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REF: LON/LVT/1286/00

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
SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Moustaffa Ahmed El Nemr

Respondent: The Trevor Estate Limited

RE: 24 & 24A Trevor Place, Knightsbridge, SW7

Date of Tenant's Notice: 4 April 2000

Application to Tribunal dated: 17 July 2000

Heard: 6 March 2001

Appearances: Mr S Laughton of Counsel
Mr P Marr Johnson of Messrs Marr Johnson & Stevens
for the Tenant

Mr K Munro of Counsel
Mr M J W Duncan) of Messrs W A Ellis
& Mr T Barker)
for the Landlord

Members of the Leasehold Valuation Tribunal:

Mrs T I Rabin (Chairman)
Mr W J Reed FRICS
Mr O N Miller BSc

INTRODUCTION

1. By a notice dated 4th April 2000 served by Jamil Ghali Shamash and Mrs Arlette Shamash, the then lessees of the house and premises known as 24/24A Trevor Place London SW7 ("the Premises") gave notice to The Trevor Estate Ltd ("the Applicant") of their desire to exercise their right to acquire the freehold of the Premises from the Applicant under Part I of the Leasehold Reform Act 1967 ("the Act"). The Premises were held under the terms of a lease ("the Lease") dated 8th August 1972 and made between the Applicant (1) and Catherine Bridget Drysdale (2) for a term of thirty-eight and a quarter years from 25th March 1972.
2. The claim was admitted by letter dated 10th May 2000 and on 17th July 2000 the Applicant made an application to the Leasehold Valuation Tribunal ("the Tribunal") for the determination of the price payable for the freehold interest pursuant to Section 9 of the Act
3. Mr and Mrs Shamash entered into an agreement to sell the Lease to Moustafa Ahmed El Nemr (the Respondent") and on 1st December 2000 assigned the benefit of their claim under the Act to the Respondent.

REPRESENTATIONS

4. At the hearing before the Tribunal on 6th March 2001 the Applicant was represented by Mr Ken Munro of Counsel and MJW Duncan and T Barker of W A Ellis. The Respondent, who attended, was represented by Mr S Laughton of Counsel and Mr Prosper Marr-Johnson of Marr-Johnson and Stevens. Both Mr Duncan and Mr Barker produced valuation reports, which they amplified in evidence. Mr Marr-Johnson also produced a valuation report which he also amplified in evidence.
5. The following matters were agreed between the Applicant and the Respondent:
 - The term of the Lease for a term which expires in 2010 at a fixed ground rent of £80 per annum
 - The terms of the transfer of the freehold of the Premises
 - The description of the Premises which comprised a gross internal area of 3208 sq.ft. of which 510 sq.ft. is the gross internal area of the third floor
 - The capitalisation rate of the ground rent at 6%
 - The deferment rate of the freehold reversion at 6%
 - The division of the resulting marriage value at 50% to each of the Applicant and the Respondent
 - The valuation date being 4th April 2000 at which time the Premises remained largely unimproved and in indifferent repair

6. The following matters were in dispute between the Applicant and the Respondent:
 - The value of the existing lease with vacant possession
 - The value of the freehold with vacant possession.
7. A copy of Mr Duncan's calculation of the premium at £1,200,00 is attached as Appendix 1 and Mr Marr-Johnson's amended calculation at £900,000 is attached as Appendix 2.

DESCRIPTION AND ACCOMODATION

8. The Premises are situated on the corner of Trevor Place and Trevor Square, immediately opposite the Harrods Depository. It is a five storey stucco and brick house and is the only house in Trevor Place with a portico. The basement is reached by a narrow flight of stairs. There is an internal bathroom with no window or ventilation, which was in poor decorative order with old fittings. The two living rooms had low ceilings and small windows, the front room overlooking the basement well, which had steps leading to the street, and the rear room overlooking the wall of the garage. The ground floor had a toilet at the rear with a very small window. The front reception room had a nice fireplace and plasterwork cornices. The rear reception room was used as the kitchen and was a reasonable size with plasterwork cornices. An elegant staircase with a window on the half landing led to the first floor which was taken up with the L-shaped sitting room. This had plasterwork cornices and a small balcony overlooking Trevor Place. Another elegant staircase with a window on the half landing led to the second floor with a good-sized bedroom and a large en-suite bathroom. The top floor was reached via a narrow, restricted height staircase. The bathroom on the third floor was large, but the ceiling was very low. The two bedrooms had low thresholds but the ceilings were a reasonable height and there was some sloping into the mansard roof. The rear bedroom overlooked the garage roof and Harrods Depository and was dark.
9. A door on the upper ground floor opened onto a steel staircase which led down to ground floor level and the garage and then up to the rooms above the garage. The garage was spacious but the overhead door mechanism severely restricted the ceiling height. The rooms above the garage had been refurbished, with the addition of new floors and suspended ceilings, to provide a large L-shaped room with two doors and a new bathroom. Heating and hot water was provided by a new independent boiler. This room was dark and overlooked the Depository.
10. The Tribunal noted that the Premises were overshadowed by the Depository which was six and a half stories high opposite the Premises. The entrance was some 50 yards down Trevor Square and there was a constant flow of commercial traffic making deliveries and collections. The Tribunal was not aware of the noise of these deliveries during their inspection of the Premises.

DECISION

The value of the existing lease with vacant possession

11. Mr Barker placed the value of the existing lease at £440,000. He produced a number of comparables, most of which had been agreed with the Respondent who put the value of the existing lease at £474,240. Mr Duncan had used the same properties in his valuation in reliance upon Mr Barker's evidence. Each of these had been adjusted for time using the FPD Savills PCL Capital Values Index and for lease length using the WA Ellis Prime Residential Property Index and analysed on a value per square foot basis.

The adjusted sale prices analysed by the Tribunal after inspection of the properties from the outside was as follows:

- (a) **13 Trevor Street** - This was sold in January 2001 with the benefit of a 6 1/2 year lease for £277,500. It was described as unmodernised and dilapidated and in need of refurbishment works amounting to £20,000. This house was a flat fronted two storey plus basement mid terrace house in a quiet location with a west facing garden, although it had no third floor. It had a gross internal area of 1759 sq.ft. which, when adjusted for time using the Savills Index and for lease length using the WA Ellis Index, produced a price per square foot of £210, without taking into account the costs of improvement and £225 having taken these costs into account.
- (b) **12 Trevor Street** - This house was similar to 13 Trevor Place, although it had a full third floor extension. This was sold in September 1999 in average condition with the benefit of an 11 3/4 year lease for £345,000. It had a gross internal area of 2569 sq.ft which, when adjusted as above, gave a price per square foot of £155.
- (c) **9 Trevor Place** - This house was also two storey with basement but narrower and located on a corner with the front door in an alleyway. It had a small town garden and had a full third floor extension. This had been sold in September 1999 in superior condition with the benefit of a 15 year lease for £400,513. It had a gross internal area of 2138 sq.ft. which, when adjusted as described above, gave a price of £205 per square foot.
- (d) **21 Trevor Place** - This house was similar to the others and refurbished to a high standard with a smaller third floor extension. It had been sold in November 2000 in immaculate condition with the benefit of a 10 year lease for £670,000. It had a gross internal area of 2118 sq.ft. which, when adjusted as described above, gave a price per square foot of £303. This lease, unlike the others, was enfranchisable under the Act.
- (e) **The Premises** - The Premises had a gross internal area of 3208 sq.ft. It had been sold in September 2000 for £595,000 with the benefit of a ten year lease.

Mr Barker took the view that the restricted height of the third floor warranted a discount which he put at 25%. He also made the point that the garage attached to the Premises would add value, as parking in the area was restricted. He gave the Tribunal evidence of the sale of lock-up garages in Chelsea at values between £70,000 and £120,000. There was discussion by both valuers as to the importance of a garden rather than a garage, but this was inconclusive. Both Mr Marr- Johnson and Mr Barker had included the garage at the same rate per square foot as the Premises.

Mr Duncan, relying upon Mr Barker's evidence, proposed a figure of £143 per square foot but with a discount of 25% for the third floor. Neither Mr Duncan nor Mr Barker was able to justify the figure from the evidence, although Mr Duncan admitted it was on the low side.

Mr Marr-Johnson had also made the point that the restricted height of the third floor warranted a discount to take account of the inconvenience of access, which he put at 33%. He also pointed out that the proximity of the Premises to the Depository and the shadow caused by this would adversely affect the value of the lease. Planning permission had been applied for to convert the Depository into a hotel and residential complex, which would cause disruption during any building works, but he accepted there would be a benefit in the long run. Mr Barker concurred with this view

Mr Marr-Johnson proposed a value of £179 per square foot based on the average price per square foot for the non-enfranchisable leases. The average price per square foot of the Premises was £199 which he discounted to exclude any value for the claim under the Act with which the Premises were sold.

The Tribunal considered what adjustments, if any, should be made to the value of the accommodation on the third floor to reflect the restricted access caused by the low bulkhead in the stairwell. It accepted that the restricted access would affect the movement of large pieces of furniture but considered that this would be relatively minor inconvenience to the day to day use of the third floor. The bedrooms had adequate ceiling heights and only a minimal dormer effect. The Tribunal therefore accepted Mr Barker's adjustment of 25% was more than adequate to reflect the restricted access.

The Tribunal also considered the relative value of the garage and the rooms above. The effective height of the garage was restricted by the up and over door mechanism. The rooms were unheated and clearly ancillary to the occupation of the main house. In the opinion of the Tribunal, if an allowance of 25% of the value of the accommodation on the third floor was justified for the stairwell bulkhead, an allowance of at least 25% should be made to reflect the restricted height of the garage and the ancillary nature of the rooms above. The Tribunal calculated

the area of the garage and the rooms above at 540 sq.ft and reduced the total area from 3080 sq.ft. to 2944.5 sq.ft. for valuation purposes

The Tribunal analysed the short leasehold transactions and also adjusted and analysed the sale price of the enfranchisable lease of the Premises and this produced a value of £179 per square foot overall or £196 per square foot including the third floor and garage block at 75% of the basic house value.

The Tribunal found it difficult to draw any firm conclusions from the Trevor Street transactions, one being at £210 per square foot in poor condition and the other being at £155 per square foot in average condition. 9 Trevor Place had been sold in superior condition. It had a corner location, its entrance was from an alleyway and it was unaffected by the Depository. 21 Trevor place was sold in immaculate condition, was only partly affected by the shadow from the Depository and had the benefit of an enfranchiseable lease. The analysed price of £303 per square foot was about 50% higher than the other leases. This suggested that substantial adjustments would have to be made for its' immaculate condition and for the benefit of the enfranchiseable lease with a smaller adjustment for the partial shadowing. By contrast the sale price of the lease of the Premises would only require adjustment for enfranchisability.

Doing the best it could with the evidence available to it the Tribunal considered a minimum adjustment should be made to the sale price of the leasehold interest in the Premises to reflect the additional value of the enfranchiseable lease. The analysed price of £196 per square foot discounted by 20% produced an adjusted value per square foot in the region of £157 and a capital value of £461,698, which the Tribunal rounded to **£462,000**.

As a cross check, the reduction of nearly £114,000 from the adjusted sale price represents almost two thirds of the 50% share of the marriage value included in the Tribunal's valuation. The Tribunal considered this to be a reasonable division of the tenant's share of the potential marriage value between a willing vendor and a willing purchaser.

The value of the freehold with vacant possession

12. Both Mr Barker and Mr Marr-Johnson agreed that there were ample comparable properties in the area. The freehold properties firstly described are in Trevor Place and are all narrower houses than the Premises and without porticoes or garages. The houses secondly described in Trevor Square were, with the exception of Number 16, all flat fronted mid terrace houses with no porticoes or garages.

- (a) **11 Trevor Place** - This house has a small third floor and a patio garden. This house was described as being in better condition than the Premises, although dated and with some rising damp in the basement. It has a gross internal area of 1977 sq.ft. and was sold in March 2000 for £1,225,500, a price that did not require adjustment for time using the Savills Index, giving a price per square foot of £620. Mr Barker stated that this house was affected by traffic noise as was the Premises
- (b) **16 Trevor Place** - This house has a full third floor and a patio garden. It was described as totally unmodernised and in a poor state but with the benefit of planning permission for a large rear extension. It has a gross internal area of 2250 sq.ft. and was sold in February 2000 for £1,280,000, giving a price per square foot of £586 per square foot when adjusted for time using the Savills Index. Mr Marr-Johnson expressed the view that the level of disrepair was irrelevant where a house was to be totally modernised, as this one had been since the sale.
- (c) **19 Trevor Place** - This house is close to the Premises and, according to Mr Barker, affected by traffic noise. This house was described as being in excellent condition with a patio garden. It has a full third floor and is marginally affected by the shadow from the Depository. It has a gross internal area of 2315 sq.ft. and was sold in April 2000 for £1,550,000, giving a price per square foot when adjusted for time using the Savills Index of £670. Mr Marr-Johnson was of the opinion that the high price was achieved as a result of the house being sold in excellent condition. If an allowance were made for the cost of refurbishment, he would put the price at £600 per square foot.
- (d) **35 Trevor Place** - This house was on the opposite side of Trevor Place and was larger than the other comparables. It was described as poorly planned, having a large amount of open plan living space. It was described as decorated but unmodernised and had a small third floor. It had a garden although the much larger houses in Montpelier Square at the rear overshadowed it. This had a gross internal area of 2644 sq.ft. and was sold in June 2000 for £1,375,000 equivalent to a price per square foot after adjustment for time using the Savills Index of £506 per square foot. This was considerably lower than the other houses in Trevor Place, which, according to Mr Marr-Johnson indicated that there should be a discount for size, although he made no such discount.
- (e) **28 Trevor Square** - This house was in reasonable condition, although cosmetic refurbishment was required. It overlooked the Square gardens and had a small west-facing garden. There was no third floor. This house had a gross internal area of 1689 sq.ft. and was sold in November 1999 for £1,150,00, giving a price per square foot, adjusted for time using the Savills Index of £766.
- (f) **16 Trevor Square** - In some ways this was the most suitable comparable. It was a large house, end of terrace and in an almost equivalent position to the Premises, other than the fact that it is on the corner of the Square,

overlooking the gardens and reached from an entrance at the side. It was described as being in a reasonable condition but was very close to the entrance to the Depository and, whilst the Tribunal were inspecting, lorries were seen to reverse almost outside the house in order to manoeuvre into the entrance. The Depository itself was only one storey in height and set back from the street, thus eliminating the problem of shadow. This house would also be affected by redevelopment of the Depository and would similarly benefit from the improvement to the area should the development take place. This house had a full third floor and off-street car parking on hard standing in the garden, reached through gates. It had a gross internal area of 2378 sq.ft. and was sold in May 1999 for £1,175,000, giving a price per square foot adjusted for time using the Savills Index of £642.

(g) 29 Trevor Square - This was a narrower house, overlooking the Square gardens and with a small garden. It was described as well presented with a full third floor. It had a gross internal area of 2001 sq.ft. It had been sold in March 2000 for £1,610,000, a price that did not require adjustment for time, giving a price per square foot of £805.

(h) 35 Trevor Square - This house is situated at the top of the Square, overlooking the gardens. It was described as having contemporary refurbishment with an extension at basement level with a roof terrace above. There is no third floor. It has a gross internal area of 2295 sq.ft. and was sold in March 2000 for £1,750,000, a price that did not require adjustment for time, giving a price per square foot of £763.

Both Mr Barker and Mr Marr-Johnson considered that the Trevor Square houses were more attractive and that a Trevor Square address was superior to a Trevor Place address. The Tribunal found that 28,29 and 35 Trevor Square were better situated than 16 Trevor Square and the analysed prices per square foot were noticeably higher. 16 Trevor Square was better situated with a better address than the Premises with off-street parking as well as a garden but was very close to the entrance to the Depository.

11,16 and 19 Trevor Place provided better evidence of value. 11 Trevor Place was farthest from the Depository, was not affected by the shadow cast by it and was sold in rather better, if dated, condition. 16 Trevor Place was closer to the Depository but not affected by the shadow and had been sold in an unmodernised condition. 19 Trevor Place was sold in excellent condition but is marginally affected by the shadow from Harrods Depository.

The Tribunal considered the analysed values per square foot of these three properties and the analysed value of 16 Trevor Square supported a value of £600 per square foot for the Premises. Taking the third floor and garage block at 75% of the basic house value, a capital figure of **£1,766,700** was arrived at.

Finally the Tribunal cross-checked the relativity of its valuations of £462,000 and £1,766,700 - a relativity of 26.15% - against the WA Ellis Index which showed a relativity of 26.5% for leases with 10 years unexpired.

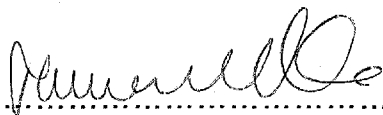
Marriage value

13. The parties had agreed that the marriage value should be divided equally and the Tribunal's determination of the marriage value is **£358,325** as shown on the Tribunal's valuation attached as Appendix 3.

Determination

14. The Tribunal therefore conclude that the premium to be paid for the freehold is **£1,125,500** in accordance with the Tribunal's valuation attached.

CHAIRMAN.....



DATE.....

15th May 2001

24/24A TREVOR PLACE, LONDON SW7

Computation of Freehold Price
(Appendix to M J W Duncan's Memorandum to the Leasehold Valuation Tribunal)

Reversioners' existing interest:

Ground rent		80
YP 10¾ years @ 6%		7.7552
		620
And reversion to FH VP value	1,850,000	
Deferred 10¾ years @ 6%	0.5346893	989,175
		989,795

Marriage Value:

FH VP value	1,850,000	
Less:		
Reversioners' existing interest	989,795	
Existing lease VP value	440,000	1,429,795
		420,205
Marriage value therefore	0.5	210,103

Freehold Price:		1,199,898
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	say	£1,200,000
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Mr El Nemr

Appendix 2

Leasehold Reform Acts 1967 & 1993

24 Trevor Place, London SW7

<u>Freehold Valuation as at</u>	Apr 2000 claim	Dec 2010 expiry
Ground rent per annum:		£80 pa
Years' purchase for: 10.7 years at	6%	<u>7.7446</u>
		£620
Reversion to unimproved value, freehold with vacant possession		£1,480,480
Present value of £1 after: 10.7 years at	6%	<u>0.535323</u>
		<u>£792,535</u>
Open market value of landlords' interest		£793,154
Marriage Calculation		
Freehold with vacant possession		£1,480,480
less freeholders' interest	£793,154	
and lessee's interest (ignoring the right to claim)	<u>£474,240</u>	
Total marriage value		<u>£1,267,394</u>
		£213,086
Landlords' share @ 50%		<u>0.5</u>
		£106,543
Total enfranchisement price, excluding costs		£899,697
		say £900,000

P H Marr-Johnson

6th March 2001

24/24A Trevor Place London SW7

Valuation in accordance with Leasehold Reform Act 1967, as amended, as at
4th April 2000 being the date of the Respondent's notice

A. Value of Freehold interest

(i) Ground rent 4/4/2000 - 25/12/2010	£80	
YP 10.7 years @ 6%		7.7446
£620		
(ii) Reversion to freehold with vacant possession	£1,766,700	
PV £1 10.7 years @ 6%	0.535323	<u>£945,755</u>
	Value of freehold interest	£946,375

B. Marriage Value

Value of freehold with vacant possession £1,766,700

Less

(i) Value of freehold interest £946,375
(ii) Value of leasehold interest £462,000 £1,408,375

Marriage Value £ 358,325

50% of Marriage Value £ 179,162

C. Premium

Value of Freehold Interest £ 946,375
50% of Marriage Value £ 179,162

£, 125,537

SAY £1,125,500