

2017



Residential
Property
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: LON/00BJ/OCE/2010/0152

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATION UNDER SECTION 24 OF THE LEASEHOLD REFORM,
HOUSING & URBAN DEVELOPMENT ACT 1993**

Address: 55 Parklands Road, London, SW16 6TB
Applicant: Johnathan Edward Allan
Respondent: The Personal Representatives of the Estate of
Charles Ocansey (deceased)
Application: 22 July 2010
Determination 18 October 2010

Appearances
Applicant
Not applicable

Respondent
Not applicable

Members of the Tribunal
Mr I Mohabir LLB (Hons)
Mr W Richard Shaw FRICS
Mrs R Turner JP BA

DECISION

Introduction

1. On 22 July 2010 ("the valuation date") the Applicant issued a Part 8 claim in the Wandsworth County Court for a vesting order under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 (as amended) ("the Act") in respect of the freehold interest in the property known as 55 Parklands Road, London, SW16 6TB ("the subject property"). The order was sought on the basis that the freeholder, Mr Charles Ocansey had died on 25 April 2002 and no grant of representation had been extracted in relation to his estate.
2. By an order dated 29 July 2010 made by District Judge Tilbury, a vesting order in respect of the subject property was made in favour of the Applicant subject to a determination being made by the Tribunal under section 27(5) of the Act of the appropriate premium to be paid into Court by the Applicant for the freehold interest. This determination is made pursuant to the order.
3. The expert valuation evidence relied on by the Applicant is set out in a report prepared by Mr Stapleton FRICS of Mike Stapleton & Company, Chartered Surveyors, dated 6 October 2010. He describes the subject property as being a centre terraced two-storey house built around 1910 in traditional materials, which was converted into two self-contained flats in the early 1980s. The Applicant is the registered proprietor of both flats and he has reconverted the property back to a single dwelling house. These works are substantially complete.
4. The former ground floor flat was comprised of a lounge, kitchen, bedroom and bathroom/WC and was approximately 60 m² in size. The flat enjoyed the use of the rear garden and had the benefit of central heating. There was no off road parking facility. The first-floor flat was almost identical save that it was comprised of two bedrooms and did not have the use of the rear garden. Mr Stapleton's valuation was based on the assumption is that both flats had been maintained in fair repair and were not subject to any tenant's improvements (to be discounted from the value of each flat).
5. The ground and first floor flats are each subject to leases dated 16 April 1982 for a term of 99 years. As at the valuation date the unexpired term of each lease is 70.734 years. Similarly, the ground rent payable under each lease is £30 per annum for the first 33 years rising to £60 and £90 respectively for each successive 33 year period of the term of the leases.

The Relevant Law

6. The Tribunal's determination of the purchase price to be paid by the Applicant for the freehold interest is made pursuant to section 32 based on the statutory assumptions set out in Schedule 6 of the Act. The specific valuation elements to be determined by the Tribunal:
- (a) the capitalisation rate.
 - (b) the virtual freehold value.
 - (c) the deferment rate.
 - (d) relativity.

The arguments advanced by Mr Stapleton in relation to each of these matters are considered below.

Decision

7. The Tribunal's determination took place on 18 October 2010. There was no hearing and no oral evidence was heard nor did the Tribunal inspect the subject property. This determination is based principally on the valuation report prepared by Mr Stapleton and filed on the Applicant's behalf. The Respondent had not participated in these proceedings and was not represented.

Capitalisation Rate

8. Mr Stapleton contended for a rate of 7.5% on the basis of other settlements agreed with other surveyors and LVT decisions in the Greater London area and the provinces.
9. Mr Stapleton provided no evidence of the "other settlements" or "LVT decisions" he relied on in support of his rate of 7.5%. However, using its own expert knowledge and experience, the Tribunal found that a rate of 7.5% was appropriate in this instance given the relatively low income stream provided by the ground rents under the leases. The cost of collecting the ground rents would largely extinguish the income received by the landlord.

Virtual Freehold Value

10. Mr Stapleton relied on a number of comparable properties in the locality of the subject property. In particular, he relied on transactions regarding 159, 124 and 10 Ribblesdale Road.
11. In relation to 159 Ribblesdale Road, Mr Stapleton had agreed a lease extension of a ground floor flat in August 2009 with an agreed virtual freehold of £225,000. In 124 and 10 Ribblesdale Road, the sale of ground floor flats with unexpired terms of 999 years and 75 years were sold for £232,000 and £249,500 in August 2008 and June 2007 respectively.

12. By reference to these properties and his other comparables, Mr Stapleton concluded that the virtual freehold value of subject flats was £225,000 each. He drew no distinction in value between the flats because the merits and demerits were equal.
13. On the basis of this evidence, the Tribunal accepted Mr Stapleton's virtual freehold value of £225,000.

Deferment Rate

14. Mr Stapleton contended for a rate of 5.25% on the basis of **Zuckermann & Ors v The Trustees of Calthorpe Estates** where the Lands Tribunal departed from the generic rate of 5% established by **Sportelli**. In this instance, Mr Stapleton argued that issues of obsolescence and deterioration had equal application in this instance and this should be reflected by adding 0.25% to the risk premium, which resulted in a rate of 5.25 %.
15. The Tribunal did not accept Mr Stapleton's argument that the building would suffer from undue obsolescence and deterioration or that an allowance for flats were relevant factors in the present case. The responsibility for repairs already rests with the lessees. This position is entirely different from when one is dealing with a mansion block or other extended development where often a significant number of flats are purchased for investment purposes. In his report, Mr Stapleton accepts that the subject property has been reconverted by the Applicant for use as a single family dwelling.
16. Accordingly, the Tribunal is not persuaded it should depart from the generic rate of 5% in **Sportelli**.

Relativity

17. Mr Stapleton contended for a leasehold relativity rate of 93% on the basis of graphs published by the RICS as a research paper on the subject of relativity. The research broadly considered to areas, prime central London including Greater London and England. From the Greater London and England graphs (5 in total), Mr Stapleton extracted an average relativity of 93% for a lease with unexpired term of 71 years. Mr Stapleton place no reliance on open market sales or settled evidence on the basis that any such evidence is tainted because the former often takes place in the " Act world" and the latter is often subject to factors such as the "DeLaforce effect".
18. Whilst the Tribunal was mindful of the fact that the only evidence before it was that of Mr Stapleton, nevertheless the approach he had taken on this issue could not be said to have any less merit than other arguments advanced before the Tribunal on the rather vexed matter of relativity. Also having regard to its own expert knowledge and experience, the Tribunal determined that a relativity of 93% should be adopted in this instance.

Collective Enfranchisement Valuation
 55 Parklands Avenue, London SW16 6TB
 (2 flats, both participating)
 Valuation date 22 July 2010 – 70.734 years unexpired.

Ground Floor Flat			
Freeholders existing interest:			
Ground Rent			
First term	£30		
YP 4.734 years @ 7.5%	3.8655	£115.97	
Second term			
YP 33 years @7.5%	12.1074		
PV £1 in 4.734 years @ 7.5%	0.7101		
	8.5975	£515.85	
Third term			
YP 33 years @7.5%	12.1074		
PV £1 in 37.734 years at 7.5%	0.0653		
	0.7906	£71.15	£703
Reversion			
Virtual Freehold value	£225,000		
PV £1 in 70.734 years @ 5%	0.0317		£7,133
Freeholders existing interest			£7,836
Marriage Value			
Extended lease value	£225,000		
Less Freeholders existing interest	£7,836		
Less Existing lessee's interest – 93%	£209,250		
Marriage value		£7914	
Freeholders share @50%			£3,957
Compensation			
	Nil		
Premium payable by lessee			
			£11,793

First Floor Flat				
Freeholders existing interest:				
Ground Rent				
First term	£30			
YP 4.734 years @ 7.5%	3.8655	£115.97		
Second term				
Second term	£60			
YP 33 years @7.5%	12.1074			
PV £1 in 4.734 years @ 7.5%	0.7101			
	8.5975	£515.85		
Third term				
Third term	£90			
YP 33 years @7.5%	12.1074			
PV £1 in 37.734 years at 7.5%	0.0653			
	0.7906	£71.15	£703	
Reversion				
Virtual Freehold value	£225,000			
PV £1 in 70.734 years @ 5%	0.0317		£7,133	
Freeholders existing interest				£7,836
Marriage Value				
Extended lease value	£225,000			
Less Freeholders existing interest	£7,836			
Less Existing lessee's interest – 93%	£209,250			
Marriage value		£7914		
Freeholders share @50%				£3,957
Compensation				
Compensation	Nil			
Premium payable by lessee				
				£11,793

Summary	
Ground Floor Flat	£11,793
First Floor Flat	£11,793
Garden land	£50
Total Premium Payable	£23,636