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Ref LON/OOBE/OCE/2007/0112

**LEASEHOLD VALUATION TRIBUNAL  
FOR LONDON RENT ASSESSMENT PANEL**

**DETERMINATION**

**UNDER SECTION 26 AND 27 OF THE LEASEHOLD REFORM, HOUSING  
AND URBAN DEVELOPMENT ACT 1993**

**Premises:** 12 & 12A St Giles Road, Camberwell, London SE 57RL

**Claimant:** St Giles Road No.12 Limited [Nominee Purchaser]

**Defendant:** Mr Kuldip Singh [Missing Landlord]

**Meeting & Inspection:** 9 May 2007

**Members of the Leasehold Valuation Tribunal:**

Professor J T Farrand, QC, LLD, FCI Arb, Solicitor [Chairman]  
Mr WJ Reed, FRICS

## **Introductory**

1. Pursuant to a Claim issued on 7 September 2006 in the Lambeth County Court for collective enfranchisement where the landlord could not be found, District Judge Wakem made an order, dated 7 March 2007, vesting the freehold of the Premises in the Nominee Purchaser on terms to be determined by the Tribunal. The Judge also ordered that the claim be transferred to the Tribunal forthwith for the purpose of determining the terms in accordance with s.27(1) of the 1993 Act.
2. The Nominee Purchaser was incorporated by the qualifying tenants on 17 May 2006 with the object of acquiring the freehold in the Premises, a self-contained building divided into two flats with amenity land at front and rear.
3. The tenants and registered leasehold proprietors of the upper flat, No.12, are Ms M J Perry and Mr A Bulmer under a lease granted for a term of 99 years from 25 December 1974 at a rent of £30 pa rising after 50 years to £60 pa. The tenant and registered proprietor of the lower flat, No.12A, is Mr W C G Forbes under a lease for the same term and rent.
4. A company called 'Buy Your Freehold Limited' (Managing Director Mr Tim O'Keeffe) acts for the tenants and Nominee Purchaser. Although having no relevant professional qualifications, Mr O'Keeffe prepared and submitted a Valuation Report, in appropriate form and content and showing an enfranchisement price of £29,926, for consideration by the Tribunal. He took the valuation date as being 7 September 2006 which correctly accords with s.27(1)(b) of the 1993 Act. Mr O'Keeffe also submitted a completed draft Land Registry Transfer in form TR1 for approval by the Tribunal.

## **Inspection**

5. The Tribunal inspected externally the subject properties and the other properties referred to by Mr O'Keeffe during the afternoon of Wednesday 9 May 2007.
6. St Giles Road includes two late-Victorian terraces of substantial dwelling-houses on either side of its junction with Ada Road.
7. No. 12 - from the road - is a three storey converted single fronted dwelling-house with lower ground floor and raised ground floor bays and steps up to the raised ground floor front door. The property has a concrete tiled replacement roof, and UPVc replacement windows and front door. There is a small front garden with steps down to the lower ground floor and ground floor flat. Externally the property appeared to be in good condition.
8. The other properties in St Giles Road referred to by Mr O'Keeffe formed part of the same terraces and were of the same age and construction. Most of the dwelling-houses appeared to have been converted to flats and/or maisonettes.

## **Decision**

9. Although Mr O'Keeffe had referred in his Valuation Report to a number of sales of flats and maisonettes in St Giles Road, there were only two transactions and an asking price where sufficient details of the property were known with certainty

for them to provide a reliable basis for the valuation of the subject maisonettes. These were as follows -

No. 1 St Giles Road

A 1-bedroom lower ground floor flat  
 For sale at 11 April 2006  
 Asking price £154,999  
 Unexpired term 105 years  
 Effective floor area - approximately 470 sq ft

Flat 4a, 4 St Giles Road

A 1-bedroom lower ground floor flat  
 Sold on 13 April 2006 for £162,500  
 Unexpired term 102 years  
 Effective floor area - approximately 500 sq ft

Upper Flat at 12 St Giles Road (part of the Premises)

Ground, first and second floor 2-bedroom flat  
 (Formally a 3-bedroom flat)  
 Sold 27 May 2004 for £207,000  
 Unexpired term 69 years and 7 months  
 Effective floor area - approximately 715 sq ft

10. The effective floor areas of the flats and maisonette, calculated by the Tribunal, are based on the room measurements provided by Mr O'Keeffe or shown on the Particulars of Sale, and include, where appropriate, a nominal area of 50 sq ft for the bathroom where no measurements are shown. The Tribunal also calculated the effective floor area of Flat No.12A - a 2 bedroomed lower ground floor and ground floor maisonette - at approximately 620 sq ft.
11. Mr O'Keeffe had relied on the sale of Flat 4a in April 2006 as the basis for the valuation of 12A St Giles Road, the upper flat, at £232,647, and had then mysteriously valued No.12 the lower flat at £205,000.
12. In the opinion of the Tribunal, the sale of Flat 4a - as a lower ground floor flat - provided the best evidence as a comparable for the valuation of Flat No.12A - the lower ground floor and ground floor flat, and that the sale of the ground, first and second floor flat, albeit two years earlier in May 2004, provided the best evidence for the valuation of that property.
13. The Tribunal therefore prepared the following valuations of the two flats at the Premises as at the valuation date, 7 September 2006 -

**12A St Giles Road**

Sale price of Flat 4a on 13/4/2006		£162,500	(1 bedroom 102 years)
Adjust for size (620/500 sq ft EFA)	Say 20%	£195,000	(2 bedroom 102 years)
Adjust for increase in value between April 2006 and September 2006	Say 5%	£204,750	(long leasehold)

Adjust for reduced lease length - 89% relativity	£182,227	
<b>Value of existing leasehold interest</b>	<b>Say £182,200</b>	<b>(67.3 yrs)</b>
But add 1% for freehold reversion	£206,797	
<b><u>Value of freehold interest with vacant possession Say £206,800 (88.1% relativity)</u></b>		

**12 St Giles Road**

Sale price on 27 May 2004	£207,000	(69 yrs 7 months)
Adjust for increase in value between May 2004 and September 2006 Say 10%	£227,700	
Adjust for reduced lease length Say 2%	£223,146	
<b>Value of existing leasehold interest</b>	<b>Say £223,150</b>	<b>(67.3 yrs)</b>
Adjust for long leasehold value - 89% relativity	£250,725	(long leasehold)
Add 1% for freehold reversion	£253,233	
<b><u>Value of freehold interest with vacant possession Say £253,000 (88.2% relativity)</u></b>		

14. It will be noted that the Tribunal accepted Mr O'Keeffe's adjustment of 5% for the increase in values between April and September 2006, his relativity between the values of long leasehold interests and the existing unexpired terms at 89%, and the 1% difference between the value of a long leasehold and the value of a freehold reversion.
15. In considering these adjustments the Tribunal had regard to its own knowledge and experience of these matters, to the Savills Prime Central London SW Flats Index with regard to the increase in values between May 2004 and the valuation date, and to the Beckett & Kay Graph of Graphs of Relativities. As shown above, the final relativities between the values of the existing leasehold interests and the values of the freehold interests with vacant possession are 88.1% and 88.2%
16. The Savills Index showed an increase in values of between May 2004 and September 2006 of 15.8%, and between April 2006 and September 2006 of 12.3%. The Tribunal accepts that lower rates of increase would have occurred outside the Prime Central London area, and has therefore adopted 10% and 5% in its valuations of the subject properties.
17. Similarly, the Tribunal is satisfied that a relativity of 89% falls within the range of relativities shown on the Beckett & Kay Graph of Graphs, but it does not necessarily accept that the Graft based on LVT decisions is necessarily the most reliable for this purpose as it will include decisions in respect of properties outside London, and those where the parties have themselves agreed the relativity at or before a Tribunal hearing.
18. Mr O'Keeffe valued the unimproved freehold interests in the two flats at the Premises at £232,647 and £205,000, based on the sale of the leasehold interest in Flat 4a, but he provided no evidence as to the condition of those flats or of any tenants' improvements, and made no adjustment to the sale price of the leasehold interest in Flat 4a for any improvements to that flat. The Tribunal has not, therefore, made any adjustments in its valuations for the effect on value of any tenants' improvements at Flat 4a or for any tenants' improvements at 12 and 12A Giles Road.

19. In his calculation of the enfranchisement price, Mr O'Keeffe had used a capitalisation rate of 7.5% and a deferment rate of 6%. The Tribunal is able to agree the capitalisation rate at 7.5%, but considers that the deferment rate should be 5%.
20. The Lands Tribunal clearly stated its decision in *Earl Cadogan & Cadogan Estates Ltd v Sportelli & Sportelli* (2006) LRA/50/2005 (the *Sportelli* decision) at para 123 that -
- "The application of the deferment rate of 5% for flats and 4.75% for houses that we have found to be generally applicable will need to be considered in relation to the facts of each individual case. Before applying a rate that is different from this, however, a valuer or an LVT should be satisfied that there are particular features that fall outside the matters that are reflected in the vacant possession value of the house or flat or in the deferment rate itself and can be shown to make a departure from the rate appropriate."
21. Mr O'Keeffe has not identified any "particular features that fall outside the matters that are reflected in the vacant possession values" of the flats at 12 Giles Road, and the Tribunal is not aware of any from its external inspection of the Premises. It therefore determines the deferment rate in this case at 5%.
22. Having determined the value of the leasehold interests with 67 years and 3 months unexpired at the valuation date at £182,200 and £223,150, the value of the long leasehold/share of freehold interests at £204,750 and £250,725, the value of the freehold interests at £206,800 and £253,000, and the capitalisation and deferment rates at 7.5% and 5%, the Tribunal determines that the price to be paid for the enfranchisement of the Premises, including flats 12 and 12A Giles Road as well as amenity land, is £34,185. A copy of the Tribunal's valuation is attached in the Appendix.
23. The Tribunal is not aware of any amounts which might be due to the Defendant from the tenants except arrears of rent (ie within 27(5)(b) of the 1993 Act). However, it is now provided that tenants under long leases of dwellings are not liable to pay rent unless and until the landlord has issued a demand notice (s.166 of the Commonhold and Leasehold Reform Act 2002). Such notices are unlikely to be issued by 'missing' landlords.
24. Accordingly, there is no amount to be aggregated with the price and, therefore, the appropriate sum to be paid into court is determined by the Tribunal to be **£34,185** (see s.27(5) of the 1993 Act).
25. Finally, the Tribunal has considered the form and contents of the draft Land Registry Transfer (TR1) submitted and approves it as drafted.

CHAIRMAN

*J. J. J. J. J.*  
*T. J. J. J. J.*

15 May 2007

Appendix

**12 & 12a St Giles Road, Camberwell, London SE 57RL**

**Determination of the price to be paid by the nominee purchaser in accordance with s.32 and Schedule 6 to the Leasehold Reform, Housing and Urban Development Act 1993, as amended, for the purposes of s.27(5) of the Act, as at 7 September 2006 - the date on which proceedings were issued in the Lambeth County Court.**

**A Value of landlord's freehold interest (Sched.6 para 3)**

Ground rents 7/9/2006 to 24/12/2024	£60 p a	
YP 18.3 yrs @ 7.5%	<u>9.7819</u>	£587
Ground rents 25/12/2024 to 24/12/2073	£120 p a	
YP 49 yrs @ 7.5%	<u>12.9479</u>	
	£1,554	
PV £1 18.3 yrs @ 7.5%	<u>0.2663553</u>	£414
Reversion to freehold with vacant possession, Excluding value of tenants' improvements	£459,800	
PV £1 67.3 yrs @ 5%	<u>0.0375032</u>	<u>£17,244</u>

**Value of landlord's freehold interest      £18,245**

**B Marriage value**

Value of leasehold interests after enfranchisement,  
excluding value of tenants' improvements      £455,475

Less

Value of freehold interest before enfranchisement,  
excluding value of tenants' improvements      £18,245

Value of leasehold interests before enfranchisement,  
excluding value of tenants' improvements      £405,350      £423,595

Marriage Value      £31,880

**50% of marriage value      £15,940**

**C Enfranchisement price**

Value of landlord's freehold interest      £18,245

50% of marriage value      £15,940

**Price      £34,185**