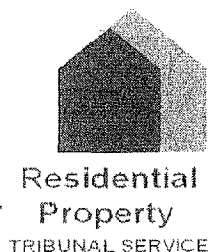


2473



LEASEHOLD VALUATION TRIBUNAL

**LEASEHOLD REFORM, HOUSING AND URBAN
DEVELOPMENT ACT 1993, SECTION 48**

Ref: LON/00AF/OLR/2012/0141

Flat 1, 4 Border Crescent, SE26 6DF

Nicholas John Russell & Joanne Allen

Applicants

**Ricky Barry Aubrey Garrett as executor of
the estate of George Leonard Reginald Garrett decd**

Respondent

Tribunal: Mr M Martynski (Solicitor)
Miss M Krisko BSc(EstMan) BA FRICS

DECISION

Decision summary

1. The sum payable by the Applicants to the Respondent in respect of the new lease for the subject property is: £11,616.00 (Eleven Thousand and Six Hundred and Sixteen Pounds). The valuation is attached to this decision as Appendix One.
2. The proposed lease is attached at Appendix Two.
3. Any ground rent outstanding under the terms of the existing lease is to be paid into court with the sum due for the new lease.

Background

4. The Applicant seeks a new lease of Flat 1, 4 Border Crescent, SE26 ('the Subject Flat'). The essential background facts are as follows.

Applicant's lease:	27 September 1984 for 99 years
Valuation date:	13 September 2011 (date of application to the court)
Term remaining on lease:	72.04 years

5. The Subject Flat consists of a converted two-bedroom flat with an approximate gross internal area of 95 sq. m on the ground floor of a large Victorian double fronted house containing five flats in total. There is front garden with a right to park and the Subject flat has use of part of the rear garden.

6. The Tribunal relied upon the details and photographs of the Subject Flat and comparables supplied by the Applicant's Valuer, Mr Bradley MRICS.

7. By an order dated 17 January 2012, District Judge Avis sitting at the Croydon County Court found that the Applicants were entitled to acquire a new lease of the Subject Property and that sufficient notice of the claim for a new lease in accordance with section 42 Leasehold Reform Housing and Urban Development Act 1993 had been given to the Respondent (who could not be located by the Applicant). That order transferred to this Tribunal for determination; (a) the terms of the new lease, and; (b) the appropriate sums to be paid by the Applicants into court on the grant of the new lease.

The Applicant's position

8. Mr Bradley MRICS, for the Applicant, in his valuation report dated 6 March 2012 argued for the following parameters and valuation:-

Capitalisation rate:	7.5%
Deferment rate:	5.5%
Relativity:	93.56%
Value of long lease:	£250,000 less £3,000 for tenant's improvements
Price for new lease:	£11,100

The Tribunal's decisions

Capitalisation rate

9. The Tribunal agrees with the rate adopted by Mr Bradley. He based the rate in line with a previous decision of a Leasehold Valuation Tribunal for a property in the SE26 area.

Deferment rate

10. Mr Bradley argued for a rate of 5.5% to reflect; (a) an argument that an investor would conclude that, in this case, there was a greater risk than in a Prime Central London of eventual deterioration in the state of the property towards the end of the lease term (0.25%), and; (b) the management issues that are created by the fact that the Respondent cannot be traced and the fact that this is a small building in respect of which it is possible that a majority of managing agents would not be interested in managing (0.25%).

11. The Tribunal accepts Mr Bradley's reasoning on the question of management. However the Tribunal disagrees with the argument in respect of deterioration. There is no reason, in the Tribunal's view, to believe that this property will deteriorate to a greater extent than any other property. Accordingly the Tribunal settled upon the figure of 5.25% to take account of management but not deterioration.

Relativity

12. Mr Bradley adopted an average of five of the standard graphs of relativity to reach a figure a 93.56%.

13. The Tribunal accepts the reliance upon the various Graphs and the approach of averaging the figures.

Value of long lease

14. Mr Bradley relied on seven comparables.


15. The Tribunal considered all the comparables to be useful and agree with Mr Bradley's value set on the long lease as £250,00 which is in line with the comparables. The Tribunal also agrees with Mr Bradley's deduction of £3,000 to account for tenant's improvements.

Valuation

16. Mr Bradley's valuation is set out at Appendix One to this decision. That valuation has been amended by the Tribunal to reflect the reduction in deferment rate to 5.25%.

The terms of the new lease

17. The terms of new lease as drafted by the Applicant's solicitors are approved and the lease is attached as Appendix Two.


.....
Mark Martynski
Tribunal Chairman
20 March 2012

APPENDIX ONE

Lease Extension - Valuation for Assessment of Premium

Flat 1, 4 Border Crescent, SE26 6DF	Valuation Date (Date of Claim)	13/09/2011
Lease 99 years from	29/09/1984 at an annual rent of	£50 £100 £150
	Expiry date 28/09/2083	28/09/2017 28/09/2050 28/09/2083

The flat values are £231,093 subject to the existing lease
 and £247,000 unimproved, FHVP
 Relativity 93.56%

LEASE EXTENSION

1. Diminution in value of Landlord's interest.

Ground Rent					
YP for	6.04 years @	7.5%	£50.00 p.a.	<u>4.7188</u>	£235.94
YP for	33.00 years @	7.5%	£100.00 p.a.	12.1074	
PV £1 in	6.04 years @	7.5%		<u>0.6461</u>	£782.25
YP for	33 years @	7.5%	£150.00 p.a.	12.1074	
PV £1 in	39.04 years @	7.5%		<u>0.0594</u>	£107.88
Reversion to					
PV £1 in	72.04 years @	5.25% 5.50%	£247,000	<u>0.0211</u> 0.0251	£5,218.73 <u>6,199.70</u>
			Diminution in value, say		£6,344.89 <u>7,325.77</u>

2. Landlord's share of Marriage Value.

Value of tenant's interest under a new					
			£247,000		
Value of Landlord's new interest			<u>Nil</u>		£247,000
<i>Less:</i>					
Value of tenant's existing lease			£231,093		
Value of Landlord's existing interest			£6,346 <u>7,325.77</u>		<u>£237,438</u>
Marriage value					£9,562 <u>8,581.23</u>
Landlord's share @ 50%					£4,781 <u>4,290.62</u> £11,126
					say <u>£11,400</u> 11,616

APPENDIX TWO

H M LAND REGISTRY

LAND REGISTRATION ACT 2002

County/District or London Borough : Bromley
Title Number (Freehold) : SGL277923
Title Number (Leasehold) : SGL442006
Property : Flat 1, 4 Border Crescent, London, SE26 6DF

THIS LEASE is made the day of TWO THOUSAND AND TWELVE
BETWEEN:

- 1 Ricky Barry Aubrey Garrett as Executor of the Estate of George Leonard Reginald Garrett of last known address Oakfield Farm, Rushett Lane, Epsom, Surrey, KT18 7TR ("the Lessor")
and
- 2 Nicholas John Russell and Joanne Allen of Flat 1, 4 Border Crescent, London, SE26 6DF ("the Lessee")

NOW THIS LEASE WITNESSETH as follows:

1 DEFINITIONS AND INTERPRETATIONS

In this Lease:

- 1.1 By a lease dated 27 September 1985 and made between (1) Raymond Geroge Armstrong and Judith Anne Armstrong and (2) Esther Jess Lubbock ("the Original Lease") the residue of the term created by the Original Lease is now vested in the Lessee and the reversion expectant upon the determination of the Original Lease remains vested in the Lessor
- 1.2 "the Term" means the term of years granted by the Original Lease
- 1.3 "the Substituted Term" means the term of 189 years commencing on 29 September 1984

- 1.4 "the Premises" means the premises described in and demised by the Original Lease
- 1.5 "the Rent" means the rent reserved by the Original Lease
- 1.6 "the Substituted Rent" means the sum of one peppercorn per annum
- 1.7 The "Lessor" where the context so admits includes the person for the time being entitled to the reversion immediately expectant on the determination of the Substituted Term
- 1.8 The "Lessee" where the context so admits includes the Lessee's successors in title
- 1.9 "the Court Order" means the Court Order by District Judge Avis sitting at Croydon County Court dated 17th January 2012 and annexed hereto
- 1.10 Words importing one gender shall be construed as importing any other gender
- 1.11 Words importing the singular shall be construed as importing the plural and vice versa
- 1.12 Where any party comprises more than one person the obligations and liabilities of that party under this deed shall be the joint and several obligations and liabilities of those persons

2 RECITALS

- 2.1 The Premises are now vested in the Lessee for all the unexpired residue of the Term subject to the payment of the Rent and to the Lessee's covenants and conditions contained in the Original Lease title to which is registered at H M Land Registry with Title Absolute under the Title Number mentioned above.

2.2 The reversion immediately expectant on the Term is now vested in the Lessor and the title to the reversion is registered at H M Land Registry with Title Absolute under the Title Number mentioned above.

2.3 District Judge Avid sitting at Croydon County Court has ordered by virtue of the Court Order and pursuant to Section to Section 50 (1) of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act") that the Lessee be granted the Original Lease of the Premises to be surrendered and re-granted on such terms as may be determined by the Leasehold Valuation tribunal to be appropriate with a view to the lease being granted to the Lessee in like manner as if the Lessee had given notice under Section 42 of the Act.

3 VARIATIONS

3.1 In consideration of the sum of £ (receipt of which the Lessor hereby acknowledges) the Lessor agrees to replace the Term with the Substituted Term

3.2 The Lessor agrees to replace the Rent with the Substituted Rent with effect from the date hereof

4 COVENANTS

The Lessor and the Lessee mutually covenant that they will respectively perform and observe the several exceptions reservations covenants provisos and stipulations contained in the Original Lease as if they were repeated in full in this deed *and* as if the names of the parties to this deed were respectively substituted for those of the lessor and the lessee in the Original Lease

5 PROVISIO

It is agreed that if the Term is determined under the proviso for re-entry contained in the Original Lease this deed shall become absolutely void

6 The Lessee agrees to apply to the Chief Land Registrar for notice of this deed to be entered on the Register of the Lessor's title

7 There is no agreement for Lease to which this deed gives effect

8 This Lease is made pursuant to s.50 (1) of the Leasehold Reform Housing and Urban Development Act 1993.

9 No long lease created immediately or derivatively by way of a sub-demise under this Lease shall confer on the sub-Tenant as against the Lessor a right under Chapter II of Part I of the Leasehold Reform Housing and Urban Development Act 1993 to acquire a new lease

10 There is reserved to the Lessor the right to terminate the Lease for redevelopment in accordance with Section 61 of the Leasehold Reform Housing and Urban Development Act 1993

11 This Lease shall have effect for the creation of the term hereby granted and for the operation of the rights and obligations conferred and imposed herein as if there had been a surrender and re-grant of the Head Lease pursuant to sub-paragraph 10 (1) of Part II of Schedule 11 of the Leasehold Reform Housing and Urban Development Act 1993

IN WITNESS whereof the Lessor and the Lessee have hereunto set their hands the day and year first before written

Signed as a Deed by _____)

Sitting at Croydon County Court
in the presence of

Signature of Witness.....

Name (in BLOCK CAPITALS).....

Address.....

Signed as a Deed by)
Nicholas John Russell
in the presence of

Signature of Witness:.....

Name (in BLOCK CAPITALS).....

Address.....

Signed as a Deed by)
Joanne Allen
in the presence of

Signature of Witness.....

Name (in BLOCK CAPITALS).....

Address.....

Schedule

Tenant:	Nicholas John Russell and Joanne Allen
Premises	Flat 1, 4 Border Crescent, London, SE26 6DF
Date of Purchase	9 November 2006 registered at H M Land Registry on 7 December 2006
Ground Rent	None owed to Freeholder.
Service Charge	None owed to Freeholder.