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Ref: LON/LVT/1328/00

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Grosvenor Estate Belgravia

Respondent: Ms Debbie Moore

Re: 47 Eaton Mews North, London SW1

Date of Tenant's Notice: 11 May 2000

Application to the Tribunal dated: 1 November 2000

Heard: 3 July 2001

Appearances: Mr P Alier of Counsel  
Mr Stewart of Drummond, Kirkwood Lawson Lewis  
Solicitors  
Mr S B Hanton BSc FRICS of Willmotts  
for the Tenant

Mr S Burrell of Counsel  
Ms L Blackwell of Boodle Hatfield Solicitors  
Mr T Martin BSc (Hons) MRICS of  
Grosvenor Estate Belgravia  
Mr I Macpherson MA FRICS of Gerald Eve  
Mr G Pope FRICS  
for the Landlord

Members of the Leasehold Valuation Tribunal

Mrs J McGrandle BSc (EstMan) ARICS MRTPI Chairman  
Mr J C Rowland ARICS  
Mr P S Roberts DipArch RIBA

Date of the Tribunal's decision: 17.9.01

## **1.0 Introduction**

**1.1** This is an application made by Grosvenor Estate Belgravia ("the applicants") or "Grosvenor") for the determination of the enfranchisement price as at 29 June 2000, the date the claim was admitted, for the freehold interest under S.21 of the Leasehold Reform Act, 1967 ("the 1967 Act") as amended by the Leasehold Reform, Housing and Urban Development Act, 1993 in respect of the house and premises at 47 Eaton Mews North, SW1 ("the property").

**1.2** The tenant, Miss Debbie Moore, ("the respondent") who acquired her interest in February, 1997, holds under a lease from Grosvenor for a term of 34 years from March, 1971. The unexpired term at the date of valuation is 4.75 years. The rent payable under the lease is £250 per annum with no provision for review.

**1.3** Following the hearing on 3 July 2001, the Tribunal made an external inspection of the property and the mews.

## **2.0 The Property**

**2.1** This comprises a 2-storey and full basement (ie 3 floors in all) mews house located at the south-western end of Eaton Mews North with vehicular access only from Lyall Street, the south-western end of this section of the mews being a cul-de-sac. The mews is within the Belgravia Conservation Area. The mews had been extensively altered down the years and only one house, No. 62, could be stated to retain anything like its original appearance. The subject property had a wide frontage - 9m. (29 ft.) - and included a garage. There was no evidence from the road of the basement, not even pavement lights, confirming that it was a wholly excavated floor with certainly no natural light from the front. There was a wide variety of architectural styles. The Tribunal noted the run of mansard extensions from Nos. 49 - 52 incl. and also that Nos. 57,58,59,60,63 had all been extended with mansards (ie 9 in all out of a mews of 18 houses). So far as No. 46 was concerned, where planning permission for a mansard extension had recently been given, part of it had already been extended to three storeys (ex any basement) in the past. This is best shown by the photograph at Appendix 2 submitted on behalf of the respondent.

**2.2** An external inspection was also made of the other mews properties mentioned during the hearing.

## **3.0 Agreed Matters**

**3.1** A statement of agreed facts is attached as Appendix 1. In particular:

- The valuation date is 15.5.00 giving an unexpired term of 4.75 years
- The property has a gross internal floor area (GIA) of 1724 sq.ft.
- There is potential for extension by the construction of an additional (second) floor subject to the receipt of planning permission
- That if an extension were to be constructed, the GIA would be 2299 sq.ft.
- The value of the potential is 60% of the value of the new accommodation as built
- The capital value of the loss of rental income to Grosvenor until lease expiry date is £1,034
- The value of Grosvenor's reversion is to be deferred @6%
- The value of the lessee's interest exclusive of marriage value is 10.75% of the corresponding freehold in possession

## 4.0 Issue

4.1 There was one matter at issue, the value of the freehold interest with vacant possession. By inference, this included the prospect of obtaining planning permission for a mansard extension.

4.2 Valuations prepared by Mr Macpherson for the applicants and Mr Hanton for the respondent are attached respectively as Appendices 2 and 3. These show enfranchisement prices of £1,188,900 (Mr Macpherson) and £1,050,000 (Mr Hanton).

## 5.0 Hearing

5.1 Directions, two sets in fact, had, unusually, been issued in this case, and it is unfortunate that the parties had been unable to exchange evidence as directed before the hearing. Indeed, the respondent's proof of evidence which had certainly been in draft form three weeks earlier had reached the Tribunal members only on the morning of the hearing. As this evidence contained important information including the statement of agreed facts the hearing opened with the Tribunal at a disadvantage.

5.2 In valuing the sole remaining item in dispute, the freehold interest in possession, there were two main issues to be resolved, first, the valuation of the basement floor and, secondly, the extent to which there should be a discount for the risk of not obtaining planning permission for a potential mansard extension.

### 1) Valuation issues

5.3 Both parties had valued the existing ground and first floors of the property respectively @ £732 per sq.ft. (Mr Pope for the applicants) and @ £730 per sq.ft. (Mr Hanton for the respondent). The resultant figures fell well within the bounds of valuation tolerance and were not therefore at issue at the hearing. In support of these figures Mr Pope quoted three transactions at:

6 Eaton Mews North - Freehold. 2-storey. Sold September 1998 for £525,000. Devalued by Mr Pope at valuation date @ £733 per sq.ft.

58 Eaton Mews North - Freehold. 3-storey. Sold August 2000 for £908,000. Devalued by Mr Pope @ valuation date @ £732 per sq.ft.

59 Eaton Mews North - UXT c.50 years. Geared rent reviews. 3-storey. Sold March 2001 for £775,000. Devalued by Mr Pope @ valuation date @ £785 per sq.ft.

12 Eaton Mews North - 2-storey. A recent Tribunal hearing where the respondent had put forward a unit price of £742 per sq.ft.

5.4 It was over the valuation of the basement floor and, to a lesser extent, the potential mansard floor, that the parties differed. In support of his case that the basement had been in an improved condition at the start of the lease in 1971, Mr Pope referred to copies of a signed off plan dated February 1958 pursuant to an Estate licence from which it was clear that the basement had at that time been the subject of tanking and plumbing, including the provision of a WC, a sink with draining board and floor surfacing with red quarry tiles. A later plan dated 1984 ie after the start of the current lease, was annotated to show renewal and replacement of certain fittings. From the 1958 plan Mr Pope deduced that there had been extensive improvements to the basement prior to the start of the current lease. He valued the basement accommodation as improved @ 60% of his unit price of £732 per sq.ft. Mr Hanton, in support of his case that the basement was uninhabitable at the start of the lease, referred to a letter written to him by a former lessee stating that when he acquired the property in the early 1980s it was not in a habitable condition and he had had to commission extensive work which included eradicating damp in the cellar. Mr Hanton valued the basement accommodation @

30% of his unit price of £730 per sq.ft. although he conceded that if he were wrong in his assertion that the basement was unimproved at the start of the lease, then he would be prepared to increase his valuation to 45% of £730 per sq.ft.

**5.5.** Regarding the potential for construction of a second floor, it was Mr Pope's case:

".....in my opinion it is reasonable to consider that an application to build a second floor extension would be favourably considered by Westminster City Council"

and this was endorsed by Mr Macpherson who gave planning evidence. He drew the Tribunal's attention to the number of properties in the south-western section of Eaton Mews North which had mansard extensions; to relevant planning policies in the City of Westminster UDP and to the planning history of properties in the section of the mews under consideration, pointing out where recent permissions had been granted. The most recent was a May 2000 permission at No. 46 adjoining the subject property. There were, he stated, no planning refusals here for mansard extensions. He concluded :

".....it is my conclusion that planning permission could be obtained for the development of the subject house by the addition of a suitably designed second floor under a mansard roof."

although he did concede at the hearing that:

"You can never be 100% certain of obtaining planning permission."

Nevertheless Mr Macpherson made no allowance against Mr Pope's valuation for the risk of not obtaining planning permission. Mr Hanton, on the other hand, had taken his unit price of £730 per sq.ft., applied the agreed 60% to represent site value and had then discounted this net figure by 33% to represent the risk of delay or not obtaining planning permission. In making an allowance of 33%, he stated that no prospective purchaser would pay for a planning permission he did not hold; the cost of holding a £1.2m. property during the planning period was also a factor. He found it impossible to accept that no allowance should be made.

## **6.0 Decision**

**6.1** Although there was a marginal difference in the valuation of the ground and first floors - Mr Pope @ £732 per sq.ft. and Mr Hanton @ £730 per sq.ft. - it was put to us that the difference in the rates applied was within valuation tolerance.

**6.2** The Tribunal have taken the rate of £730 per sq.ft. but in doing so make passing comment on the parties' comparables. Mr Hanton's best comparable was stated by him to be 11 Groom Place which he had devalued @ £524 per sq.ft. But this did not support his figure of £730 per sq.ft. Mr Pope's comparables, implicitly more or less accepted by Mr Hanton, were:

6 Eaton Mews North. This was a 2-storey mews house which would presumably have planning potential for a mansard extension. But Mr Pope in his analysis of the transaction price had made no allowance for this potential. In the present case he is however saying that a similar potential would add 22% to the freehold VP value. His analysis @ £730 per sq.ft. must therefore be much too high.

58 Eaton Mews North. A 3-storey mews house which was considerably smaller (1225 sq.ft cf. 2299 sq.ft. if extended) than the subject property. One would expect the unit price for the larger subject property to be somewhat lower.

59 Eaton Mews North. There was room for error here as so many adjustments needed to be made to the purchase price.

12 Eaton Mews North. This was not an open market transaction.  
Basement

**6.3** In valuing the basement floor, both parties agreed that a substantial discount was called for, Mr Pope putting forward a figure of 60% of his unit price of £732 per sq.ft. and Mr Hanton 30% or possibly 45%. Mr Hanton did not challenge the 1958 plans referred to by Mr Pope and the Tribunal accepts that the property was certainly not uninhabitable in 1971. Although the Tribunal made no internal inspection of the property, floor plans show the basement to be fully fitted out as a kitchen, with study at the rear. There is no evidence in 1971 of a basement kitchen, let alone a study - from the 1958 plans merely a utility room - and it is the Tribunal's view that the removal post-1971 of the kitchen to the basement was an improvement (in that it freed up valuable ground floor space) which falls to be disregarded. Accordingly, they have discounted to 50% the value of the basement accommodation.

#### Mansard floor

**6.4** There was a difference of opinion on the hypothetical completed value of the mansard accommodation, Mr Pope putting an enhanced figure of £760 per sq.ft. on the accommodation in that it would be new and Mr Hanton valuing it at his standard £730 per sq.ft. The Tribunal see no reason to apply a different rate per sq.ft. to this accommodation, the benefit of the new floorspace being offset by the disadvantage of it being on the second floor. They have accordingly adopted the figure of £730 per sq.ft.

**6.5** Much of the evidence concerned the prospect of obtaining planning permission for a mansard extension. The Tribunal have examined the planning evidence to the extent that such evidence was given and have concluded that there is no certainty that planning permission would be obtained. The reasons for reaching this conclusion are, very briefly:

- The number of mansard extensions in the mews is not necessarily a guide as to whether planning permission will be forthcoming
- There was a distinction between No. 46 where planning permission had been obtained and the subject property in that the former had already had a partial roof extension
- The UDP policies quoted are very general and extensively qualified
- The property is within a conservation area and the relevant UDP policy is highly subjective; the views of one planning officer may not necessarily coincide with those of another.

**6.6** To express the kind of view put forward by Mr Pope and Mr Macpherson, namely, that planning permission would be forthcoming, it would normally be prudent to have at the very least submitted a planning application and obtained an officer's recommendation for permission. Mr Hanton's evidence on this matter was far more credible. He gave a realistic view of the market when he stated that no prospective purchaser, when contemplating a property with planning potential, would pay the same price whether or not that planning permission had been granted. Although Mr Macpherson conceded during the hearing that planning permission was never a certainty, he made no adjustment to the site value of the mansard potential to reflect this risk. The Tribunal accept Mr Hanton's evidence on this point and have discounted 25% from the 60% site value of the hypothetical second floor mansard accommodation to reflect planning risk.

#### **7.0 Conclusion**

**7.1** The Tribunal's valuation, determining an enfranchisement price of £1,106,500, is attached as Appendix 4.

CHAIRMAN..... *J. McQuinn*  
DATE..... 17.9.01.....

Appendix 1

**Circumstances of Reference**

Under the Leasehold Reform Act 1967 as amended (LRA 1967) notice was given of the leaseholder's claim for the freehold of 47 Eaton Mews North, "The Subject House", on 15 May 2000.

The claim was admitted on 29 June 2000.

The landlords applied on 1 November 2000 for the Leasehold Valuation Tribunal to determine the enfranchisement price payable and to determine the other terms of the transfer.

The Leasehold Valuation Tribunal's hearing of the case has been arranged for Tuesday and Wednesday 3 and 4 July 2001.

**2. Relevant Tenure Information**

The freehold and intermediate leasehold interests in the Subject House are owned by the Trustees of the Will of the Most Noble The Second Duke of Westminster deceased and Grosvenor Estate Belgravia and Eaton Square Properties Limited (together called "Grosvenor"). It is agreed that they are to be treated as a single interest vested in Grosvenor.

The claimant presently holds a sub-underlease of the Subject House. That lease is dated 29 June 1971 and granted a term from 24 March 1971 until 24 March 2005, and so it had about 4.75 years unexpired at the date of the enfranchisement claim. It reserved a rent of £250 per annum fixed throughout the term.

**3. Description of Subject House**

The Subject House comprises the following accommodation.

Floor	Description	Dimensions In			
		Metres		Feet & Inches	
Ground	Entrance Hall				
	Drawing room	7.62	x	4.27	25'0" x 14'0"
	Study area	4.04	x	2.44	13'3" x 8'0"
	Garage	5.49	x	2.44	18'0" x 8'0"
First Floor	Bedroom	4.50	x	3.96	14'9" x 13'0"
	En-suite Bathroom				
	Bedroom	3.96	x	3.66	13'0" x 12'0"
	Bathroom				
Lower Ground	Cloakroom				
	Kitchen	4.80	x	2.29	15'9" x 7'6"
	Breakfast room	4.27	x	2.36	14'0" x 7'9"

The Subject House extends to a total gross internal floor area of the order of 166.16 square metres (1,724 square feet) divided between floors as follows.

Floor	sm	sq ft
Ground	66.73	718
First	66.73	718
Lower Ground	<u>26.70</u>	<u>288</u>
	<u>160.16</u>	<u>1,724</u>

The Subject House has potential, subject to the grant of planning permission, for the construction of an additional/second floor under a mansard roof. It is estimated that, if the additional floor were to be constructed, the gross internal floor area would be increased by 53.38 (575 square feet) to 213.54 square metres (2,299 square feet).

#### Location of Subject House

The Subject House is situated on the south-east frontage of the western part of Eaton Mews North which is a cul-de-sac parallel with and between Eaton Place to the north and Eaton Square to the south.

This is a central location within Belgravia, which is a well-known high class residential area of well-maintained character in Central London.

Eaton Mews North is within the Belgravia Conservation Area.

### Valuation

It is agreed between the parties that

- (a) the valuation to the enfranchisement is under LRA Section 9(1C),
- (b) the valuation date is 15 May 2000,
- (c) the capital value of the existing rental income of £250 per annum until the claimant's lease would have expired on 25 March 2005 is £1,034,
- (d) the value of Grosvenor's reversion as a freehold in possession should be deferred for 4.75 years at 6% (which is a multiplier of 0.7582),
- (e) the value of the potential, assuming the grant of planning permission, in the freehold with vacant possession for the construction of an additional/second floor under a mansard roof is 60% of the value of that additional new accommodation as built.
- (f) the value of the claimant's existing lease disregarding prospect of enfranchisement is 10.75% of the value for the corresponding freehold in possession.
- (g) Grosvenor should receive the statutory minimum 50% of the marriage value released by the enfranchisement.

This statement is accompanied by a form of the relevant valuation including the parts of it which are agreed.

The only part of the valuation not agreed and thus required to be determined by the Leasehold Valuation Tribunal is the value of the freehold interest with vacant possession in the Subject House on 15 May 2000.



**THE GROSVENOR ESTATE  
LEASEHOLD REFORM ACT 1967 AS AMENDED**

47 Eaton Mews North, London SW1

**VALUATION IN ACCORDANCE WITH SECTION 9(1C) OF THE LEASEHOLD REFORM ACT 1967 AT  
15 May 2000**

by Ian Macpherson MA FRICS

<u>Valuation of lessor's interest exclusive of marriage value</u>		£	£	£
For remainder of term-				
Ground rent currently payable		250		
Years purchase for	4.75 years @ 5.0%	<u>4,1372</u>	1,034	
For reversion to -				
Value of freehold interest with vacant possession		1,440,000		
Deferred	4.75 years @ 6.0%	<u>0,7582</u>	1,091,808	
				1,092,842
<u>Add lessor's share of marriage value</u>				
Value of freehold interest with vacant possession			1,440,000	
<u>Less</u>				
Value of lessor's interest exclusive of marriage value		1,092,842		
Value of lessee's interest exclusive of marriage value	% of Freehold Vacant Possession Value	10.75% <u>155,000</u>	1,247,842	
Gain on marriage			<u>192,158</u>	
Attributed to lessor:	50%			<u>96,079</u>
Enfranchisement price				1,188,921
<del>Landlord's other loss</del>			Say	1,188,900

26-Jun-01

GERALD EVE  
Chartered Surveyors

9.4 These elements are incorporated in the following version of the valuation framework contained in the agreed statement of facts:

<b>Valuation of the lessor's interest</b>					
For remainder of the term					
Ground rent payable			£250		
Years purchase	4.75	Years @ 5.0%	4.1372		
				£1,034	
Reversion to					
Value of the freehold with vacant possession			£1,279,336		
Deferred	4.75	Years @ 6.0%	.7582	£969,993	
					£971,027
<b>Add Lessors share of marriage value</b>					
Value of the freehold with vacant possession				£1,279,336	
Less					
Lessor's interest			£971,027		
Lessee's interest			£137,528		
				£1,108,555	
Gain on marriage				£170,780	
Attributable to lessor		50%			£85,390
<b>Premium payable</b>					<b>£1,056,417</b>
				<i>Say</i>	<b>£1,050,000</b>

9.5 I confirm my opinion that the premium properly payable under the terms of the Leasehold Reform Act 1967 as amended for the purchase of the freehold interest in the property known as 47 Eaton Mews North London SW1 is £1,050,000.

The Tribunal's Valuation

LEASEHOLD REFORM ACT 1967

47 Eaton Mews North SW1

Valuation of lessor's interest exclusive of marriage value

For remainder of term:-

Ground rent currently payable 250

Years purchase for 4.75 years @ 5.0% 4.1372

1034

Reversion to:-

Value of freehold interest with vacant possession 1340000

Deferred 4.75 years @ 6.0% 0.7582

1015988

1017022

Add lessor's share of marriage value

Value of freehold interest with vacant possession 1340000

Less

Value of lessor's interest exclusive of marriage value 1017022

Value of lessee's interest exclusive of marriage value  
% of Freehold Vacant Possession Value 10.75% 144050

1161072

Gain on Marriage 178928

Attributed to lessor 50% 89464

Enfranchisement price 1106486

Say **£1106500**

Somme : LVT

47 EATON MEWS NORTH SW1

VALUATION OF FREEHOLD INTEREST WITH VACANT POSSESSION [as at 15.5.2000]

Ground floor 718 sq ft @ £730 pfs	£524140
First floor 718 sq ft @ £730 pfs	£524140
Basement 288 sq ft @ £365 pfs	£105120 [NOTE 1]
Second floor [potential] 575 sq ft @ 60% x £730 less 25% for risks in obtaining planning permission	£188888 [NOTE 2]
Total	£1342288
Say	£1,340,000

Note 1] Basement price = 50% of price for Ground and First floors

Note 2] Second floor price =60% of Ground and First floor price to reflect its development potential with a 25% allowance to reflect risks associated with obtaining planning permission

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Source : dWT