

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

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 24 AND SCHEDULE 6 TO THE
LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

Premises: 22/22A, Wordsworth Road, Penenden Heath,
Maidstone, Kent ME14 2HH

Applicant: Mr J. Hallam & Mrs J. J. Wright

Respondent: Ms C. E. Hodges, Mr D. R. Hodges & Ms J. A. C. Hodges.

Inspection: 1 October 2009

Heard: 1 October 2009 at Maidstone Community Support Centre, 39-48,
Marsham Street, Maidstone, Kent ME14 1HH

Appearances: For the Applicant:
Mr T.N.Davis FRICS
Mrs J.J.Wright

For the Respondent:
Mr N.Payne MRICS of Gildersleve & Payne
Mr Mr D.R.Hodges

Tribunal Members: Mr D.L.Edge FRICS (Chairman)
Mr R.Athow FRICS MIRPM
Ms L.Farrier

Valuation Date: 1 March 2009

Tribunal's determination: Premium for No 22 27,747
Premium for No 22A 5,949
33,746

Date of Tribunal's decision: 6 October 2009

BACKGROUND

1. This was an application by the Applicant tenants under Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993 ('the 1993 Act') for a determination by the Tribunal of the price to be paid for the freehold interest in the above property.
2. An inspection of the property took place on the morning of 1 October 2009 at which the following main participants were present. For the Applicants, Mr T.Davis FRICS, accompanied by two of his firm's trainees, and for the Respondent, Mr N. Payne MRICS, and Mr D.R.Hodges (freeholder).

THE FACTS

3. The property comprises a semi-detached two-storey building, forming one half of a purpose built block of 4 units constructed either in the late 1930's or around 1948, and providing two 2-bedroom self-contained flats. The ground floor flat (No 22) has an area of garden to the front and rear of the building, and the first floor flat, (No 22A) an area of garden, roughly triangular in shape, to the side.

The date of the Initial Notice under S.13 (which appeared to be undated) was agreed as 1st March 2009, and of the Counter Notice under S.21, 28th April 2009.

It was agreed by both valuers that the valuation date would be the date of the Initial Notice, 1st March 2009.

The price specified in the Initial Notice was £30,000.

The Counter Notice proposed a price of £62,000.

Mr Davis' revised valuation dated 8 June 2009 was for a total premium of £32,897.64, made up as to: -

No 22 £27,191.91

No 22A £5,705.63

Mr Paynes' revised valuation dated 28 July 2009 was for a total premium of £56,710 (rounded to £57,000) and made up as to: -

No 22 £39,581

No 22A £7,129

Plus £10,000 for compensation for loss of development value.

In his letter to the Tribunal Service dated 8 September 2009, Mr Payne said his valuation (which was not provided) showed an overall value of between £43,000 and £45,000 taking account of the loss of development value, thus at the commencement of the hearing, the Applicants' valuer was at £32,897, and the Respondent's valuer at between £43,000 and £45,000.

Prior to the hearing, a joint Statement of Issues, signed by both valuers, and dated 11th and 14th September 2009, was helpfully submitted which set out the items which had been agreed: -

Leases	No 22	99 years from 4 June 1948
	No 22A	99 years from 24 June 1988

Ground Rent	No 22	£8 p.a. fixed
	No 22A	£200 p.a. until 24 June 2008, thereafter not agreed.
		(N.B. the lease for 22A submitted to the Tribunal states £100 p.a. until 24 June 2008)
Unexpired lease terms	No 22	38.178 years
	No 22A	78.236 years
Capitalisation rate		7%
Deferment rate		5%
Relativity	No 22	68.5%
	No 22A	96.0%

The issues still in dispute and for determination by the Tribunal were: -

1. Long leasehold value. (However, both valuers appeared to have agreed a figure of £126,000 in their signed Joint Statement).
2. Value of tenants' improvements.
3. Adjusted long leasehold value.
4. Ground Rent of 22A from 24 June 2008.
5. Loss of Development rights.

THE INSPECTION

4. The Tribunal made an inspection of the site and the first floor flat (No 22A) internally (internal access to the ground floor flat (No 22) was not possible) on the morning of the 1st October in the presence of both valuers and Mr Hodges.

Access to No 22A is by a quite steep shielded external concrete staircase at the side. Internally it is of conventional layout providing 3 rooms, kitchen and bathroom/WC. There is gas central heating, although the system and boiler are possibly 25 years old or more. The kitchen fittings are relatively basic, consisting of a stainless steel sink top and a couple of floor and wall units worktops and larder. The bathroom fittings are basic also with a dated white suite (no shower) and fully tiled walls. Windows are standard EJMA type softwood casements, which are in fair condition, with paintwork thin and peeling. Some minor internal and external movement cracks were noted.

Externally No 22 on the ground floor appeared to be in better condition, having replacement uPVC windows, and re-pointed brickwork at the front. It also appeared to have a newer condensing type gas fired boiler.

The Tribunal also made an external inspection of the plot of land between Nos 20 and 22, on which outline planning consent has been granted (in January 2008) for the erection of a detached two storey block of two 2-bedroom flats.

THE HEARING

5. The two main issues before the Tribunal were the value of the improvements and the loss of development value in respect of the area of garden land relating to 22A.

6. Value of Improvements

Mr Payne in his letter to the Tribunal Service dated 8 September said ... 'I estimate the tenant's improvements to be in the region of £8,000 but would respectfully suggest that approximately half of this figure should be discounted as some of these works would have been necessary under the repairing obligations of the lease. Accordingly I have deducted £4,000 from £126,000 to arrive at a figure of £122,000.'

When questioned by the Tribunal as to which works of improvement would fall under the repairing obligations of the lease, Mr Payne was unable to give any.

Mr Davis, in his Joint Statement of Issues signed by him on 14 September, had put the value of tenant's improvements at £12,000, but in his earlier skeleton Argument dated 8 September he had put a figure of £13,000. Mr Davis, when questioned by the Tribunal about this discrepancy, apologised and said it was a typing error and the figure on the Joint Statement should be £13,000. The Tribunal accepted this error as he had in fact made a mathematical deduction of £13,000. However, the Tribunal noted that in Mr Davis' 'Revised Valuation' dated 8 June, his deductions totalling £13,000 had been made up from different amounts to his later valuation in his skeleton argument, the differences being as follows: -

	<u>8 June 2009</u>	<u>8 September 2009</u>
Central heating	4,000	3,500
Double glazing	6,000	4,000
Modern kitchen	2,000	2,000
Modern bathroom	1,000	1,000
Landscaped garden	<u>nil</u>	<u>2,500</u>
	£13,000	£13,000

When asked by the Tribunal why the amounts for central heating, double glazing and landscaped garden had changed, yet the total was still £13,000, Mr Davis said that in the earlier assessment he had used figures for negotiation, whereas for the skeleton argument he had 'looked at it more carefully as it would be for the Tribunal'. He had introduced the figure of £2,500 for landscaping based on the photograph on the sales particulars of No 25A, a fully modernised flat that had sold in April 2008 for £150,000. He had adjusted this sale figure by the Kent HMLR index to arrive at a figure of £126,099, which gave him his starting figure of £126,000 for Nos 22 and 22A.

When questioned by the Tribunal as to how he arrived at his figures, Mr Davis said that they related to the cost of each item, and that here, cost equalled value.

7. Decision on improvements

The Tribunal found Mr Payne's argument weak and without substance. He was unable to identify any specific item that would have constituted a repair rather than an improvement, and the Tribunal therefore made no adjustment from his opening figure of £8,000.

The Tribunal also disagreed with Mr Davis' assertion that cost was the same as value in the case of these two properties, and determined that an appropriate amount to be deducted for improvements was £8,000, no difference being made between the two units.

It follows from this that the unimproved long leasehold value is £118,000 and the revised ground rent from 24 June 2008 at 1/500th of the capital value, as formulated under clause 1(f) of the lease, is £236.

8. Loss of Development Rights.

This relates to the area of garden forming part of the demise of No 22A, and is the roughly triangular piece of land between the building and the boundary abutting the road.

Mr Payne referred to the outline planning consent on the adjacent parcel of land between Nos 20 and 22, where there was consent granted in January 2008 for the erection of a detached two storey block of two 2-bedroom flats. This had, he said in his letter of the 8 September, been sold about 12 months earlier for the sum of £49,000. At the hearing, the Tribunal was told by Mr Payne that this was now 'under offer' for £75,000, but the owner might now want to develop it himself. He said that the fact that this plot of land had sold a year ago for £49,000 supported his view that the garden land of No 22A has potential for development, and in his letter of the 8 September, he ascribed a figure of between £8,000 and £10,000 to this.

Asked by the Tribunal whether he had prepared any plans or drawings to indicate what might fit on the land by way of development, Mr Payne said he had not done this, or taken any measurements of the site.

Mr Davis asked Mr Payne if he agreed with his method of deferring any potential development value of this land by 78.236 years. Mr Payne agreed that any figure should be deferred, and this would reduce his £10,000 to a purely nominal figure, which Mr Davis suggested would be about £20.

Mr Davis had put nil on the development value of the land.

His client, Mrs Wright, had approached Maidstone Borough Council in May 2008 seeking advice on the possibility of erecting a dwelling on the garden land of No 22A. He referred to a letter dated 22 September 2008 from the Director of Operations at the Council, in which it says in summary that it would not be possible for any detached dwelling of a size in keeping with the character of the area to be erected to provide a set back (building line) of 7 metres. An alternative proposal to demolish the existing building (22 & 22A) was also rejected and both proposals were considered unacceptable.

9. Decision on Loss of Development Rights

The Tribunal, having inspected the site, and mindful of the comments in the Council's letter, considered the prospects for erecting a dwelling on the land in question to be remote at best. However, when asked by the Tribunal if the site had any potential for enhancing the development on the adjacent parcel of land between Nos 20 and 22, Mr

Davis conceded that it could have some value if a strip were to be sold – say 10 or 12 feet wide. The Tribunal was of the opinion that on this basis, the land did have some potential, and ascribed a nominal figure of £100 for this prospect.

SUMMARY

10. The Tribunal, having made determinations on all of the items in contention, values the premium for enfranchisement at £33,746 as detailed on the attached valuation as Appendix A.

A handwritten signature in black ink, appearing to read 'D.L. Edge', written over a horizontal line.

D.L.Edge FRICS (Chairman)

6 October 2009

22/22A WORDSWORTH ROAD, PENENDEN HEATH,
MAIDSTONE, KENT ME14 1HH

VALUATION IN ACCORDANCE WITH SCHEDULE 6 TO THE LEASEHOLD REFORM,
HOUSING AND URBAN DEVELOPMENT ACT 1993 (AS AMENDED)

Valuation Date: 1 March 2009 (agreed prior to hearing)

Leases:	No 22 : - 99 years from 4 June 1948. No 22A : - 99 years from 24 June 1988.	Ground Rent £8.00 p.a. fixed. Ground Rent £100 p.a. for 1 st 20 years, Rising for each subsequent 20 year period to 1/500 of the capital value of the premises.
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Unexpired Terms at Valuation Date of 1 March 2009:	No 22 38.178 years (agreed) No 22A 78.236 years (agreed)
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Capitalisation rate : 7% (agreed)
Deferment rate : 5% (agreed)

Relativity:	No 22 68.5% (agreed) No 22A 96.0% (agreed)
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No 22

Freeholder's present interest

Ground Rent	8	
YP 38.178 years @ 7 %	<u>13.206</u>	
		106

Reversion

Current value	126,000	
less improvements	<u>8,000</u>	
	118,000	
PV £1 in 38.178 years @ 5%	<u>0.15525</u>	
		<u>18,319</u>
		18,425

Marriage Value

Freehold reversion	118,000
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Less:

Freeholder's present interest	18,425
Lessee's present interest @ 68.5%	<u>80,380</u>
	<u>99,255</u>
	18,745

Freeholder's share @ 50%	<u>9,372</u>
Premium	<u>27,797</u>

Appendix A

No 22A

Freeholder's present interest

Ground Rent	236	
YP 78.236 years @ 7 %	<u>14,2139</u>	3,354

Reversion

Current value	126,000	
less improvements	<u>8,000</u>	
	118,000	
PV £1 in 78.236 years @ 5%	<u>0.02199</u>	<u>2,595</u>
		5,949

Marriage Value

Freehold reversion	118,000	
Hope value for development	<u>100</u>	
		118,100
Less:		
Freeholder's present interest	5,949	
Lessee's present interest @ 96.0%	<u>113,280</u>	
		<u>119,229</u>
		1,129 - nil
Freeholder's share @ 50%		<u>nil</u>
	Premium	5,949

Summary

Premium for No 22	27,797
Premium for No22A	<u>5,949</u>
Combined premiums	33,746