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LVT 9

Ref LON/LVT/657/96

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 SE 21 OF THE LEASEHOLD REFORM ACT 1967

Applicant The Trustees of the Eyre Estate

Respondent Mr & Mrs A D Saphir

RE: 85 Avenue Road, St John's Wood, London, NW8

RV At date when Tenant's Notice was given: £

Date of Tenant's Notice: 8 May 1996

Application to Tribunal dated: 3 December 1996

Heard: 10 November 1997

Appearances: Mr J Small (of Counsel)
Mr P Beckett FRICS (Kemp & Hawley)
Mr P Saphir

for the Tenant

Mr A Radevsky (of Counsel)
Mr J E C Briant BA ARICS and Mr T Stotesbury BSc ARICS
(Cluttons, Daniel Smith)

for the Landlord

Member of the Leasehold Valuation Tribunal:

Mrs J S L Goulden JP (Chairman)
Mr D L Edge FRICS
Mr P S Roberts DipArch RIBA

Date of Tribunal's decision 22 April 1998.

85 AVENUE ROAD, NWS

THE FACTS

1. 86 Avenue Road is a detached 1930's built house of mock Tudor appearance at the front, with accommodation arranged over two floors plus attic. The accommodation, as improved by the tenants consist of:- 3 living rooms, kitchen/breakfast room, pantry, 2 cloakrooms and utility, 4 bedrooms, study, playroom, 4 bathrooms, shower room/wc plus maids suite of bedroom, living room, kitchen, bathroom and wc and an effective A area of about 278m². It has an integral double width garage, an in/out drive and off street parking for at least 5 cars. It occupies a good size plot of about 22m in width and 62m in depth, the house being well set back.

It is held by the tenants under a lease for a term of 99 years from 25 December 1934 at a fixed ground rent of £200 per annum, and at the agreed valuation date of 8 May 1996 there was approximately 37²/₃ years of the term remaining.

2. Mr Beckett for the tenants proposes a premium of £296,000 and Mr Briant for the landlord a premium of £610,363. Their respective valuations are attached to this decision as Appendices B and C respectively.
3. It is agreed by both valuers that the marriage value should be divided equally, and that the value of the tenants' improvements is £97,250.

4. The issues in dispute are:-

- (i) the value of the unimproved freehold interest
- (ii) the value of the unimproved leasehold interest
- (iii) the yield
- (iv) the deduction to be made for restrictive covenants or freehold "burdens" on acquisition.

5. On 1 December the Tribunal inspected 85 Avenue Road internally, and externally inspected Nos 16, 23 and 44 Avenue Road, 33 Elsworthy Road, 25, 39, 41 and 43 Queens Grove and 29 Acacia Road.

Decision

(i) The unimproved freehold value

Mr Beckett proposes a value of £2,200,000 for the freehold value in its present condition. He bases this on the following open market comparables:-

16 Avenue Road at 400 m² EFA a much larger house of imposing appearance sold in June 1995 for £2,400,000 but requiring extensive repair and decoration;- 23 Avenue Road sold in August 1997 for £2,500,000 and slightly smaller in floor area 372 m² gross internal floor area; 33 Elsworthy Road, sold in June 1995 for £2,100,000, floor area 287m², and now undergoing extensive re-furbishment; 41 Hamilton Terrace (249m²), a May 1996 sale at £1,950,000 for a 99 year unexpired lease at a ground rent of £1200 per annum and 25 Queens Grove, sold in April 1997 for £2,650,000 this being larger at 358m² and now boarded up. He analysed these sales on a rate per m², and then

adjusted this rate for the various differences in time on a % age increase of about 10% between June 1995 and May 1996. He considered the adjusted rate of £8060 per m² for 33 Elsworthy Road too high, and a rate of £7914 per m² was appropriate, for the subject which resulted from a value of £2,200,000 for the subject property.

Mr Briant cited the same comparable sales as Mr Beckett in arriving at his proposed value of £2,500,000. Some of the actual sale dates were slightly different, but the sale prices were all the same. In addition to those put forward by Mr Beckett, he also put forward 29 Acacia Road, at present under offer at £2,300,000 and due to exchange, this having an 'A' area of about 207 m². He adjusted the comparable sales by varying amounts to take account of differences in time, size and condition to support his figure of £2,500,000 for the subject property.

We prefer Mr Briant's approach, although the adjustments made by him were non specific and seemed in some instances to be inconsistent - for example, under questioning, Mr Briant had made a £200,000 reduction from the price of 16 Avenue Road, even though 16 Avenue Road was 44% larger, whereas he had made an adjustment of £150,000 in the price of 41 Hamilton Terrace which is only 12% smaller. For 25 Queens Grove, which is 29% larger, Mr Briant had reduced by £250,000 for size, by £200,000 for market movement, but had added back £100,000 for better location and £200,000 for refurbishment.

Based upon the evidence of both parties, we consider the improved value to be £2,400,000, and thus the unimproved value to be £2,302,750.

(ii) The Value of the leasehold interest

Mr Beckett values the existing lease at £1,750,000 in its present improved state. He arrives at this figure primarily by comparison with the sale of 39 Queens Grove in December 1996 for £1,950,000 with a 38 year lease, and with the sale of 41 Queens Grove in October 1996 for £1,730,000 with similar lease terms and floor area to the subject property. He felt 39 and 41 Queens Grove to be inferior to 85 Avenue Road, even though No 39 is larger. He then analysed the Queens Grove transactions on a rate per m² basis, and then applied this to the subject to give a figure of £1,850,000 (£6655 per m²). He then made a further reduction of 5% (or £100,000) for the influence of the 1993 Act and the extra price a purchaser might pay for the prospect of acquiring the freehold compulsorily under the Act, which resulted in his figure of £1,750,000.

Mr Briant also considered 39 and 41 Queens Grove, and added 44 Avenue Road, sold in June 1995 for £1,550,000 with an unexpired term of 41½ years. It was larger than the subject at 347 m² 'A' area, and adjustments needed to be made for differences in time, size and ground rent (£14,000 per annum plus review as against £200 per annum fixed). He considered that the comparables after adjustment, supported a leasehold improved value of £1,550,000.

As to ratio of leasehold to freehold value, Mr Beckett felt 80% to be appropriate, whereas Mr Briant thought 60%.

We felt Mr Briant was too low based on 39 and 41 Queens Grove sales, but could not accept Mr Becketts rate per m² approach. We did however agree with Mr Becket that both 39 and 41 Queens Grove appeared inferior to 85 Avenue Road, and after adjusting for time and location, we determined the improved leasehold value at £1,700,000, and hence the unimproved value at £1,602,750.

(iii) Yield

Mr Beckett suggests 7%. He accepts that Mr Briant has been consistent at 6% for the Eyre and John Lyon estates in St Johns Wood, and that the LVT adopted 6% for 15 Cavendish Avenue. On 25 Norfolk Road, the Tribunal gave 6.5% but these apart, the LVT, he said, had adopted 7%. In the case of a recent decision on a flat at 2 Walton Street, the Tribunal adopted 8% for a lease extension in a location (just behind Harrods) probably slightly better than St Johns Wood. He thought 8% too high, and 6% too low, and 7% appropriate because of the fixed ground rent, the reversion is in the medium term future and the location, even in St Johns Wood terms is only medium and more inferior to the very best residential locations in central London.

Mr Briant suggests 6% based on a lengthy schedule of enfranchisement transactions in St Johns Wood, where high value properties in good locations in St Johns Wood have been agreed at 6%. He said that the better the location, the higher the value and the shorter the lease, the lower will be the yield. He felt that the subject property met the above criteria.

The Tribunal considered 7% as suggested by Mr Beckett to be too high for such a high value and attractive property, but also felt that the

location of 85 Avenue Road, opposite a school and with high rise (10 storey) flats to the side and rear, and fronting a quite busy noisy road, put it a rung down from properties in rather better locations. The Tribunal, in this instance, mindful of the location and the length of lease unexpired, thought 6.5% to be appropriate.

(iv) Deduction for restrictive covenants

Mr Beckett suggests that there should be 1% reduction from the freehold value for the restrictive covenants or "burdens" which would be placed on the property by the freeholder. He indicated that there would be no less than eight such burdens attached to the title, and these covenants would mean that the building owner will have to apply to the estate for any alterations he wishes to make, and also pay a substantial fee.

Mr Briant did not consider this matter to be relevant in this instance, as all the properties sold on the estate are subject to similar covenants, and ultimately it is for the benefit of the estate as a whole that such restrictions and control exist.

In this instance, the Tribunal share Mr Briant's view, and having inspected the proposed Transfer, determine no reduction for restrictive covenants on the freehold title.

Determination

We therefore determine that the price to be paid for the freehold in possession is £459,000 in accordance with our valuation which is attached to this decision as Appendix A.

CHAIRMAN.....*[Signature]*
DATE.....*22 April 1998*

85 AVENUE ROAD, NW8

VALUATION OF THE LEASEHOLD VALUATION TRIBUNAL

Valuation date 8 May 1996

Unexpired Lease term 37.66 years

	<u>Improved</u>	<u>Unimproved</u>
Freehold Vacant Possession	2,400,000	2,302,750
Unexpired Leasehold V.P	1,700,000	1,602,750
Lessess's improvements	97,250	

Value of Freeholder's Present Interest

Ground Rent	200	
YP 37.66 years @6.5%	<u>13.92</u>	
		2,784
Reversion to Freehold V.P	2,302,750	
PV £1 in 37.66 years @ 6.5%	<u>0.09333</u>	
		<u>214,916</u>
		217,700

Marriage Value

Unimproved Freehold V.P	2,302,750	
Less		
(i) Freeholder's interest 217700		
(ii) Unimproved L/H		
Interest	<u>1602750</u>	
	<u>1,820,450</u>	
	482,300	
Freeholder's share @50%		<u>241,150</u>
		458,850

but say £459,000



85 Avenue Road, London NW8

Value of Landlord's present Interest

Rental income		200	
Years' purchase	38 yrs @ 7 %	13.19	
		<u> </u>	2.639
<i>plus</i>			
Reversion to vacant possession value		2,200,000	
less value of leaseholder's improvements		<u>97,250</u>	
		2,102,750	
Deferred for	38 yrs @ 7 %	<u>0.0765</u>	
			<u>160,770</u>
			<u><u>£163,408</u></u>

Calculate Marriage Value, which is the difference between aggregate of:

A Interests after enfranchisement

1.	(a) Value of Freehold with vacant possession		2,200,000	
	(b) Less value of leaseholder's improvements	97,250		
	(c) Less "burdens" in the Freehold title (1%)	<u>22,000</u>		
			119,250	
			<u>2,080,750</u>	
2.	Value of Landlord's interest		<u>0</u>	
	Combined value of the interests after enfranchisement			2,080,750

B Interests at present

1.	(a) Value of tenant's interest under existing lease	1,750,000		
	(b) Less value of improvements (not reduced)	<u>97,250</u>		
			1,652,750	
2.	Value of landlord's existing interest, as above		<u>163,408</u>	
	Combined value of the present interests			1,816,158

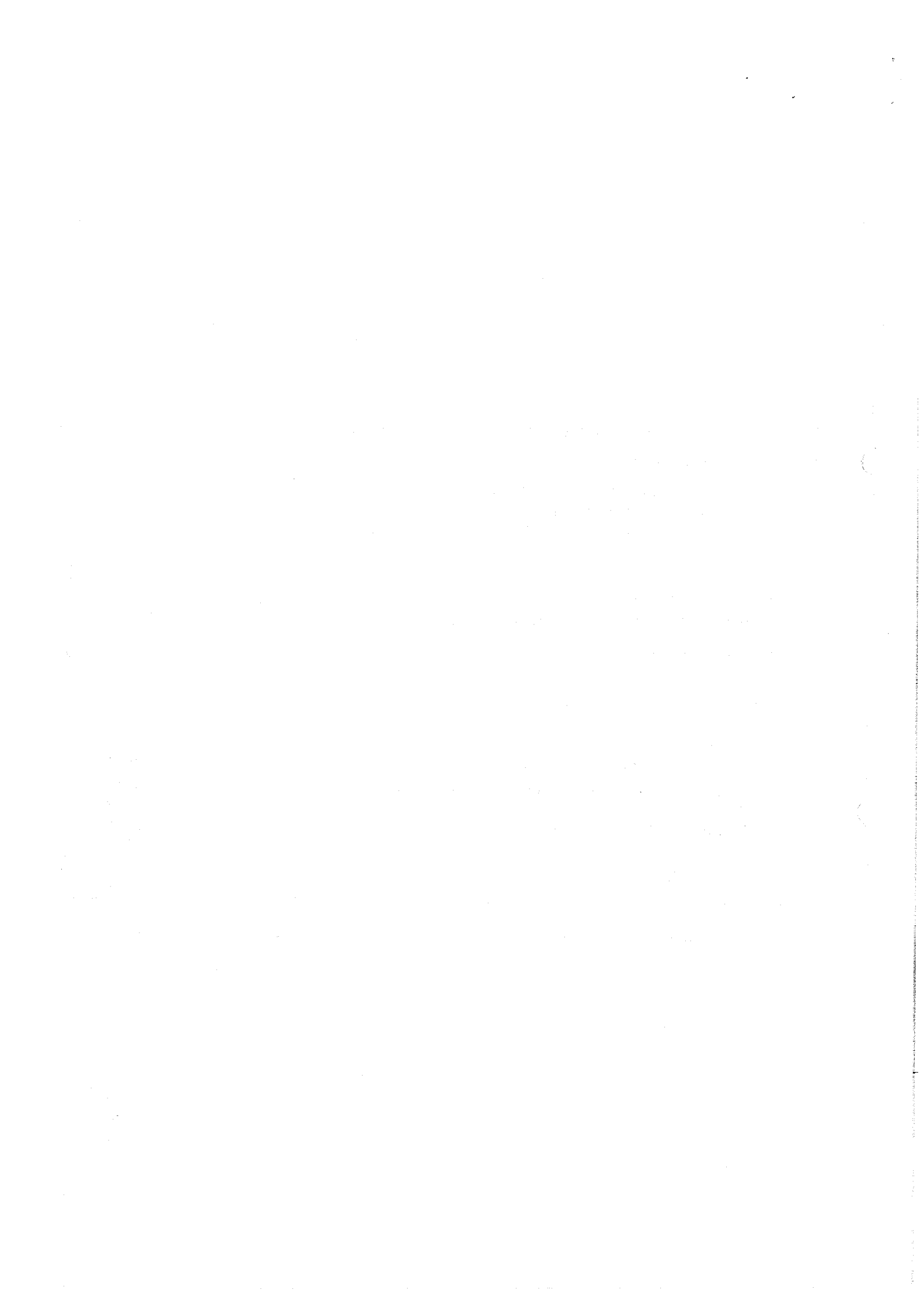
C The difference is the marriage value arising on the amalgamation 264,592

D The Landlord's share of this value is 50 % £132,296

Compensation payable to Landlord £0

Valuation Summary

Value of Landlord's interest		£163,408
Landlord's share of marriage value		£132,296
Compensation		<u>£0</u>
	Enfranchisement price =	<u>£295,704</u>
	but say	£296,000



THE LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993

PROPERTY 85 Avenue Road
 LESSEE Mr and Mrs Sapnir

NOTICE DATE 08-05-96

LEASE DETAILS

DATE 17-10-38
 TERM 99
 EXPIRY DATE 25-12-33
 UNEXPIRED TERM 37-66
 GROUND RENT £200 p a fixed

	Improved Value	Unimproved Value
<u>VALUES</u>		
FHVP	£2,500,000	£2,402,750
UNEXPIRED TERM	£1,550,000	£1,452,750
LESSEE'S IMPROVEMENTS	£97,250	

VALUE OF FREEHOLD PRESENT INTEREST

<u>TERM</u>	GROUND RENT	£200
	x YP 37.66 years @ 6.00%	14.81

		£2,962

<u>REVERSION</u>	FHVP	£2,402,750
	x PV 37.66 years @ 6.00%	0.1114406

		£267,764
	Lessor's Interest	£270,726

MARRIAGE VALUE

Less	FHVP	£2,402,750
	Lessor's Present Interest	£270,726
	Lessees Interest (less improvements)	£1,452,750

	Marriage Value	£679,274
	Take 50% Marriage Value	£339,637

	TOTAL	£610,363
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