that the unimproved freehold had a value, on 20 August 1997, of at least £3.2 million. He emphasised the wide and imposing façade of the property which was generally "low built", which he considered to be a significant advantage. He highlighted the magnificent first floor drawing room, elegant dining room, large entrance hall and roof terrace, but he agreed that the very busy Eccleston Street was one of the worst locations in Belgravia. He took into account the following comparable evidence:

- (i) the premium of £750,000 for the underlease for a term of 23 years from December

1993, which he upgraded for passage of time via the Savills' Index, which he produced, and to freehold value via the John D Wood & Co/Gerald Eve graph, which he also produced, which gave a freehold value for the subject of £2.73 million.

(ii) 13 Chester Square (also relied on by Lord Francis Russell), an unmodernised house together with a mews cottage sold on a 53.75 year lease in January 1997 for £1.5 million. He similarly adjusted this transaction for passage of time, to freehold value and for size, to arrive at a freehold value for the subject of £2.65 million, but said that 13 Chester Square was inferior to the subject in being on six floors and with no outside space.

(iii) 6 Belgrave Place (also relied on by Lord Francis Russell), a low-built house which Mr Pope considered to be the best comparable. The freehold was sold in October 1996 for £1.1 million which he upgraded for time and size to £2.728 million. He regarded the comparable as significantly inferior to the subject. It was in a different section of the market being half the size of the subject, was without its grandeur and had a gloomy lower ground floor drawing room, an internal kitchen and no outside space.

(iv) 64 Chester Square, which, like the subject, had its main entrance in Eccleston Street. A lease of 89 years was sold in December 1994 for £3.275 million. This was a substantial house on six floors with a gross internal area of 7000 square feet. Mr Pope upgraded by 5% to freehold and adjusted for size and passage of time to arrive at a freehold value for the subject of £3.955 million. The house had, he accepted a roof terrace (of which he was not aware when he made his report), and was newly refurbished by a developer to a high standard at the date of sale.

(v) 8 Lyall Street, a four storey house in a quieter location than the subject, the freehold of which was sold, together with an adjoining leasehold mews house, in January 1998 for £4.4 million, £650,000 of which (or £750,000, according to Lord Francis) was said by the vendor's agent to have been apportioned to the mews, and the remainder to the house and a garage held on a separate lease. Adjusted for date of sale and for size, he arrived at a value of £4.14 million for the subject. Cross-examined, he accepted that its façade

was more attractive than that of the subject.

(vi) 22 Chester Square, which was, he accepted, not an ideal comparable, being in a Square and away from the traffic, but, he considered, of assistance. The lease of the property was sold in August 1996 with the benefit of a notice of claim, and the price paid for the freehold together with the enfranchisement price was £2.235 million. Upgraded for passage of time and adjusted for floor area, he arrived at a price for the freehold of the subject of £3.43 million. Despite its inferior location, he had no doubt that the property (which he had inspected internally) would at the relevant time have sold for less than the subject.

(vii) 11 Chester Square, another mid-terrace house in the Square, sold freehold in October 1998 for £2.7 million, which he adjusted for size and date to £3.38 million, without taking into account the superior location of the comparable but what he considered to be the disadvantage of its six storey layout and very small roof terrace.

Asked about the further comparables on which Lord Francis Russell had relied, Mr Pope said he did not consider Chandos House to be a particularly apt comparable, being on four floors, but nevertheless, if the transaction was down-graded for date and upgraded for size, he derived from it a value of £2.35 million for the subject. He accepted that its location was quieter. He considered 32 Eccleston Street to be inferior because of its address, and said that Lord Francis had adjusted for date of sale by reference to the wrong figure in the Savills' Index. He considered 118 Eaton Square irrelevant because it was so much larger than the subject. He did not consider helpful Lord Francis's valuation approach of taking basements at 70% of the value of higher floors, and he considered it particularly inapt to regard true basements and lower ground floors as equivalent to each other.

Lord Francis Russell proposed a freehold value of £1.85 million. He said that the

property was effectively an Eccleston Street house, which reduced its value because of the heavy volume of traffic. He produced a letter from Knight Frank to the effect that, in the opinion of the writer, a house in Chester Square would achieve a premium of 20 to 30% above the price of an identical house in Eccleston Street. He said that 43% of the floor area, an unusually high proportion, was located at basement and lower ground floor levels. Research showed that lower ground floor space was worth some 30% less than upper floor space in flats of the same size. On that basis he adjusted the gross internal area by deducting 30% of the basement or lower ground floor areas to arrive at what he termed gross internal first class space of 4791 square feet. He said that the kitchen and bathrooms were outdated and the number of bathrooms was below standard for the area. He considered that the likely purchaser of a property of this size which required refurbishment was a developer rather than an owner occupier, and that a developer would be prepared to pay only a price which would allow for an instant profit after allowing for borrowing and refurbishment costs. He relied on the following comparables:

(i) 13 Chester Square, which he adjusted by taking basement floor areas at 70% of their actual area, adding the capitalised ground rent of £2200 per annum, deducting 20% for location and then adjusting for size, passage of time and for lease length, to arrive at £1,928,899 for the subject.

(ii) Chandos House, 17A Chester Street, sold freehold in September 1998 for £1.7 million. The property had a floor area of 3599 square feet and required refurbishment at the date of the sale. He adjusted to arrive at "first class space" by taking a percentage of the actual area for basement space, storage space and space to be added in the refurbishment, added 15% for "genuine low build" and quieter location, for time and floor area, and arrived at a value for the subject of £1,791,834.

(iii) 32 Eccleston Street, sold on a 68.75 year lease in February 1999 for £1.09 million. This had a floor area of 3224 square feet, including a basement flat, and had a garage

and garden. He adjusted the price for basement space, as above, added the capitalised ground rent, and adjusted for passage of time and lease length, to arrive at a value for the subject of £1,737,592. He had made no allowance for the fact that the lease was enfranchisable.

(iv) 6 Belgrave Place, which he said had been well refurbished at the date of sale. He considered that there would be a wider market for this smaller house than for 23A Eaton Square. He had inspected the property internally, and the drawing room, though at basement level, had not struck him as particularly gloomy, but he agreed that the property did not have the same grandeur as the subject. His adjusted figure for the subject, after adjusting for basement space and time, was £2,769,198.

(v) 118 Eaton Square, sold on a new 75 year lease for £2.55 million in September 1996. This had an internal area of 10,615 square feet. It was at the junction of Eaton Square and the busy Upper Belgrave Street, but had the advantage of an extensive frontage to Eaton Square. He adjusted for basement space, capitalized ground rent, time and lease length and arrived at a value for the subject of £1,796,039.

(vi) 64 Chester Square, the sale of which, refurbished, in December 1994 had been relied on by Mr Pope. Lord Francis relied on the earlier sale to the developer in February 1994 for £1.1 million. He adjusted the transaction by allowing for basement space, new space to be created from the development, garage space and terrace, for the capitalised value of the ground rent, and for time and lease length, to arrive at an adjusted value for the subject of £1,562,584. He said that the subsequent sale on which Mr Pope had relied was to a special purchaser and was not an open market transaction.

(vii) 8 Lyall Street, which he understood the Estate's valuers to have valued at £2.2 million freehold in October 1996, when the sale, dependent upon the acquisition of the freehold, was agreed. He believed that the purchaser in January 1998 had paid too high a price. The need to apportion the price between the main house, mews and garage must, he considered, affect its validity as a comparable.

Lord Francis said that he knew too little about the sale of the lease of the subject house to the tenant to attach weight to it as a comparable. He was aware that the tenant and the intermediate landlord were connected, and the transaction was not made in the open market.

We have concluded that the value of the freehold at the valuation date was £2.8 million. In our view the property is unique, and its fine main reception rooms more than compensate for its somewhat random layout, and its lower ground floor accommodation has, generally, good natural light. We accept that its location is, for Belgravia, relatively poor, and would have a substantial impact on value. We do not accept that it is appropriate in this case to make the very large deduction from value for basement space which Lord Francis proposes, unless a major addition is made for the grandeur of the reception rooms, and unless an adjustment is made for top floor space in the five or six storey comparables. None of the comparables is particularly helpful, since all require major adjustments to compare them with the property we are considering. The least unhelpful, in our view, are 13 Chester Square, 6 Belgrave Place, 64 Chester Square and 32 Eccleston Street. All, with the possible exception of 6 Belgrave Place, are relatively poorly located for Belgravia. 13 and 64 Chester Square and 32 Eccleston Street are different in character from the subject, and 6 Belgrave Place is half its size and for that reason would be likely to appeal to a different market, although not, in our view, necessarily to a less restricted one. Mr Bannister for the tenant criticised 6 Belgrave Place as a hopeless comparable, but we think this is unfair, particularly as his own valuer relied on it to some extent. We consider that Lord Francis Russell may well be correct to say that the subject property would appeal primarily to developers, although we do not consider that it would be restricted to that market, or that this factor would necessarily reduce its value. We have considered and taken into account the other comparables proposed by the parties' valuers and have attached some weight to the price paid for the



lease of the subject property to the tenant, although we have borne in mind that it was not tested in the open market and that the sale of a 23 year lease requires a very major adjustment to arrive at the value of the freehold, and this transaction is thus of only marginal help.

**(ii) The value of the tenant's existing interest**

Mr Pope proposed a value for the tenant's existing lease of £1,337,500, which he based on 41.8% of his freehold value. He considered that market evidence, if it were available, would be likely to be tarnished by the effect of the Leasehold Reform Act as amended, and he therefore relied on the John D Wood & Co/Gerald Eve graph which was, he says, updated in 1996 to take into consideration a large number of settlements and decisions of the leasehold valuation tribunal and of the Lands Tribunal. Mr MacPherson added that the extension of enfranchisement rights by virtue of the Leasehold Reform, Housing and Urban Development Act 1993 had reduced the amount of untainted evidence available and had encouraged a tendency for valuers acting for tenants to value their clients' existing leases at ever higher proportions of freehold value. He quoted leasehold valuation tribunal determinations in respect of leases on the Grosvenor Estate of between 15 and 21.25 years, and his analysis of settlements on the same estate in respect of leases of between 18.25 and 20 years, which showed relativities of between 31 and 42%, the higher relativities tending to be in the more recent settlements. He considered that the changes in relativity as time had gone by to be a result of a "reverse *DeLaforce* effect", since tenants, particularly of more valuable houses, tended to gain an advantage from delay, whereas the landlord did not, and was thus encouraged to settle.

Mr Simon Marr-Johnson for the tenant proposed a leasehold value of £832,500, based on 45% of Lord Francis Russell's freehold valuation. He said it was generally accepted

that the ratio of the value of a short lease to the freehold was higher in the best areas., and he considered that properties with an Eaton Square address justified a higher relativity than properties in other places. He cited the ratio adopted by a leasehold valuation tribunal in 36/37 Eaton Mews South, which was 52.25% for a lease of 20.25 years; the prices achieved for a 15.6 year lease and quoted for the 99 year lease of a maisonette at 111 Eaton Square which suggested a relativity of 64%; and terms quoted by the Grosvenor Estate for a lease extension of a maisonette at 90 Eaton Square, which suggested a ratio of nearly 50% for an 11.5 year lease and a 74 year lease.

We have valued the tenant's existing interest at £1,173,200, which is 41.9% of the freehold value, which is in line of our reading of the John D Wood & Co/Gerald Eve graph. We agree with Mr Pope and Mr MacPherson that we must have regard to settlement evidence on the same estate, particularly in the absence of market evidence. We do not regard the evidence which Mr Marr-Johnson gave us in relation to 111 and 90 Eaton Square to be sufficiently precise to be of significant help, and we are not satisfied of the existence of an "Eaton Square effect" on relativities, and we would in any event be reluctant to apply it, even if we were satisfied that it existed, to a property which, though having the advantage of an Eaton Square address, is effectively in Eccleston Street.

**(iii) The value of Sterling's present interest**

Applying the same ratio, we have concluded that this had, at the valuation date, a value of 41.4% of the freehold value, namely £1,159,200.

**(iv) The apportionment of the price between Grosvenor and Sterling**

Mr MacPherson, in his written valuation, apportioned the enfranchisement price equally between Grosvenor and Sterling on the basis that the values of their existing interests are similar, and that the most likely outcome of a friendly negotiation between the parties is that they would agree on an equal division. At the hearing, however, he added that if the tenant in effect controlled Sterling and obtained all the benefit of Sterling's receipts from the enfranchisement, she would have, effectively, the benefit of the combined interests of herself and Sterling, and that Grosvenor should have the whole of the landlord's share of the marriage value.

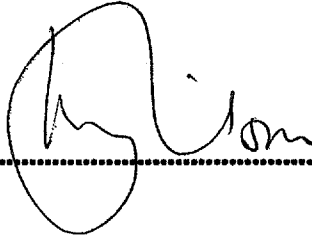
Mr Bannister submitted that we should apportion the marriage value in proportion to the value of the respective interests of Grosvenor and Sterling, as we would in the case of a determination under the Leasehold Reform, Housing and Urban Development Act 1993. He submitted that it would be wrong for us to lift the corporate veil and to assume that the tenant and Sterling are one and the same, and we are quite satisfied, on the evidence put before us, that, in the circumstances of this case, he is correct. The only material on this aspect which was put before us was a letter from an off-shore company purporting to confirm that Sterling formed part of the assets of a discretionary foundation of which the tenant was one of a number of beneficiaries. The letter stated that the tenant did not have control over the exercise of any of the trustees' powers, and that the amount which we apportioned to Sterling would be payable to the company and not to the tenant. On the basis of the information before us, we have treated the tenant and Sterling as separate entities, and we have decided to apportion the marriage value in proportion to their interests as we have determined them.

### **Determination**

We have therefore concluded, in accordance with the valuation attached to this decision,

that the price payable for the freehold of the property is £1,120,987, of which £549,824 is payable to Grosvenor and £571,163 to Sterling.

**CHAIRMAN** .....

A handwritten signature in black ink, appearing to be 'G. Wilson', written over a dotted line.

LEASEHOLD REFORM ACT 1967 AS AMENDED  
Section 9(1C)  
Valuation  
of  
23A Eaton Square, London, SW1  
at 20th August 1997  
by  
Ian Macpherson M.A. FRICS

VALUATION IN ACCORDANCE WITH SECTION 9(1C) OF THE LEASEHOLD REFORM ACT 1967

	£	£	£
<b>1</b> <u>Valuation of Grosvenor's Interest</u> <u>exclusive of marriage value</u>			
Rent receivable per annum	120		
Years purchase for            38.25    years @            6.5%	14.001		
Reversion to value of freehold in possession as advised by Mr Pope		1,680	
Deferred                            38.25    years @            6.0%	3,200,000 <u>0.108</u>		
		345,600	
			347,280
<b>2</b> <u>Valuation of Intermediate Lease held by Sterling Finance Co Ltd</u> <u>exclusive of marriage value</u>			
Rent receivable per annum	120		
Rent payable per annum	120		
Profit rent		nil	
Reversion to value of lease with 19 years unexpired at fixed rent of £120pa as advised by Mr Pope	1,325,000 <u>0.272</u>		
Deferred                            19.25    years @            7.0%		360,400	
			360,400
<b>3</b> <u>Total Value of Landlords Interest</u> <u>exclusive of marriage value</u>			707,680
<b>4</b> <u>Add lessor's share of marriage value</u>			
Value of freehold interest with vacant possession		3,200,000	
<u>Less</u>			
Value of Grosvenor's interest exclusive of marriage value		347,280	
Value of Intermediate lease held by Sterling Finance Co Ltd exclusive of marriage value		360,400	
Value of Claimant's underlease with 19.25 years unexpired as advised by Mr Pope		1,337,500	
Gain on marriage		2,045,180	
		1,154,820	
Attributed to lessor @            50%			577,410
<b>Enfranchisement price</b>			1,285,090
<u>Add for other loss</u>		Say	1,285,100



**Leasehold Reform Acts 1967 & 1993**

**23a Eaton Square, London SW1**

<u>Valuation as at</u>		Aug 1997 claim	Dec 2035 expiry	
Freeholders' interest				£120
Ground rent per annum:				£120
Years' purchase for:	38.3 years at	6.5%		<u>14.008</u>
				£1,681
Reversion to freehold with vacant possession				£1,850,000
Present value of £1 after:	38.3 years at	6%	<u>0.107142</u>	
				<u>£198,212</u>
<b>Open market value of freeholders' interest</b>				<b><u>£199,893</u></b>

<u>Intermediate Leasehold Valuation as at</u>		Aug 1997 claim	Dec 2035 expiry	
Profit rent per annum:				£0
Reversion in December 2016				
Freehold value as above		£1,850,000		
Capital value of 19 years' lease @		<u>45%</u>		£832,500
Present value of £1 after:	19.3 years at	7%	<u>0.270952</u>	
<b>Open market value of headlessees' interest</b>				<b><u>£225,568</u></b>

**Marriage Calculation**

Freehold as above				£1,850,000
less freeholders' interest		£199,893		
headlessee's interest		£225,568		
and sublessee's interest @ 45%		<u>£832,500</u>		
(ignoring the right to claim)				<u>£1,257,961</u>
Total marriage value				£592,039
Landlords' share @ 50%			0.5	
				<u>£296,019</u>
<b>Enfranchisement price exclusive of costs</b>				<b><u>£721,481</u></b>

Apportionment of marriage value:				
Freeholder	£199,893	46.98%	+	£139,078
Headlessee	<u>£225,568</u>	<u>53.02%</u>	+	<u>£156,941</u>
	£425,461	100.00%		£296,019
				£338,971
				£382,509
				£721,481

**C S R Marr-Johnson**

**28th May 1999**





LEASEHOLD REFORM ACT 1967 AS AMENDED SECTION 9(1) c VALUATION

23A EATON SQUARE, LONDON SW1

VALUATION IN ACCORDANCE WITH SECTION 9(1) C OF  
THE LEASEHOLD REFORM ACT 1967

1) VALUATION OF FREEHOLDER'S INTEREST EXCLUDING MARRIAGE VALUE

	£	£	£
Rent Receivable per annum	120		
Years purchase for 38.3 years @ 6.5%	<u>14,008</u>	1,681	
Reversion to value of freehold with possession	2,800,000		
Present value of £1 in 38.13 years @ 6.0%	<u>0.107158</u>	<u>300.042</u>	
VALUE OF FREEHOLD INTEREST			301,723

2) VALUATION OF INTERMEDIATE LEASE HELD BY STERLING FINANCE CO LTD EXCLUDING MARRIAGE VALUE

Profit Rent		0	
Reversion in December 2016			
Freehold value	2,800,000		
Capital Value of a 19 year lease	<u>41.4%</u>	1,159,200	
Present Value of £1 in 19.3 years @7%		<u>0.270403</u>	
VALUE OF INTERMEDIATE HEADLESSES INTEREST			<u>313,451</u>

3) TOTAL VALUE OF LANDLORD'S INTEREST EXCLUDING MARRIAGE VALUE 615,174

4) MARRIAGE VALUE CALCULATION

Value of freehold interest with vacant possession		2,800,000	
<u>less</u> freeholder's interest	301,723		
intermediate headlessee's interest	313,451		
value of sublessee's interest			
being 19.3 year (41.9% of freehold value)	<u>1,173,200</u>	<u>1,788,374</u>	
MARRIAGE VALUE		1,011,626	
Landlord's share of marriage value @ 50%			<u>505,813</u>
	ENFRANCHISEMENT PRICE		1,120,987

5) APPORTIONMENT OF MARRIAGE VALUE AND ENFRANCHISEMENT PAYMENT

Freeholder	301,723	49.05%	248,101	549,824
Headlessee	<u>313,451</u>	<u>50.95%</u>	<u>257,712</u>	<u>571,163</u>
	615,174	100.00%	505,813	1,120,987

ENFRANCHISEMENT PRICE PAYABLE £1,120,987 TO BE APPORTIONED BETWEEN £549,824 TO GROSVENOR AND £571,163 TO STERLING FINANCE CO LTD.