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LEASEHOLD VALUATION TRIBUNAL

of the

MIDLAND RENT ASSESSMENT PANEL

BIR/00CN/OLR/2010/0029

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER SECTION 48 AND 91 OF THE LEASEHOLD
REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

<u>First Applicant (9 Hindon Square)</u>	Suzanne Jennifer Marion Rayner
<u>Second Applicant (34 Hindon Square)</u>	Kathryn Mary Farrow
<u>Respondent</u>	The Trustees of the Calthorpe Estate
<u>Properties</u>	9 & 34 Hindon Square, Edgbaston, Birmingham, B15 3HA
<u>Hearing</u>	28 July 2010
<u>Appearances</u>	
<i>For the Respondent</i>	Mr John K Willson BSc FRICS
<u>Tribunal Members</u>	C J Goodall LLB MBA D J Satchwell FRICS
<u>Date of Tribunal decision</u>	- 6 AUG 2010

Background

1. On 12 October 2009, Suzanne Jennifer Marion Rayner ("the First Applicant") served a notice under s42 Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") claiming an extended lease of her property at 9 Hindon Square, Edgbaston, Birmingham, B15 3HA ("9 Hindon Square"). The Respondent served a counter notice, and on 12 April 2010, the First Applicant, acting by her agent Alan George Holland of Fishers, applied to the LVT for a determination of the price payable for the extended lease and for a determination of the landlord's costs payable
2. On 13 October 2009, Kathryn Mary Farrow ("the Second Applicant") served a notice under the Act claiming an extended lease of her property at 34 Hindon Square, Edgbaston, Birmingham, B15 3HA ("34 Hindon Square"). The Respondent served a counter notice, and on 12 April 2010, the Second Applicant, acting by her agent Alan George Holland of Fishers, applied to the LVT for a determination of the price payable for the extended lease and for a determination of the landlord's costs payable
3. The First Applicant's interest in 9 Hindon Square is derived from an underlease dated 13 August 1976 and made between Bryant Homes Limited and Josefina Luss for a term commencing on 13 August 1976 and expiring on 26 Sept 2071 at a rising ground rent of £40 per annum until 29 Sept 1997, then £60 per annum until 29 Sept 2022, then £80 per annum until 29 Sept 2047, and finally £100 per annum from that date until the expiry of the lease. This underlease is now vested in the First Applicant. The head lease to Bryant Homes Limited was surrendered on 18 May 1981 so the First Applicant is the direct tenant of the freeholder. The freehold is owned by the present Trustees of the Calthorpe Estate.
4. The Second Applicant's interest in 34 Hindon Square is derived from an underlease dated 24 February 1976 and made between Bryant Homes Limited and Brian Kemp and Patricia Kemp for a term commencing on 24 February 1976 and expiring on 26 Sept 2071 at a rising ground rent of £40 per annum until 29 Sept 1997, then £60 per annum until 29 Sept 2022, then £80 per annum until 29 Sept 2047, and finally £100 per annum from that date until the expiry of the lease. This underlease is now vested in the Second Applicant. The head lease to Bryant Homes Limited was surrendered on 18 May 1981 so the Second Applicant is the direct tenant of the freeholder. The freehold is owned by the present Trustees of the Calthorpe Estate.
5. Both 9 Hindon Square and 34 Hindon Square (together called "the Properties") are on the same 1970's flat development at Hindon Square. The Properties are both first floor flats, and are virtually identical in layout. The valuation dates for the Properties are only one day apart. Both Applicants have the same professional representative, and of course the same freeholder. The leases are in the same form and expire at the same time. The parties have therefore effectively treated both applications as identical; a view with which the Tribunal concurs.

Inspection and hearing

6. The Tribunal inspected the Properties on 28 July 2010 and held a hearing to consider the applications on the same day. A representative from the office of Fishers attended the Properties at the time of the inspection.
7. The Properties are on the first floor of three floors in different blocks at Hindon Square, which is a well tended, attractive 1970's flat development. The Properties both have a good size lounge, two bedrooms and a bathroom and kitchen. Neither are served by a lift. Both have been modernised with upvc double glazed windows, and what appear to be fairly recently fitted kitchens and bathrooms. Both have gas fired central heating. Each property has the benefit of a separate garage.
8. At the hearing, Mr Willson represented the Respondent. He had previously supplied an Expert's Report to the Tribunal and to the Applicants representative dated 13 July 2010. There was no appearance by either of the Applicants or their representative, nor had any expert's proof of evidence been supplied by them. Mr Holland had sent a letter dated 1 July 2010 giving his view of the matters in dispute between the parties, but this was not in the form of an expert's report.
9. The price for an extended lease under the Act is determined according to the provisions of Part II of Schedule 13 of the Act. The parties' advisers had used a common valuation methodology to determine the premium payable for an extended lease, which the Tribunal agrees is the appropriate methodology, the workings of which are shown in the Appendix to this decision. The only matters in dispute between the parties were the value of the existing un-extended leases, and the value of the Properties with an extended lease, or, to put it another way, the appropriate uplift to apply to the existing value. Agreed matters were therefore:

▪ Unexpired term of the leases	62 years
▪ Capitalisation rate for freehold ground rent	6%
▪ Deferment rate	6%

Existing lease value

The parties' evidence and argument

10. In his letter with his valuation attached dated 1 July 2010, Mr Holland contended that the existing values of the Properties is £143,000 each, based on the sale of 18 Hindon Square at that price on 21 October 2009.
11. Mr Willson provided a range of sale values achieved at Hindon Square and at the adjoining and very similar development at Hartley Place during the period 1 Dec 2006 to 15 Feb 2010. The values ranged from £112,000 to £175,000, with no obvious pattern to the variations. None of these sales were on the basis of an extended lease. Mr Willson's view, with which the Tribunal agrees, is that sale values achieved are likely to be heavily influenced by the extent to which the properties have been modernised. Indeed, Mr Willson said that 18 Hindon Square had been upgraded to some extent. Of course the Tribunal must endeavour to arrive at a value for the existing lease which disregards any improvements to the property carried out by the Tenant or any predecessor of the Tenant (see Sch 13 para 3(2)(c) of the Act).

12. In the light of this slightly inconclusive evidence, Mr Willson's professional opinion of the existing lease values of the Properties was £125,000 for each of them. The Tribunal accepts his expert evidence; indeed it believes this to be a very fair and unpartisan valuation, even possibly verging on the low side.

Valuation of the extended lease interest

The parties' evidence and argument

13. Mr Holland proposed a valuation of £153,725. He based this figure on the adoption of an uplift of 7.5% upon his existing lease valuation of £143,000 and he considered his extended lease uplift percentage to be "entirely fair and reasonable". However, he supplied no reasoning to justify this contention.
14. Mr Willson considered the extended lease value to be £140,450, based upon an uplift of 12%, which he rounded down to £140,000. He offered two sources of evidence to justify this valuation. Firstly, he produced evidence of negotiated lease extensions for properties on the same development, or on the adjoining Hartley Court. His schedule of transactions covered the period from Dec 2008 to Feb 2010. These transactions were agreed after the service of a notice under the Act and with the tenants having the benefit of experienced professional advice. Eight transactions were identified, and the agreed uplift ranged from 10.96% to 11.67% with an average of 11.496%.
15. Mr Willson also relied upon the "LEASE LVT determinations 1994-2007" graph provided by the Leasehold Advisory Service. The mean line on this graph for a property with an unexpired term of 62 years produces a relativity of in the region of 89%.

The Tribunal's decision

16. In the absence of any actual sales of properties in Hildon Square with extended leases, the Tribunal considered that the evidence of negotiated transactions was the most compelling evidence available to determine the extended lease value. The Tribunal decided to adopt Mr Willson's average negotiated uplift of 11.5% to the existing lease value of £125,000, to produce an extended lease value of £139,375. This equates to a relativity of 89.7%, and is thus also broadly supported as a valuation by the LEASE graph evidence produced by Mr Willson. The Tribunal determine that this is the extended lease value.

Price

17. The price payable by each of the Applicants for a new lease of 90 years from expiry of the current leases, for each of the Properties, and at a peppercorn rent, is £9,642.00 as shown on the valuation schedule attached to this decision.

Costs

18. Neither party made written submissions concerning the costs. Mr Holland, in the Applicant's notices referring the costs issue to the Tribunal, proposed that the valuation costs of the Respondent be the sum of £300 plus VAT and the legal fees be £350 plus VAT. At the hearing, Mr Willson requested £450 plus VAT for valuation fees and £535 plus VAT and disbursements as legal fees.

SCHEDULE

Valuation of the extended leasehold value of 9 and 34 Hindon Square, Vicarage Road, Edgbaston, Birmingham, B15 3HA

Term			£
	Current ground rent	£60	
	YP 13 years @ 6%	(8.8527)	531.16
	Revised rent	£80	
	YP 25 years at 6% - 12.7834		
	PV of £1 in 13 years - 0.4688390	(5.9934)	479.47
	Revised rent	£100	
	YP 24 years at 6% - 12.5504		
	PV of £1 in 38 years - 0.1092389	(1.3710)	137.10
Reversion	Extended lease value	139,375	
	PV of £1 in 62 years @ 6%	(0.0269797)	3,760.30
	Value of freeholders current interest		4,908.03
		say	4,908
Marriage Value			
	Extended lease value (excl T's improvs)	139,375	
	Less existing lease value	(125,000)	
	Less freeholders current interest	(4,908)	
	Marriage value	9,467	
	Half marriage value		4,733.50
Premium		say	9,642