

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

Leasehold Reform Act 1967Housing Act 1980DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: The Trustees of the Eyre Estate

Respondents: Mr and Mrs E M Mani

Re: **43 Queen's Grove, London NW8**

Date of tenants' notice and valuation date: 27 March 1995

Application to tribunal dated 13 September 1996

Heard 2 May and 9 June 1997

Inspection 20 May 1997

Appearances:

Mr A Radevsky (counsel)

Mr G E Pemberton (Lee & Pembertons, solicitors)

Mr J E C Briant BA ARICS (Daniel Smith, chartered surveyors)

for the applicant

Mr D P Conway (David Conway & Co, solicitors)

Mr K G Buchanan BSc ARICS (Conrad Ritblat, chartered surveyors)

Mr R Bernstone (Aston Chase Ltd, estate agents)

Mr and Mrs E M Mani (the tenants)

for the respondents

Members of the leasehold valuation tribunal:

Lady Wilson (Chairman)

Mr D R Stevens FRICS FRVA

Miss A B Hamilton-Farey ARICS FCI Arb

Date of the tribunal's decision: 22 September 1997.

RECEIVED
29 SEP 1997

The facts

1. 43 Queen's Grove is a Victorian four storey detached house with an agreed gross internal area of 511 square metres, standing on a site of 820 square metres. It has seven bedrooms, five bathrooms, and five other living rooms. It has an integral garage with space for two cars parked one in front of the other, and off-street parking space for a further car. It is held by the tenants under a lease dated 8 May 1978 for a term of 56½ years from 25 December 1977, expiring on 24 June 2034. The lease has about 39¼ years unexpired at the date of the tenants' notice, 27 March 1995, which is the valuation date. Under the lease, the ground rent of £300 per annum is subject to review on 25 December 1998 and 25 December 2019 to a fortieth of the freehold land value as defined in the lease.

2. It is agreed that the price to be paid for the freehold is to be assessed under section 9(1C) of the Leasehold Reform Act 1967. It is also agreed that the marriage value is to be divided equally between the parties, and that the value of improvements carried out by the tenants or their predecessors in title, is, as against both the freehold and leasehold values, £250,000.

3. A valuation prepared by Mr Briant on behalf of the freeholders is attached to this decision as Appendix A, and a valuation prepared by Mr Buchanan on behalf of the tenants is attached as Appendix B. Mr Briant's proposed enfranchisement price is £847,780 and Mr Buchanan's is £369,670.

4. The issues between the parties are:

(i) the value of the freehold;

- (ii) the value of the existing lease;
- (iii) the yield to be used for capitalisation and deferment;
- (iv) the likely ground rent payable on review.

5. On 20 May 1997 we inspected the property externally and internally, and we inspected externally all the properties listed in a schedule of comparables which is attached to this decision as Appendix C. We also inspected the properties relied on by Mr Briant and by Mr Buchanan for the purpose of assessing the ground rent on review.

Decision

1. The value of the freehold (unimproved)

Mr Briant suggests a value of £2,400,000, which he arrives at by adjusting transactions relating to 16 Avenue Road, 9 Cavendish Avenue and 33 Elsworthy Road for factors which include location, condition and size. Mr Buchanan proposes £1,600,000, using the same comparable transactions as Mr Briant, with the addition of 8 Wadham Gardens, 58 Queen's Grove and 8 St John's Wood Park. He, too, adjusts the transactions for factors which include those which Mr Briant has taken into account, and also for the valuation date.

In our view none of the comparables cited to us was really helpful on this part of the valuation. We agree with Mr Bernstone, who gave evidence of value on the tenants' behalf, that 16 Avenue Road, 9 Cavendish Avenue, 33 Elsworthy Road and 8 Wadham Gardens are all, in different ways, superior to the property we are considering, and 8 St John's Wood Park and 58 Queen's Grove are inferior. 9 Cavendish Avenue is of a similar size, is a period property, and the date of the transaction of which we have details

is reasonably close to the valuation date; but it is very much superior to 43 Queen's Grove in terms of style and, particularly, of location. While the subject property is a very substantial family house, it is not, as Mr Bernstone says, "ambassadorial" in style, and its architectural integrity has been compromised by the addition of a wing which is out of keeping with the exterior of the property, although it provides a garage and two impressive living rooms. The location has its drawbacks, particularly in terms of the outlook at the rear. We have concluded in the light of the comparables that the value of the unimproved freehold at the valuation date is £1,900,000.

2. The value of the existing leasehold interest (unimproved)

Unusually, the value proposed by the landlord's representatives (£1,300,000) is higher than that proposed by the tenants' (£1,150,000). The differential between leasehold and freehold values is 54% on the landlord's figures and 72% on the tenants'. Mr Briant agrees that consideration of differentials of this kind is only a check on the market evidence and not a valuation method, and Mr Buchanan deprecates a valuation based on differentials. Neither Mr Briant nor Mr Buchanan have given us any persuasive evidence to help us arrive at a value based on the differential. Indeed the information derived from settlements on the Eyre and John Lyon's Charity estates which Mr Briant puts before us does not in our view show a consistent relationship between leasehold and freehold values, although it tends to suggest that the percentage differential suggested by Mr Briant is too low, and that proposed by Mr Buchanan is too high.

In arriving at his proposed figure Mr Briant relies on transactions relating to 41 Queen's Grove (the subject of a recent leasehold valuation tribunal decision (LON/LVT/618)), 39 Queen's Grove, 25 Queen's Grove and 29 Henstridge Place, all of which he adjusts for various factors, including the fact that 25 Queen's Grove and 29 Henstridge Place

were sold with the benefit of notices of claim under the Leasehold Reform Act. Mr Buchanan relies on the same properties as Mr Briant, and on 37 Queen's Grove, a much smaller property, sold on a 99 year lease and in poor condition, which requires such substantial adjustments that we regard it as of no assistance.

In our assessment of the leasehold value we have taken all the comparables into account, apart from 37 Queen's Grove, but we have been most assisted by 39 Queen's Grove, very similar in location and lease length to the subject. That property was, however, sold (for £1,950,000) in January 1997 rather than March 1995, which requires a major adjustment, the ground rent review is rather less onerous, and, particularly, the property was reconstructed to a high specification before the sale, and has a larger gross internal area. Taking all factors into account, we consider that the value of the existing lease, unimproved, at the valuation date is £1,300,000.

4. Yield

Mr Briant proposes a rate of 6%, and Mr Buchanan a rate of 7%. Mr Briant says that factors which affect yield are location, value and lease length. He refers to a schedule of negotiated settlements of enfranchisement claims in respect of houses in St John's Wood, where the Estate's analysis of the price showed a yield of 6%. He refers to four breakdowns of agreed prices where the valuations, showing a yield of 6%, were agreed with the tenant's surveyor (who, in three of the cases, was Mr Buchanan). He also relies on the Lands Tribunal determination in the case of *43 Hamilton Terrace*, where a yield of 6% was determined, the tenant taking no part in the appeal, and on the leasehold valuation decision on *27 Springfield Road*, where Mr Buchanan agreed before the tribunal to a yield of 6%.

Mr Buchanan relies on leasehold valuation decisions on *73 Springfield Road* (7½%), and *121 Hamilton Terrace*, *43 Hamilton Terrace*, *30 Marlborough Place* and *139 Hamilton Terrace* (all 7%). All these decisions were appealed to the Lands Tribunal, where *73 Springfield Road*, *121 Hamilton Terrace* and *30 Marlborough Place* were compromised, in order, he said, to avoid the costs and risks of litigation. The appeal in *139 Hamilton Terrace* is pending. He says that the fact that all the settlements relied on by Mr Briant show a yield of 6% does not support Mr Briant's argument for a flexible rate depending on the circumstances of the particular property. He would prefer certainty and would accept a rate of 6½%. He explains that he agreed 6% in *27 Springfield Road* only to avoid an appeal to the Lands Tribunal, but the landlord had nevertheless appealed and he would not take the same course again.

In our view the correct yield in the circumstances of this case is 6½ %. We agree with Mr Briant in his assessment of the factors affecting yield rates in relation to the enfranchisement of houses, and we accept that different rates may be appropriate in respect of different properties in St John's Wood, depending on factors such as value, location and lease length and terms. In our view agreed claims are frequently subject to a *Delaforce* effect, and settlements, whether signed or not, must be regarded in that light so that agreed figures, and, still more, analyses by one of the parties, must be looked at sceptically. In the present case we have taken account of the circumstances, including the fact that the location, though very good, has drawbacks. We have had particular regard to the yield of 7% adopted by a leasehold valuation tribunal in the case of *41 Queen's Grove* (supra), where the location was almost identical and the lease length very similar, but we have borne in mind that in that case, unlike the present one, there was a low fixed ground rent, which is in our view an important distinction which should properly be reflected in the yield.

5. The likely ground rent payable on review

Mr Briant says that the rent at the next review in December 1998 will rise to £30,000, which is one fortieth (2.5%) of a site value of £1,200,000. Mr Buchanan says that the review rent will be £16,400, which is 2.5% of a site value of £656,000.

Mr Briant has estimated the site value after consideration of the sale of a 78 year unexpired term of a property on a site of 820 square metres at 83 Avenue Road in December 1994 for £1,400,000, the purchaser then demolishing the existing house and rebuilding, and also of the sale of a 99 year lease of a property on a site of 770.4 square metres at 28 Elm Tree Road, the house, which the purchaser demolished, subject to a substantial subsidence claim. As an alternative he considers the gross development value, which in his opinion is £3,000,000, being the freehold value of the house rebuilt in similar architectural style and fully fitted. He takes 40% of that figure to arrive at the same site value of £1,200,000.

Mr Buchanan arrives at his site value by comparison with the sale for £365,000 in February 1993 of a freehold site of 481 square metres at 25 Marlborough Place with planning consent for a single dwelling, and with the sale of the property at 83 Avenue Road relied on by Mr Briant. He adjusts that transaction to allow for what he regards as the superior location of 83 Avenue Road and the marginally inferior location of 25 Marlborough Place. He reminds us that both 83 Avenue Road and 28 Elm Tree Road had houses on them, to which some value should be attached, when the sites were sold. He says that 28 Elm Tree Road was not sold on the open market and should be treated with particular caution. Using the standing house approach as an alternative he takes the existing open market freehold value of the property, which he considers to be £1,850,000, and says that he expects the site value to represent approximately 35% of

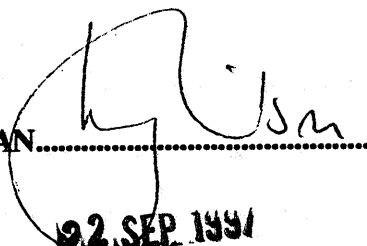
that, or £647,500, giving a review rent of £16,187.

In our opinion the cleared site transactions relied on by Mr Briant and Mr Buchanan support a site value of £1,000,000. Taking the standing house approach as a cross-check, we consider the entirety value to be £2,500,000, and we consider it appropriate in the location of 43 Queen's Grove to take 40% of that to arrive at the value of the site. We therefore consider that the likely review rent at the first review date will be £25,000. Rightly, neither valuer sought to persuade us that the rent on the next review in 2019 was relevant.

Conclusion

We conclude that the price to be paid for the freehold in possession is £529,900 (five hundred and twenty nine thousand nine hundred pounds), in accordance with our valuation which is attached to this decision as Appendix D.

CHAIRMAN.....



DATE.....

22 SEP 1991

A

THE LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993

PROPERTY 43 Queens Grove

NOTICE DATE 27/03/95

LEASE DETAILS

DATE 25/12/34
 TERM 56.5
 EXPIRY DATE 24/06/2034
 UNEXPIRED TERM 39.27
 GROUND RENT (Until Review) £300 to 25/12/1998
 EST. GROUND RENT (From review) £30,000 from 25/12/1998

<u>VALUES</u>	<u>IMPROVED</u>	<u>UNIMPROVED</u>
FHVP	£2,650,000	£2,400,000
UNEXPIRED TERM	£1,550,000	£1,300,000
IMPROVEMENTS	£250,000	

VALUE OF FREEHOLD PRESENT INTEREST

<u>TERM 1</u>	GROUND RENT		£300	
	x YP	3.75 years @	6.00%	3.27
				<hr/>
				£982
 <u>TERM 2</u>	ESTIMATED GROUND RENT		£30,000	
	x YP	35.52 years @	6.00%	14.56
	x PV	3.75 years @	6.00%	0.804
				<hr/>
				£351,123
 <u>REVERSION</u>	FHVP (Unimproved)		£2,400,000	
	x PV	39.27 years @	6.00%	0.101
				<hr/>
				£243,455
				<hr/>
			Lessor's Interest	£595,558

MARRIAGE VALUE

	FHVP (Unimproved)	£2,400,000
Less	Lessor's Present Interest	£595,558
	Lessees' Interest (Unimproved)	£1,300,000
		<hr/>
Marriage Value		£504,442
	Take 50% Marriage Value	<hr/>
		£252,221
	TOTAL	<hr/>
		£847,780

B

THE LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993

DATE: 02/05/97
PROPERTY: 43 Queen's Grove, London NW8
NOTICE DATE: 27/03/95

LEASE DETAILS

DATE 8th May 1978
TERM 56½ years from 25/12/77
EXPIRY DATE 24/06/2034
UNEXPIRED TERM 39¼ years
GROUND RENT (Until Review) £300pa to 1998 [Rent review to 1/40th]
GROUND RENT (From Review) £16,400 pa from 1998 [of site value]

VALUES

FHVP £1.85m
UNEXPIRED TERM £1.4m
LESSEE'S IMPROVEMENTS £250,000

VALUE OF FREEHOLD PRESENT INTEREST

TERM 1 GROUND RENT £300 pa
x YP 3 years @ 7% 2.62 £
£768

TERM 2 GROUND RENT £16,400 pa
x YP 36 years @ 7% 13.03]
] 10.63
x PV 3 years @ 7% .816]
£174,332

REVERSION FHVP (less improvements) £1.6m
x PV 39 years @ 7% .0714
£114,240

Lessors interest £289,340

MARRIAGE VALUE

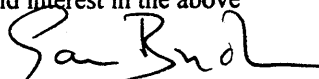
Less FHVP (less improvements) £1.6m
Lessor's Present Interest £289,340
Lessees Interest (less improvements) £1.15m

Marriage Value £110,660

50% Marriage Value £80,330

TOTAL £369,670

I would therefore request the Tribunal to determine a price for the Freehold interest in the above property of £369,670.


K G Buchanan BSc ARICS
Conrad Ritblat

C

SCHEDULE OF LEASEHOLD COMPARABLES

ADDRESS	TYPE	AREA M ² "A" / GIA	ACCOMMODATION	TENURE	GROUND RENT	PRICE	DATE OF SALE
SUBJECT PROPERTY 43 Queen's Grove	4 storey period style house	321 / 511	7 beds, 5 bath, 4 receps, kitchen/breakfast room, 2 cloak/WC. Integral double garage, OSP 1/2, rear garden.	39.25 yrs	£300 pa subject to review in 1998 to 1/40th of site value		Notice Date 27/03/95
41 Queen's Grove	3 storey detached brick built house, 1930's style.	288	5 beds, 2 dressing rooms, 4 bath, 5 receps, kitchen/breakfast room, utility room, staff accommodation. Double garage, o/s parking, landscaped rear garden.	37.75 yrs	£90 pa fixed	£1.75m + Benefit of Notice	September 1996
25 Queen's Grove	2 storey detached brick built, 1930's style	250	7 beds, dressing room, 3 bath, 4 receps, kitchen/breakfast room, staff room. Double garage, carriage driveway, small rear garden.	42 yrs	£90 pa fixed	£1.4m + Benefit of Notice	July 1994
37 Queen's Grove	4 storey semi-detached Victorian house	178	5 beds, 3 bath, 4 receps, kitchen, 2 cloak/WC. Garage, rear garden, unmodernised.	New 99 year lease	£1,200 pa subject to review in 23 yrs to 0.5% of F/H value	£1.385m	July 1996
39 Queen's Grove	Reconstructed 4 storey detached Victorian style house	337	5 beds, 4 bath, 5 receps, staff accommodation. Garage, rear garden.	38 yrs	£600 pa subject to review in 2009 to 1/60th site value	£1.95m	January 1997
58 Queen's Grove	A low built red brick 1930's house	164	Entrance hall, guest WC, 2 receps, kitchen/breakfast, utility, 5 beds, 1 dressing room, 3 bath (1 ensuite), separate WC. Garage, rear garden, o/s parking for 1/2 cars.	35 yrs	£75 pa fixed	£795,000	October 1996
29 Henstridge Place	A low built detached house 1930's style	196	5 beds, 3 bath, WC, 3 receps, kitchen/breakfast room, utility room. Carriage driveway, OSP 3/4 cars.	39.5 yrs	£60 pa	£1.275m + Benefit of Notice	June 1994

SCHEDULE OF FREEHOLD COMPARABLES

ADDRESS	TYPE	AREA M ² "A" / GIA		ACCOMMODATION	TENURE	GROUND RENT	PRICE	DATE OF SALE
SUBJECT PROPERTY 43 Queen's Grove	4 storey period style house	321	511	7 beds, 5 bath, 4 receps, kitchen/ breakfast room, 2 cloak/WC. Integral double garage, OSP 1/2, rear garden.	39.25 yrs	£300 pa subject to review in 1998 to 1/40th of site value		Notice Date 27/03/95
33 Elsworthy Road	Low built detached 3 storey house built circa. 1900	287	circa. 444	4 beds, 3 bath, 4 receps, 2nd floor used as Doctors Surgery. Carriage drive, garage, rear garden overlooking Primrose Hill.	F/H	—	£2.1m	September 1995
8 Wadham Gardens	Low built detached 3 storey house built circa. 1900	343		5/6 beds, 4 bath, 4 receps, kitchen/breakfast room, cloak/WC, utility room. Garage, O/S parking, small rear garden but use of communal gardens at rear.	F/H	—	£1.75m	February 1994
16 Avenue Road	Large detached house on 3 floors	337	circa 661	8 beds, 4 bath, 5 receps, kitchen/breakfast room, utility, 2 cloak/WC. Double garage, large garden, unmodernised.	F/H	—	£2.4m	August 1995
9 Cavendish Avenue	4 storey detached Victorian house		circa 530	6 beds, 3 bath, 3 receps, kitchen/breakfast room, utility, staff accommodation, cloak/WC O/s parking, large rear garden.	F/H	—	£2.25m	August 1994
8 St John's Wood Park	Low built detached brick built house, 1960's style	278		5 beds, 3 bath/WC, 4 receps, kitchen, games room, utility room, cloak/WC. O/s parking, double garage.	F/H	—	£1.4m £1.225m £1.025m	July 1996 June 1995 September 1993

43 QUEENS GROVE, ST JOHNS WOOD NW8

Valuation of the Leasehold Valuation Tribunal

Leasehold Interest (unimproved)	£1,300,000
Freehold-vacant possession (unimproved)	£1,900,000
Agreed value of improvements	£ 250,000
Site Value (based on Entirety Value £2,500,000)	£1,000,000

1. Value of Freeholders Interest

Current Ground Rent	£300	
YP 3¼ yrs @ 6½%	<u>3.252</u>	£ 969
Revised Ground Rent	£ 25,000	
YP 35 ½ yrs @ 6½%	13.739	
PV £ in 3¼ yrs @ 6½%	<u>0.7899546</u>	<u>10.853</u>
		£271,325

Reversion

Freehold with vacant possession (Unimproved)	£1,000,000	
PV £ in 39¼ yrs @ 6½%	<u>0.0986805</u>	<u>£ 187.493</u>
		£ 459,787

2. Marriage Value

Freehold with vacant possession (unimproved)	£ 1,900,000	
<u>Less</u> Freeholders present interest £ 459,787		
Leasehold interest (unimproved) <u>£1,300,000</u>	<u>1,759,787</u>	

Marriage Value	£ 140213	
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Freeholders Share 50%		<u>£ 70,107</u>
		£ 529,894

<u>Enfranchisement Price</u>		<u>£ 529,900</u>
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