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LVT 9 (3/94)

Ref LON/LVT/618

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: The Trustees of the Eyre Estate

Respondent: Mr S S Cohen

RE: 41 Queens Grove, St John's Wood, London NW8

RV at date when Tenant's Notice was given: £2,972

Date of Tenant's Notice: 15 June 1994

Application to Tribunal dated: 16 August 1996

Heard: 28 April 1997

Appearances:

Mr K G Buchanan BSC(EstMan)ARICS (Conrad Ritblat,
Chartered Surveyors)

for the Tenant

Mr J E C Briant BA ARICS(The Eyre Estate)

for the Landlord

Members of the Leasehold Valuation Tribunal:

Mr G F Bowden TD MA FRICS (Chairman)

Mr G I Coe BSC (EstMan) FRICS

Mrs L Walter

Date of Tribunal's decision 7 July 1997.

I FACTS

The Tribunal find fact as follows, in addition to these set out on page 1.

1 Queens' Grove is in a high class residential area off Avenue Road in the heart of St John's Wood. It is reasonably well situated for local shops, and a wide choice of public transport. There is a range of residential property of various styles and periods from the Victorian to the present day. The road itself is a fairly busy traffic thoroughfare, offering a cut-through between the main roads. It is heavily parked, and since it is the boundary between the City of Westminster and the borough of Camden, there is some inconsistency as to parking restrictions and regulations on the different sides of the same road.

2 The subject property, situated as it is, on the Camden side of the road is not, it was stated, entitled to on street parking facilities in the Westminster area of St John's Wood. The property is built on rising ground, close to the road with a small front garden, with a frontage occupying almost the whole width of the site with a narrow entrance at the side. In design it is a 1930's low brick-built, two storey, Georgian style property, with steps up to a front door set in the centre. There is, however, an integral garage at basement level to one side, and to the other a lower ground floor, somewhat obscured by the garden on the front elevation, but opening out with easy access to the garden at the back. The back garden is of generous proportion with paved terraces, a wide lawn and mature shrubs. While parts of the garden are secluded, offering a degree of privacy, much of it is overlooked by a high-rise block of flats. The exterior of the house was decorated and maintained to a high standard; the garden was meticulously tended.

3 The interior of the property offered very attractive family living accommodation, details of which are fully set out in the parties 'Statement of Agreed Facts'. The interior had been fitted out and equipped to a very high standard. It was noted that the parties have agreed that the value attributed to tenant's

improvements amounted to £150,000.

4 The lease was granted for a term of 99 years from 24 June 1935, expiring 24 June 2034, at a fixed ground rent of £90 per annum. The leasehold interest of some 37.75 years was sold to the present tenant in September 1996 for a sale price of £1,750,000, with the benefit of the Notice of Claim served by the previous tenant, in June 1994.

5 The only outstanding issue for the Tribunal to determine was the price, as at 15 June 1994 (which was the agreed valuation date) to be paid by the lessee for the freehold interest.

6 The parties representatives submitted written proofs of evidence to substantiate their valuations, and their schedule of valuations are set out:-

Appendix 2. Mr J E C Briant on behalf of the landlords/applicant

Appendix 3. Mr K G Buchanan on behalf of the respondent/lessee.

II THE TRIBUNAL'S CONSIDERATION OF DISPUTED MATTERS OF VALUATION

1 Mr Briant, on behalf of the applicant landlords, proposed a sum of £614,567 for the freehold interest. He stated that the appropriate rate for the capitalisation of the ground rent should be 6%, and this contention was supported by Appendix 1 of his proof of evidence, in which he sets out a Schedule of Enfranchisement Settlements of 12 high value properties in good locations in the St John's Wood area. In Appendix 2, to his proof, Mr Briant set out 'Agreed Breakdown of Valuation' in respect of four properties in the locality. Mr Briant argued that since the valuation date (15 June 1994) there had been an increase in market activity in the St John's Wood area which had resulted in an increase of sales prices, and he cited some eight comparables to support this view. On the basis of this evidence it was contended that the vacant possession value of the subject premises was £2,500,000, with an existing leasehold value of £1,500,000. Both these sums being reduced by the amount of

£150,000, as the agreed value represented by the improvements, to give £2.35m and £1.35m respectively. A differential of 60% for an unexpired term of 40 years was, Mr Briant contended correct, and supported by the evidence.

2 Mr Buchanan, for the respondent tenant proposed a price of £310,629. He stated in his proof of evidence, and argued at the hearing, that in his view, the appropriate capitalisation rate was 7% and cited the five Leasehold Valuation Tribunal decisions in the St John's Wood area, where the determination of four of them were at 7% and the fifth at 7½%. Mr Buchanan offered three leasehold and five freehold sales transactions in the St John's Wood area as comparables, which, when analysed, and with adjustments, supported his contention of an open market leasehold value of £1.3m and an open market freehold value of £1.8m for the subject property. Both these sums were for the unimproved property.

3 The Tribunal gave careful consideration to the analysis and details of the enfranchisement settlements presented by Mr Briant, but they felt there were no compelling arguments in this case, that moved them to depart from the Tribunal's established view that the appropriate capitalisation rate, for a property of this sort in this area should be other than 7%.

4 With regard to the open market leasehold and freehold values, the Tribunal inspected externally all the comparables drawn to their attention by both Mr Briant and Mr Buchanan. While all were of some interest in indicating the range of prices that had been achieved for roughly similar properties in the area, some were more comparable than others, and the Tribunal felt that none gave a direct indication of comparable value of the subject property. All values needed to be considerably discounted or adjusted to suggest any real comparison. The Tribunal felt that in these circumstances the most helpful transaction was that involving the subject property itself, at a time not too distant from the valuation date. Here the lease was sold, two years on from the valuation date, for £1.75m in September 1996. The Tribunal recognised that there must be some

adjustments, taking into account tenant's improvements; the rise in the market; and enfranchisement rights. These considerations have led the Tribunal to settle upon an open market freehold valuation (disregarding improvements) of £1,900,000.

5 The Tribunal recognised the validity of the arguments in maintaining a relativity between freehold and leasehold values. Mr Briant has argued for 60%, but the pattern emerging from his analysis in Appendix 1 of his proof might suggest something nearer 70%. Whilst there was only a comparatively small difference between the valuers as to the value of the unimproved freehold, the Tribunal preferred the slightly lower figure of £1.3m put forward by Mr Buchanan.

III DECISION

Accordingly on the basis of the helpful arguments advanced, on the evidence, and to their inspection of the property, the Tribunal determined the price payable for the freehold interest in 41 Queens Grove, St John's Wood, London NW8 6HH pursuant to Section 21 of the Leasehold Reform Act 1967 is £364,050 (three hundred and sixty four thousand, and fifty pounds). The details of the Tribunal's valuation is set out in Appendix 1.

Chairman.....

Ceraud Bowden

Date.....

7 July 1997



Determination by Leasehold Valuation Tribunalof the price payable by the tenant in accordance
with Section 21 of Leasehold Reform Act 1967**41 QUEEN'S GROVE, ST JOHN'S WOOD, LONDON, NW8**

Valuation date: 15th June, 1994

Value of Lessor's Present Interest

Ground Rent receivable, per annum	£90	
YP 40 yrs @ 7%	13.33	
		£1,200

Reversion

Freehold interest excluding tenant's improvements	£1,900,000	
Deferred 40 years @ 7%	0.066784	
		£126,889

Value of lessor's interest

£128,089

Lessor's share of marriage value

Freehold interest - as above		£1,900,000
Less :		
Value of lessee's interest	£1,300,000	
Value of lessor's interest - as above	£128,089	
		£1,428,089
Marriage Value		£471,911
50% to lessor		£235,955
		£364,044
	Total	£364,044
<u>Enfranchisement Price</u>	Say	£364,050





Valuation of Mr K G Buchanan on behalf of the tenant, Mr S Cohen

Valuation as at 15th June 1994

Under the provisions of the Leasehold Reform Act 1967 Section 9(1)c as amended by the Leasehold Reform Housing and Urban Development Act 1993

1. **Value of Freeholders Interest**

Term I

Ground Rent	£90 pa	
YP 40 yrs @ 7%	13.33	£1,199

Reversion

Unimproved Open market	£1.8m	
Freehold value		
PV £1 40 yrs @ 7%	.0667	<u>£120,060</u>
		£121,259

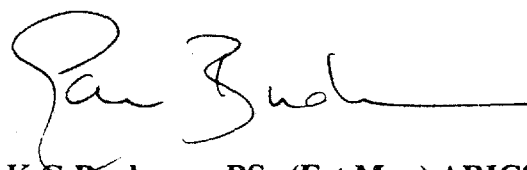
Marriage Value

Open market Freehold Value	£1.8m	
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Less (i) Freeholders Interest	£121,259	
(ii) Unimproved Open market	<u>£1.3m</u>	
Leasehold Value		
Marriage Value	£378,741	

Freeholders share at 50%		<u>£189,370</u>
		£310,629

In my opinion, the price payable for the Freehold under Section 9(1)c of the Leasehold Reform Act 1967 as amended should be determined at £310,629 (Three hundred and ten thousand, six hundred and twenty nine pounds).



K G Buchanan BSc (Est Man) ARICS
Conrad Ritblat