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LON/LVT/1079/99

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

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL IN AN  
APPLICATION UNDER SECTION 48 OF THE LEASEHOLD REFORM ACT 1967  
AS AMENDED BY THE LEASEHOLD REFORM  
HOUSING AND URBAN DEVELOPMENT ACT 1993**

Address: 51 Springfield Road, St John's Wood, London NW8

Applicants: The Trustees of the Eyre Estate

Respondents: Dr & Mrs S S Sanders

Tenant's Notice of claim dated: 25 June 1998

Landlord's counter-notice dated: 14 August 1998

Application to the Tribunal dated: 27 January 1999

Date of hearing: 28 September 1999

Appearances: Mr G Pemberton (Lee & Pembertons, Solicitors)

for the Applicants

Mr K G Buchanan BSc (Est Man) ARICS (Conrad Ritblat,  
Chartered Surveyors)

for the Respondents

Members of the Leasehold Valuation Tribunal:

Mr J C Sharma JP FRICS

Mr J C Avery BSc FRICS

Mrs S E Baum JP

Date of the Tribunal's decision: 16 November 1999

## **INTRODUCTION**

1. By a Notice dated 25 June 1998 the Respondents claimed to exercise their rights under Part 1 of the Leasehold Reform Act 1967 (the Act) to acquire the freehold of 51 Springfield Road, London NW8.
2. By a Notice dated 14 August 1998 the Applicants admitted the Respondents' rights to acquire the freehold.
3. The parties however could not agree the price payable for the freehold and accordingly the Applicants applied to the Leasehold Valuation Tribunal on 27 January 1999 for a determination of the price payable under Section 9 of the Act.

## **FACTS**

4. No. 51 Springfield Road is a semi-detached 1960's style house of brick construction under tiled roof on lower ground, ground and upper floors. There is an integral garage and off street parking.
5. The existing lease is dated 29 January 1965 and was granted for a term of 99 years from 25 December 1961 at a ground Rent of £80 p.a. for the first 35 years, £150 p.a. for the next 35 years and £175 p.a. for the remainder. The lease is on a full repairing and insuring terms.
6. It was agreed that:-
  - (a) The original lessee under the existing lease was Mr J P Stacey.
  - (b) Mr Stacey entered into a building agreement with the Applicants in, or around, February 1962.
  - (c) Under the terms of the building agreement, the Applicants agreed to grant Mr Stacey a lease in consideration of the construction of a house by Mr Stacey.

(d) The construction of the house involved the demolition of the previous house which stood on the site.

(e) Pursuant to the terms of the building agreement, Mr Stacey constructed the house at his own expense. This included the demolition of the previous house. He was duly granted the lease.

(f) Mr Stacey assigned the lease to the Respondent in 1986.

A Statutory Declaration of Mr Stacey confirming the above was lodged with the Tribunal.

## **THE ISSUE**

7. The single issue in dispute between the parties is whether the construction of the house which now stands on the site falls to be disregarded in the valuation process as an improvement in accordance with Section 9(1A)(d) of the Act.

## **STATUTORY PROVISIONS**

8. Section 9(1A)(d) of the Act states “on the assumption that the price be diminished by the extent to which the value of the house and premises has been increased by any improvement carried out by the tenant or his predecessors in title at their own expense.”

Section 3(3) of the Act states “Where the tenant of any property under a long tenancy, on the coming to an end of that tenancy, becomes or has become tenant of the property or part of it under another long tenancy, then in relation to the property or that part of it this Part of this Act shall apply as if there had been a single tenancy granted for a term beginning at the same time as the term under the earlier tenancy and expiring at the same time as the term under the later tenancy ”

## HEARING

9. At the Hearing on 28 September 1999, the Applicants were represented by Mr G Pemberton and the Respondents were represented by Mr K G Buchanan. It was agreed that the Tribunal would not benefit from an inspection of the property; no inspection took place therefore.

10. Mr Buchanan's primary contention was that the effect of the improvements disregard in Section 9(1A)(d) is that the unimproved value ought to be taken to be site value i.e. the value of the house itself should be ignored. He said, alternatively, if the primary contention is rejected then the disregard should only be for works of improvement carried out during the term of the lease. On this basis the parties have agreed that the enfranchisement price would be £160,000.

No other valuation evidence was put to the Tribunal.

11. In support of his primary contention he referred to the Skeleton Argument provided by Counsel, Mr E Johnson, which was previously lodged with the Tribunal.

12. Mr Johnson summarised the Respondents' case as follows:-

(a) The building agreement, which was an agreement for the grant of the lease to Mr Stacey, gave rise to a tenancy in equity of the property on the terms of the lease. Mr Stacey being the tenant under that equitable tenancy.

(b) The tenancy in equity was a long tenancy within the meaning of Section 3(3) of the Act.

(c) At the date when the tenancy in equity came to an end, on the grant of the lease, the tenant under the tenancy in equity was Mr Stacey. Accordingly the lease and the preceding tenancy in equity can be treated as one lease by virtue of Section 3(3) of the Act.

(d) The house was constructed by Mr Stacey in his capacity as predecessor in title of the Respondents at his own expense.

(e) The construction of a house is capable of qualifying as a work of improvement under Section 9(1A)(d) of the Act.

(f) Accordingly the construction of the house falls to be disregarded in the valuation process.

13. In support of the arguments that the building agreement gave rise to a tenancy in equity and that the demolition and reconstruction of a house could be a relevant improvement to be disregarded. Mr Johnson's Skeleton Argument made reference to the following cases:-

(a) Walsh v Lonsdale (1882)21 Ch D9

(b) Hasham v Zenab (1960) AC 16

(c) Michaels v Harley House (Marylebone) Ltd (1999) 1 All ER 356

(d) Clibett v Avon District Council (1975) 237 EG 271

(e) Hambros Bank v Superdrug Stores (1985) 1 ELGR 99

(f) Re Wonderland, Cleethorpes (1965) AC 58

(g) National Electric Theatres v Hudgell (1939) CH 553

(h) Sainty v Ministers of Housing and Local Government (1964) 15 P&CR 432 CA

(i) Price v Esso Petroleum (1980) 2 EGLR 58

He also referred to Rosen v The Trustees of the Campden Charities (30 July 1999). In that case, his Honour Judge Rich QC, sitting as a Member of the Lands Tribunal decided that the building agreement under consideration did not give rise to a tenancy in equity. He submitted that this decision was wrong and that it is under appeal to the Court of Appeal.

14. Mr Pemberton said that it was a policy of the Applicants to take back poor buildings and enter into contracts to demolish and rebuild. A certificate of completion had to be issued before a lease was granted.

15. The building agreement for the subject property was not produced. But the parties agreed that the terms and conditions would have been similar to other such building agreements entered into by the Applicants. Mr Pemberton subsequently provided building agreements for the following properties:-

- (a) 8/10 Springfield Road
- (b) 59/61 Springfield Road
- (c) 71 Springfield Road
- (d) 73 Springfield Road
- (e) 34 Avenue Road

For completeness, the agreement for 8/10 Springfield Road is attached to this decision as an Appendix.

16. Mr Pemberton read Clause 17 (18 in the case of 34 Avenue Road) which states:-

“When and so soon as the buildings and works (except decorations) of any such dwellinghouse shall have been finished and executed in accordance with the provisions hereof and a certificate to that effect signed by the Estate Surveyors shall have been produced to the Freeholders the Freeholders shall grant to the Tenant or his approved nominee or nominees a lease of such dwellinghouse. The Tenant or such nominee or nominees shall thereupon accept and execute a Counterpart of such lease. Provided always that upon production of a certificate by the Owners Architect that the dwellinghouse has been completed the Estate Surveyors shall subject to inspection issue or decline to issue their certificate within seven days thereafter.”

17. The Tribunal also noted Clause 19 (20 in the case of 34 Avenue Road) which states:-

“As from the date hereof until a lease shall have been granted of the said premises the Tenant shall be deemed to be Tenant at will to the Freeholders thereof or such part thereof as shall remain undemised and shall so far as circumstances will admit and subject to the provisions of this Agreement be liable and subject to the same rent and other payments covenants provisions and restrictions as he would be liable or subject to if leases pursuant to the terms of this Agreement had been actually granted and so that the Freeholders shall have and be entitled to all such remedies by distress action and otherwise for recovering rent in arrears and for breach of any of the covenants provisions and restrictions aforesaid on the part of the Tenant as if such leases had been actually granted.”

18. He submitted that the building agreement did not create a tenancy either in law or in equity. Mr Stacey was merely a tenant at will and not a predecessor in title. The provisions under Section 3(3) of the Act do not therefore apply and the Respondents are not entitled to have the price determined at site value.

Mr Pemberton also referred to the Lands Tribunal's decision in the Rosen's case in support of his submission.

## **DECISION**

19. The Tribunal find that the grant of the lease was subject to the condition that a new house must first be built on the site. The building of the house was a consideration for the grant of the lease. The lease therefore did not come into effect until after the house was built.

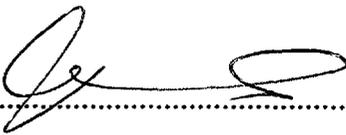
20. The Tribunal are of the opinion that the building agreement did not create a tenancy either in law or in equity. There was therefore no tenancy in existence during the construction of the house that can be brought into account in consequence of Section 3(3) of the Act.

21. The Respondents' primary contention that the unimproved value ought to be taken to be site value is therefore rejected.

22. The Tribunal find that the improvements disregard referred to in Section 9(1A)(d) of the Act should only be for works of improvement carried out during the term of the lease. We understand that on this basis the parties have agreed that the enfranchisement price would be £160,000.

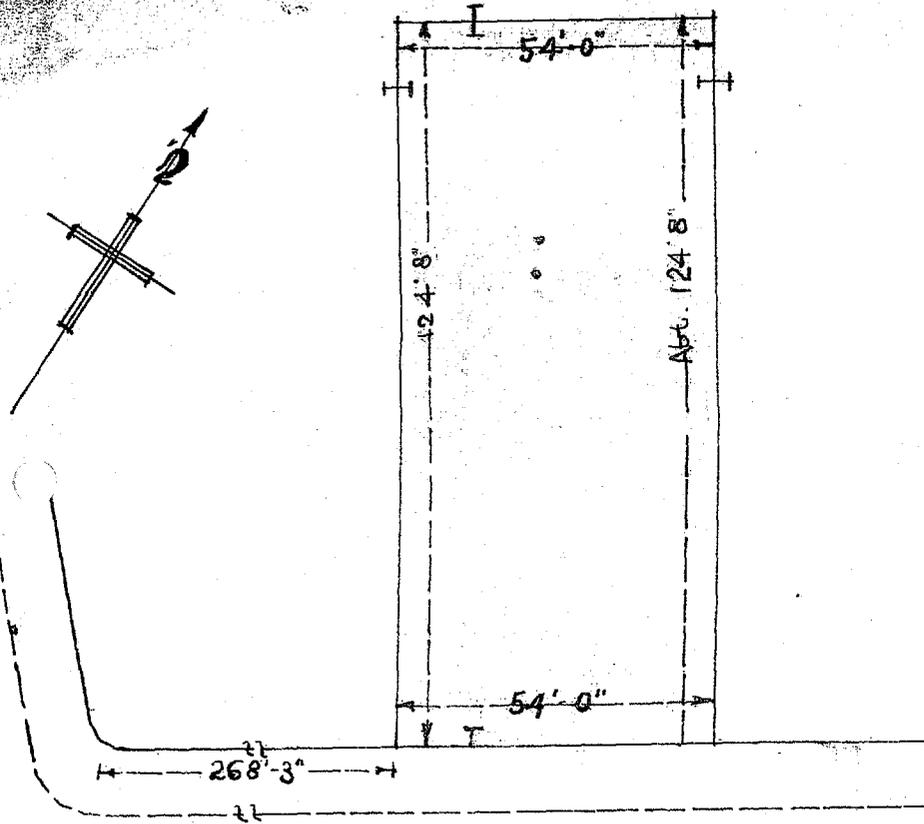
## **DETERMINATION**

23. Accordingly, the Tribunal determined that the price to be paid for the freehold of the property is £160,000.

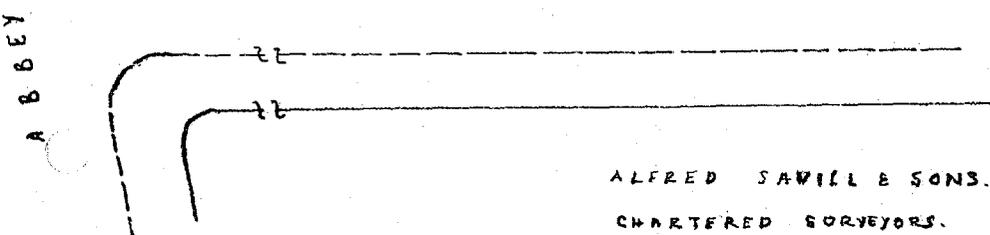
CHAIRMAN .....

DATE: 16 November 1999

R/O SPRINGFIELD ROAD N.W.C.



SPRINGFIELD ROAD



ALFRED SAVILL & SONS.

CHARTERED SURVEYORS.

SCALE THIRTY-TWO FEET TO ONE INCH.

51<sup>st</sup> LINCOLNS INN FIELDS W.C.C.

AGREEMENT made this Sixth day of May One Thousand nine hundred and fifty five B E T W E E N JOHN STEPHEN GILES EYRE and HIGH ARTHUR LOMAS Esquires WALPOLE JOHN EYRE a Commander in the R.N. (Retired) and LEWIS MALCOLM WIKINS Esquire all of 25, St. John's Wood Park, St. John's Wood in the county of London (hereinafter called "the Freeholders" which expression shall include where the context so requires or admits the person or persons for the time being entitled to the premises hereinafter described in remainder or reversion expectant on the determination of the term hereby agreed to be granted) of the one part and LOUIS GARVIN of 32, Springfield Road, St. John's Wood aforesaid (hereinafter called "the Tenant" which expression shall include where the context so requires or admits the successors and permitted assigns of the Tenant) of the other part.

WHEREBY IT IS AGREED as follows:-

1. THE Freeholders shall permit the Tenant to enter upon the piece or parcel of land and premises (hereinafter referred to as "the said premises") situate at St. John's Wood in the County of London and delineated and described in the plan hereto annexed and thereon coloured pink for the purpose of erecting the dwelling-house and premises referred to in the Schedule hereto (which with any works ancillary thereto are hereinafter sometimes referred to as "the said buildings and works").
2. THE Freeholders shall at the times and in the manner and subject as hereinafter provided grant a separate lease of the said dwellinghouse and premises to the Tenant or the Tenant's approved nominee or nominees for the term of Ninety Nine years to be computed from the Twentyfifth day of March One Thousand nine hundred and fifty five at a yearly rent of a peppercorn for the period ending on the Twentyfifth day of March One Thousand nine hundred and fifty six or upon the completion of the said buildings and works whichever be the sooner and thereafter at the yearly rent of ONE HUNDRED POUNDS (£100. 0. 0.) during the remainder of the said term the said rent to be payable clear of all deductions (except Landlord's Property Tax) by equal quarterly payments on the usual quarter days and the intended Lease to be according to the form of lease a draft whereof has been approved and signed by or on behalf of the Tenant with such modifications (if any) as circumstances may require. The first quarterly payment computed

from the Twentyfifth day of March One Thousand nine hundred and fifty six be made on the Twenty Fourth day of June One Thousand Nine Hundred and fifty six or on earlier completion as the case may be. \_\_\_\_\_

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3. THE Tenant will from the commencement of the timbering of such dwellinghouse offices and outbuildings until completion of the same insure and keep insured or cause to be insured and kept insured the same in the joint names of the Freeholders and the Tenant and other parties if any interested in the same with the Sun Fire Insurance Company or some other reputable Insurance Company to be approved of in writing by the Freeholders or their Solicitors on their behalf in the full value thereof for the time being and will whenever required produce to the Freeholders or their Solicitors the Policy or Policies and premium receipts for such insurance and in case of default by the Tenant in effecting and maintaining such insurance or in producing such policy or policies and receipts the Freeholders may effect and maintain such insurance and recover from the Tenant by way of rent all sums paid by them and in case of damage by or by reason of fire the premises shall be forthwith reinstated by the Tenant. \_\_\_\_\_

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Upon production to the Solicitors of the Freeholders of a certificate by the Surveyors of the Freeholders of the due completion of the buildings contemplated by this Agreement the same shall be insured and kept insured by the Freeholders with the said Sun Fire Insurance Company in accordance with the covenant contained in the said draft form of Lease and the premiums paid therefor shall be forthwith recovered by them from the Tenant who hereby agrees to repay such premiums to the Freeholders on demand. \_\_\_\_\_

4. PLANS elevations sections and specifications in detail of the intended buildings prepared by a qualified Architect on behalf of the Tenant have already been submitted to the Freeholders for approval and approved by them and copies shall on or before the date hereof be deposited for their use with their Surveyors (hereinafter referred to as "the Estate Surveyors"). No alterations in the same shall be made without the written authority of the Estate Surveyors which authority shall not be unnecessarily withheld. \_\_\_\_\_

5. SUBJECT to unavoidable delay from the causes hereinafter

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# This Lease

made the  
day of  
One thousand  
nine hundred and fifty-  
Between

(hereinafter called "the Lessors" which expression shall where the context so requires or admits include the person or persons for the time being entitled to the premises hereinafter demised in remainder or reversion expectant on the determination of the term hereby granted) of the one part and

(hereinafter called "the Lessee" which expression shall where the context so requires or admits include the executors administrators and permitted assigns of the Lessee ) of the other part WITNESSETH that in consideration

of the  
yearly rent and covenants by the Lessee hereinafter reserved and contained the Lessors do hereby demise unto the Lessee ALL THAT messuage or dwelling-house garage garden and premises hereinafter referred to as the said premises situate being and numbered  
St. John's Wood in the County of London being part of the Eyre Estate St. John's Wood aforesaid but without including any right of light or air over other ground or premises forming part of the said Eyre Estate Together also with all rights easements and appurtenances including full and free rights of drainage to the said premises belonging or appertaining EXCEPT AND RESERVING to the Lessors the free and uninterrupted passage

and running and transmission of water and soil and gas and electric current from the other parts of the said Eyre Estate through the sewers drains watercourses pipes cables or wires which are now or may hereafter during the term hereby granted be in or under the said premises AND EXCEPT AND RESERVING to the Lessors and any person or persons authorised by them full right at any time or times to rebuild or alter any adjoining or adjacent buildings or erect new buildings on the said Estate to such height elevation extent or otherwise as the Lessors may think fit it being hereby agreed that the access of light and air to any building now standing or hereafter to be erected on the said premises shall until interrupted be deemed to be enjoyed by virtue of these presents which shall be deemed to constitute a consent or agreement in writing for that purpose within the meaning of Section 3 of the Statute 2 & 3 Will. IV. Ch. 71 and accordingly that the enjoyment thereof shall not nor shall these presents prevent any such rebuilding alteration or erection as aforesaid AND ALSO subject to all rights of light and drainage and other easements belonging or appertaining to any adjacent property if any such exist TO HOLD the said premises except and subject as aforesaid unto the Lessee from the                      day of                      One thousand nine hundred and fifty-                      from the term of                      from thence next ensuing determinable nevertheless as hereinafter provided YIELDING AND PAYING unto the Lessors therefor yearly during the said term hereby granted and so in proportion for any less time than a year the rent of

such                      rent to be paid by equal quarterly payments on the usual quarter days clear of all deductions whatsoever (except Landlord's Property Tax) the first of such payments to be computed from the                      day of                      One thousand nine hundred and fifty-                      and made on the day of                      One thousand nine hundred and fifty- and the last payment to be made in advance on the quarter day immediately preceding the expiration of the said term together with the quarterly payment due on such last mentioned day or

immediately on the determination of the said term in the event of the same being determined by re-entry under the proviso hereinafter contained AND the Lessee for and h assigns DO hereby covenant with the Lessors in manner following that is to say That the Lessee

1. (1) WILL during the said term pay the yearly rents hereinbefore reserved and made payable on the days and in manner hereinbefore appointed and will also pay all existing and future rates taxes assessments duties outgoings charges and impositions whatsoever Parliamentary Parochial Local or otherwise assessed charged or imposed upon the said premises or any part thereof or upon the owner or occupier in respect thereof (except Landlord's Property Tax).

(2) WILL also during the said term pay to the Lessors a sum or sums equal to the amount or amounts which they shall expend in pursuance of the covenant by them hereinafter contained for insuring the said messuage and premises against loss or damage by fire including an amount to cover Surveyor's fees in accordance with the R.I.B.A. scale in force from time to time during the term hereby granted and other incidental expenses in connection with reinstatement of the said premises and further insuring in similar manner one year's rent thereof every such sum to be so paid by the Lessee on the day on which the same shall be due to the Insurance Company PROVIDED that in case the said messuage and premises or any part thereof shall at any time be destroyed or so damaged by the means aforesaid as to be unfit for occupation or use then and in such case (unless the insurance of the premises shall have been forfeited by the act or default of the Lessee ) the rent hereby reserved or a fair and just proportion thereof according to the nature and extent of the damage sustained shall until the said premises shall have been rebuilt or reinstated and made fit for occupation or use be suspended and cease to be payable and in case of dispute as to the proportion or period of such abatement the same shall be referred to arbitration pursuant to the provisions in that behalf contained in the Arbitration Act 1950 or any statutory modification or re-enactment for the time being in force such abatement to be in full satisfaction for all claims for damages by the Lessee against the Lessors and these presents shall be deemed to be a submission to arbitration accordingly.

2. WILL at the expense of the Lessee completely finish the said premises with the party walls and fence walls thereof fit in all respects for habitation within three months from the date hereof.

3. WILL at the expense of the Lessee in every third year calculated from the date hereof and in the last three months of the last year of the said term whensoever and howsoever determined in a suitable and workmanlike manner wash and paint with two coats of good oil and white lead in appropriate colours all the outside wood iron cement and stucco work of and belonging to the said premises and all additions thereto And will in every seventh year calculated from the date hereof and in the last three months of the last year of the said term whensoever and howsoever determined in like manner wash and paint with two coats of good oil and white lead and grain and varnish and enamel all the inside parts of the said premises and all additions thereto usually painted grained and varnished and enamelled and wash distemper and whiten all ceilings and colour and strip and repaper or otherwise decorate in an appropriate manner the walls of all rooms lobbies passages and staircases.

4. WILL at the expense of the Lessee throughout the said term where and as often as need or occasion shall require well and substantially repair uphold support maintain drain point pave cleanse paint grain varnish enamel distemper whiten colour strip and repaper glaze amend and keep the said premises as so intended to be put into such repair as aforesaid and all buildings hereafter to be erected upon the ground hereby demised with the appurtenances and all the walls (other than party and party fence walls) fences vaults drains fixtures and easements belonging or which shall belong to the same with all necessary and usual reparations cleansings and amendments whatsoever (damage by fire excepted) and will properly stock cultivate and preserve in good order and condition the said garden with the trees shrubs and turf thereof and keep the walks properly weeded and gravelled.

5. WILL pay a reasonable proportion in common with the owners or occupiers of any adjoining or contiguous premises of the charges of repairing and cleansing all party walls fence walls fences drains ways and other conveniences belonging or which shall belong to the said premises hereby demised or such adjoining or contiguous premises and which shall be used or be capable of being used by the Lessee in common with the owners or occupiers of such adjoining or contiguous premises (damage by fire excepted) such proportion to be paid on demand and in case of difference to be ascertained by the Lessors' Surveyor whose decision shall be final and a proper proportion (to be ascertained in like manner) of whose reasonable charges in respect thereof shall be paid by the Lessee on demand.

6. WILL at the expense of the Lessee execute all such works as may in pursuance of any statutory enactment be directed by any local or public authority to be executed at any time during the said term upon or in respect of the said premises whether by the Landlord or Tenant thereof.

7. WILL at the end or sooner determination of the said term peaceably and quietly leave surrender and yield up unto the Lessors the said premises with the appurtenances being in all things so well and substantially repaired upheld supported maintained drained pointed paved cleansed painted grained varnished enamelled distempered whitened coloured stripped and repapered glazed amended cultivated and kept together with all improvements and additions thereto and all Landlord's fixtures (but not Tenant's fixtures and fittings) which now are or during the said term shall be fixed or set up in or upon the said premises (damage by fire excepted).

8. WILL permit the Lessors and their agents with or without workmen and others twice or oftener in every year during the said term at proper times in the daytime after reasonable

notice to enter into and upon the said premises or any part thereof to examine the condition thereof and to take an inventory of the Landlord's fixtures and things then in and about the same. And if any defects decays and wants of reparation and amendment being a breach of the covenants by the Lessee herein contained shall be found will at the expense of the Lessee well and substantially repair and amend the same within three calendar months next after notice in writing so to do shall have been given to the Lessee or left on the said premises or sooner if requisite.

9. WILL permit the Lessors or their agents and the tenants and occupiers of the adjoining premises at any time or times during the said term at reasonable hours in the daytime after reasonable notice to enter upon the said premises hereby demised for executing repairs or alterations of or upon such adjoining premises making good to the Lessee all damage thereby occasioned.

10. WILL not in any way alter the internal planning the height elevation or appearance nor cut nor injure any of the party or other walls or the principal or bearing timbers or iron steel or other supports of the said premises nor put up any additional buildings or erections thereon without the previous licence in writing of the Lessors.

11. WILL not stop up darken or obstruct any windows or lights belonging to the buildings on the said premises or any adjoining buildings belonging to the Lessors nor knowingly permit any new window light opening doorway path passage drain or other encroachment or easement to be made or acquired into against or upon the said premises hereby demised. And in case any such window light opening doorway path passage drain or other encroachment or easement shall be made or attempted to be made will upon receiving notice give immediate notice thereof to the Lessors and will at the request and cost of the Lessors adopt such means as may be reasonably required or deemed proper for preventing any such encroachment or the acquisition of any such easement.

12. WILL not use or permit the said premises or any part thereof to be used for a school factory hospital or institution or Place of Worship within the operation of the Places of Worship (Enfranchisement) Act 1920 or any Act amending the same nor otherwise than as a private dwelling-house in one occupation

(other than a caretaker's or Minister's house attached to or used in connection with and held upon the same trusts as a Place of Worship) nor permit any spoil or waste upon the said premises nor carry on or permit to be carried on upon the said premises or any part thereof any profession trade or business nor carry on do or permit any pursuit act or thing which may be or become a nuisance damage disturbance or annoyance to the Lessors or occupiers of other houses on the Estate of the Lessors nor place or maintain or suffer to be placed or maintained on any part of the said premises any advertisement placard poster or bill whatsoever other than one Notice Board for the purpose of letting or sale of the said premises nor hold or permit to be held any sale by auction in or upon the said premises or any part thereof nor hang out expose for drying or other purpose any clothes linen or other articles in or on any part of the garden or external parts of the said premises nor without the consent of the Lessors or their Agents cut down nor lop nor top any trees or bushes except such as are dead or decayed.

13. WILL not assign or underlet or part with the possession of any part of the said premises in any way whatever and will not assign or underlet or part with the possession of the said premises as a whole (except as a furnished house for not exceeding one year at any one time) without the previous consent in writing of the Lessors such consent not to be unreasonably withheld and will upon every instrument of underletting (except as a furnished house for a term not exceeding one year) of the said premises to which the Lessors shall have consented and upon every assignment to which the Lessors shall have consented and the grant of any Probate or Letters of Administration affecting the term hereby granted or upon the devolution of such term under any other instrument or by any Order of Court forthwith leave every such assignment instrument of underletting grant of Probate or Letters of Administration or other instrument or a certified copy of any such Order at the Office of the Solicitors for the time being of the Lessors to the intent that the same may be registered in the books of the said Eyre Estate and pay a fee of One Guinea for such registration Provided always that if premises demised by more than one Lease held from the Lessors shall be comprised in any such registrable document the said fee shall be payable in respect of the premises demised by each such Lease.

14. THAT the Lessee will pay unto the Lessors all costs charges expenses including legal costs and fees payable to the Lessors' Surveyors which may be incurred by the Lessors in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925.

15. WILL permit the Lessors or their Surveyors or Agents at any time or times during the last three months prior to the expiration or other sooner determination of the said term to fix notice boards or other notices upon any conspicuous parts (other than windows or doors) of the said premises that the same are to be let and also at all convenient hours in the daytime to enter into with and show the said premises to any persons desiring to view the same and allow any person producing a written authority from the Lessors or their Agents to enter and view the same.

16. IN case at any time during the term hereby granted any dispute shall arise between the Lessee and any other of the tenants of the Lessors relating to the premises to them respectively demised or the party or other walls lights drains water-courses or other easements rights or appurtenances whatsoever relating or belonging thereto or any repairs thereto or nuisance or annoyance arising therefrom then and in every such case such dispute (provided the other party thereto shall also have agreed or become bound so to refer the same) shall be referred to the determination and award of the Surveyor for the time being of the Lessors which shall be final and binding on the Lessee and if the said Surveyor shall award that his fees and expenses or any part thereof shall be paid by the Lessee then the Lessee will pay the same accordingly.

17. PROVIDED ALWAYS and it is hereby agreed and declared that no acceptance of or receipt for rent by the Lessors after notice received by them of any breach of covenant as to the user or permitting the user of the said premises or any part thereof shall be or operate as a waiver wholly or partially of any such breach but that any such breach shall for all the purposes of these presents be a continuing breach of covenant so long as any user contrary to the terms of these presents shall be subsisting and that no person taking any estate or interest under the Lessee shall be entitled to set up any such acceptance of or receipt for rent by the Lessors as a defence in any action or proceeding by the Lessors.

18. PROVIDED ALWAYS that if the said yearly or other rents or any part thereof shall at any time be in arrear or unpaid for twenty-one days after the same shall become due (whether any formal or legal demand thereof shall have been made or not) or in case there shall be a breach at any time of any of the covenants by the Lessee or conditions herein contained then and in any of the said cases it shall be lawful for the Lessors or any person or persons duly authorised by them in that behalf into and upon the said premises or any part thereof in the name of the whole to re-enter and thereupon the term hereby granted shall absolutely cease and determine but subject and without prejudice to any right of action or remedy of the Lessors in respect of any antecedent breach of any of the covenants by the Lessee or conditions herein contained.

19. AND the Lessors do hereby covenant with the Lessee that they the Lessors :—

Will at all times during the said term (unless such insurance shall be vitiated by an act of the Lessee ) insure and keep insured the said demised premises against loss or damage by fire in the full building value thereof including an amount to cover Surveyor's fees in accordance with the R. I. B. A. scale in force from time to time during the term hereby granted and other incidental expenses in connection with the reinstatement of the said premises in the Sun Fire Insurance Office or such other insurance office of repute as they shall appoint AND ALSO insure and keep insured in a similar manner one year's rent thereof AND will upon request produce to the Lessee the Policy of such Insurance and the receipt for the last premium paid in respect of the same AND FURTHER that in case of destruction of or damage to the said premises or any part thereof by fire the Lessors will with all convenient speed (unless such insurance as aforesaid shall have been vitiated as aforesaid) pay and release to the Lessee all moneys received in respect of such insurance (other than the amount received in respect of the rent hereby reserved) as the same shall become expended by the Lessee in rebuilding or reinstating in a good and substantial manner under the supervision and to the satisfaction of the Surveyors of the Lessors the premises so destroyed or damaged and in or towards such rent and payment of the fees of the Surveyors of the Lessors and Lessee .

20. AND the Lessors do hereby to the intent to bind the reversion but not so as to render themselves personally liable in damages for any breach of the covenant hereinafter contained except in respect of their own acts covenant with the Lessee that the Lessee paying the said rent and performing and observing all the covenants by the Lessee and conditions hereinbefore contained shall quietly hold and enjoy the said premises during the said term without any interruption by the Lessors or any person claiming through or under them.

**In Witness** whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

DATED

The Trustees of the E;

—TO—

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# Lease

—OF—

No.

St. John's Wood, in the Coun

Term from

For years - - -

Expires

Rent £ during first

and £ during resic

LEE & PEMBERTON  
46 Lincoln's Inn  
Lond

A  
C. ARTHUR SANDERS, Law Stationer & Pri  
GA. 10631 Kingsway, London, W.C

on One Thousand nine hundred and  
Fourth day of June One Thousand  
on earlier completion as the case

DATED

The Trustees of the Ey

—TO—

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# Lease

—OF—

No.  
St. John's Wood, in the County

Term from  
For years  
Expires  
Rent £ during first  
and £ during residue

LEE & PEMBERTONS  
46 Lincoln's Inn  
London

A  
C ARTHUR SANDERS, Law Stationer & Printer  
GA 10631 Kingsway London W.C.2

red to as "the Estate Surveyors"  
made without the written  
which authority shall not be  
om the causes hereinafter

mentioned work shall within one month from the <sup>Sixth</sup> day of  
<sup>May</sup> One Thousand nine hundred and fiftyfive be commenced and  
thereafter proceeded with continuously the intention of the parties  
being that the said buildings and works shall be completed by  
the Twenty fifth day of March One Thousand nine hundred and fifty  
six or as soon thereafter as is practicable having regard to any  
delays which may occur as is hereinafter provided.

6. IF delay shall arise from existing or future legislation fire  
frost bad weather bankruptcy of the Building Contractor unforeseen  
site conditions or other accident or unforeseen circumstances  
beyond the control of the Tenant or any strike or lock-out stoppage  
of work or combination of workmen or any other cause beyond the  
control of the Tenant or in respect of party walls or rights of  
light or air or drainage or any litigation or arbitration in respect  
thereof then such further time shall be allowed as shall correspond  
with the period of delay so caused. The Tenant shall not during  
the progress of the works or afterwards create or allow any  
unnecessary nuisance or annoyance to neighbours.

7. THE Tenant shall erect execute and finish the said buildings and  
works under the supervision and to the reasonable satisfaction in  
all respects of the Estate Surveyors in a good substantial and  
workmanlike manner with new materials the best of their several  
kinds in accordance with the approved plans elevations sections  
and specifications and subject to the rights (if any) of the Owners  
Lessees or Occupiers of adjoining or adjacent property. Any  
portion of any building not built in accordance with the approved  
plans and specifications shall be amended or rebuilt on notice  
being given by the Estate Surveyors.

8. THE Tenant shall to the reasonable satisfaction of the Estate  
Surveyors do all shoring and other works necessary to uphold and  
protect or to make good any damage to any adjoining or adjacent  
premises (whether belonging to the Freeholders or any other  
person) consequent upon or incidental to the said buildings and  
works.

9. THE building line shall be fixed by the proper authority with  
the approval of the Estate Surveyors and any applications to such  
Authority concerning such building line or any works contemplated  
by this Agreement shall be made with the concurrence of the  
Estate Surveyors at the expense of the Tenant.

10. THE Tenant shall at his own expense conform to all Acts of Parliament for the time being effecting buildings and sanitation in the Metropolis and give all notices and comply with all conditions and regulations prescribed by the proper authorities and also restore all roads footways and sewers which shall have been disturbed to the satisfaction in all respects of the Estate Surveyors and such Authorities and indemnify the Freeholders in respect of all liability (if any) in respect of the matters aforesaid. Any compensation or payment by any Authority in connection with the setting back of the Building line or otherwise in connection with the premises shall belong to the Tenant.

11. NO excavation shall at any time be made without the consent in writing of the Estate Surveyors except for the purpose of foundations or drainage or other purposes contemplated by this Agreement and no earth clay sand loam or gravel shall be dug out or removed from the land or any part thereof except such as is necessary to be dug out or removed for the performance of the said buildings and works.

12. ALL materials and things (other than builder's plant) brought upon or to the said premises to be used in the said buildings and works shall be considered as annexed to the land and the property of the Freeholders and shall not be removed without the written consent of the Estate Surveyors.

13. THE Tenant shall on being given reasonable prior notice afford every facility to the Estate Surveyors and the proper Authorities and their assistants respectively to inspect the said buildings and works and the materials to be used therein.

14. THE Tenant shall not use or allow the said premises to be used for any other purpose whatsoever than strictly for the purpose of this Agreement.

15. THE Tenant shall at all times effectually indemnify the Freeholders from all costs charges damages and claims whatsoever in respect of the said buildings and works and any condemnation of and consequent necessity of reinstating or rebuilding any sanitary works party fences and party or other walls and in respect of any injuries or accidents which may at any time happen to any person or to any adjacent or adjoining buildings or property consequent upon or incidental to the said buildings and works.

16. THE Tenant shall not in any way assign sublet or part with

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thereon without the written  
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to the said buildings or  
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the benefit of this Agreement or any part thereof without the  
previous consent in writing of the Freeholders which shall not  
be unreasonably withheld in the case of a person shown to be  
respectable and responsible.

17. WHEN and so soon as the buildings and works (except decorations)  
of any such dwellinghouse shall have been finished and executed  
in accordance with the provisions hereof and a certificate to that  
effect signed by the Estate Surveyors shall have been produced to  
the Freeholders the Freeholders shall grant to the Tenant or his  
approved nominee or nominees a lease of such dwellinghouse. The  
Tenant or such nominee or nominees shall thereupon accept and  
execute a Counterpart of such lease. Provided always that upon  
production of a certificate by the Owners Architect that the  
dwellinghouse has been completed the Estate Surveyors shall subject  
to inspection issue <sup>or decline to issue</sup> their certificate within seven days thereafter.

18. THE Freeholders shall (if so required by the Tenant) deduce  
their title to the Freehold commencing with the Will and Codicils  
of the Reverend Henry Samuel Eyre proved on the Fourteenth day of  
November One thousand eight hundred and ninety and answer and  
satisfy the reasonable requirements of the Tenant's Solicitors  
as to the validity thereof within two months after being notified in  
writing that the Tenant requires the Title to the Freehold. The  
costs of the Freeholder's Solicitors in regard to the deduction  
of such title and matters incidental thereto shall be paid for by  
the Tenant under Schedule 2 of the Solicitors Remuneration Act  
1881 as varied by subsequent General Orders.

19. AS from the date hereof until a lease shall have been granted  
of the said premises the Tenant shall be deemed to be Tenant at  
will to the Freeholders thereof or such part thereof as shall  
remain undemised and shall so far as circumstances will admit and  
subject to the provisions of this Agreement be liable and subject  
to the same rent and other payments covenants provisions and restrictions  
as he would be liable or subject to if leases pursuant to the terms  
of this Agreement had been actually granted and so that the  
Freeholders shall have and be entitled to all such remedies by  
distress action and otherwise for recovering rent in arrear and  
for breach of any of the covenants provisions and restrictions  
aforesaid on the part of the Tenant as if such leases had been  
actually granted.

20. THE Tenant shall before the grant of the lease pay the fees

of the District Surveyor and any other fees imposed by the proper Authority in connection with the premises to be thereby demised or the buildings and works thereon.

21. THE Lease and Counterpart shall be prepared by the Solicitors of the Freeholders and all expenses attending the preparation engrossment and execution by both parties of the lease and counterpart shall be borne by the Tenant or his approved nominee or nominees who shall on the grant thereof pay the Freeholders' Solicitors their costs of such lease according to the second scale set out in Schedule 1 Part 2 of the Solicitors Remuneration Act 1881 as revised by subsequent General Orders based on the aggregate rent and also pay the stamp duty payable on such lease and counterpart.

22. THE Tenant shall on the signing hereof pay the costs of the Freeholders' Solicitors of the negotiations for preparation and completion of this Agreement in duplicate amounting to £12.12.0. and stamp duties thereon amounting to *£ one shilling*

23. THE Tenant shall pay to the Estate Surveyors their fees the estimated prime cost of the said buildings and works as shown by the plans and specifications approved by the Freeholders and one half of such fee so far as such cost can then be estimated shall be paid on the approval of such plans and specifications. When the certificate for the grant of the lease shall be issued by the Estate Surveyors the balance of the fee payable on the total cost of the work to be done on the premises then to be leased as shown by the plans and specifications finally approved shall be paid to the Estate Surveyors who shall also be entitled to a fee of Four guineas for preparing the plan to be put on such Lease and Counterpart.

24. IF the building operations in progress shall be wholly suspended for the period of <sup>three</sup> ~~one~~ calendar month (except for the causes referred to in paragraph six hereof) or if the Tenant shall neglect or refuse to accept a Lease of the said premises and to execute a Counterpart thereof or to pay the costs fees and expenses as hereinbefore provided within one month after being requested so to do by or on behalf of the Freeholders (in all of which respects time shall be of the essence of the Contract) or shall commit any other breach of these conditions and shall not remedy the same within a reasonable time on receiving notice in writing so to do or if the Tenant shall become bankrupt or make any composition with his creditors then and in every case the Freeholders may resume and

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take possession of the land hereby agreed to be demised and all  
buildings erections materials and plant belonging to the Tenant  
thereon except builders plant without making any compensation  
or allowance to the Tenant in respect thereof and this Agreement  
shall forthwith absolutely cease and determine but without prejudice  
to the right of the Lessors to recover any arrears of rent or other  
money due to them from the Tenant.

25. PROVIDED NEVERTHELESS that the foregoing provision for  
determination and re-entry shall not be enforced against any  
mortgagee of the interest of the Tenant hereunder who shall prior  
to the Freeholders taking steps to lead to such determination and  
re-entry have registered the mortgage with the solicitors of the  
Freeholders paying their fee of one guinea for such registration  
and who shall be able and willing to carry out this Agreement so  
far as the same may remain to be carried out if such mortgagee  
shall within one calendar month after written notice has been  
given to such mortgagee by the Freeholders of the Freeholders'  
intention to re-enter give notice in writing to the Freeholders  
of the mortgagee's intention to carry out this Agreement and if  
the mortgagee shall within two calendar months after such last mention-  
ed written notice shall be given as aforesaid execute a contract  
with the Freeholders to carry out this Agreement so far as it  
remains to be carried out and shall thenforthwith commence so to  
do and in regard to this proviso time shall be deemed to be of the  
essence of the contract. And the Tenant hereby agrees that in  
the event aforesaid the Tenant's interest hereunder may be treated  
by the Freeholders as having ceased as between the Freeholders  
and the Tenant and that the Freeholders may accordingly enter into  
such contract with the mortgagee.

26. ANY dispute difference or question which shall arise between  
the parties hereto touching the construction meaning or effect of  
these presents shall be referred to the arbitration of two persons  
(one to be appointed by each party to the reference) or their  
Umpire and this shall be deemed to be a submission to Arbitration  
within the Arbitration Acts 1889 to 1934 or Statutes amending  
the same.

AS WITNESSES the hands of the said parties.

THE SCHEDULE above referred to  
Works of and incidental to the building of one dwellinghouse

to approved plans and specifications on the site to the satisfaction of the Estate Surveyors and of a minimum prime cost of SIX THOUSAND FIVE HUNDRED POUNDS (£6,500. 0. 0.)

SIGNED BY THE ABOVE NAMED )  
LOUIS GARVIN in the )  
presence of:- )

*Louis*  


*Seal of the Surveyors' Association of the City of London*  
SIGNED by the above named )  
John Stephen Giles Eyre in the )  
presence of:- )

SIGNED by the above named )  
Hugh Arthur Lomas in the presence )  
of:- )

SIGNED by the above named )  
Walpole John Eyre in the )  
presence of:- )

SIGNED by the above named )  
Lewis Malcolm Wilkins in the )  
presence of:- )

THE TRUSTEES OF THE EYRE ESTATE

a n d

LOUIS GARVIN

BUILDING AGREEMENT

as to site 8/10 Springfield Road  
St. John's Wood

Term: 99 years from 25th. Dec. 1954

Yearly rent to 29th. Sept. 1956  
peppercorn (or until earlier  
completion)

Rent thereafter during residue  
of term £100.