4173

FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/OOAW/OLR/2015/1830**
Property	:	**Flat 9, 2 Lennox Gardens, London SW1X 0DG**
Applicant	:	**The Welcome Trust Limited (as Trustee for the Welcome Trust)**
Representative	:	**Mr Mark Loveday of Counsel, instructed by CMS Cameron McKenna Solicitors** **Mr Alastair Stimson MRICS of Savills (UK Limited) Chartered Surveyors**
Respondent	:	**Joanna Sophia Brown**
Representative	:	**Mr Timothy Dutton QC Counsel, instructed by Wilson Barca LLP Solicitors** **Mr Andrew Symington MA MRICS of Symington Elvery Chartered Surveyors**
Type of Application	:	**Application for lease extension under Section 48 of the Leasehold Reform Housing and Urban Development Act 1993**
Tribunal Members	:	**Tribunal Judge Dutton** **Mrs S Redmond MRICS**
Date and venue of Hearing	:	**10 Alfred Place, London WC1E 7LR on Tuesday 8th and Wednesday 9th March 2016**
Date of Decision	:	**25th April 2016**

DECISION

DECISION

1. **The Tribunal determines that the premium payable in respect of the lease extension for Flat 9, 2 Lennox Gardens, London SW1X 0DG (the Property) under Section 48 of the Leasehold Reform Housing and Urban Development Act 1993 (the Act) shall be £985,460.**
2. **The Tribunal determines that the terms of the extended lease shall be as set out in the findings section of this document and as set out on the attached schedule.**

BACKGROUND

1. This matter came before us for determination commencing on Tuesday 8th March and finishing on Wednesday 9th. The Applicant was represented by Mr Mark Loveday of Counsel instructed by CMS Cameron McKenna Solicitors. The valuation evidence for the Applicant was provided by Mr Alastair Stimson of Savills (UK Limited), Chartered Surveyors. The Respondent, Miss Brown was represented by Mr Timothy Dutton QC Counsel, instructed by Wilson Barca LLP and the valuation evidence was provided by Mr Andrew Symington of Symington Elvery, Chartered Surveyors.

2. Prior to the hearing we were provided with a number of documents. Firstly, contained in a hearing bundle, was a copy of the application, directions, notice and counter notice, as well as the deed of assignment of the claim. We were provided also with copies the Applicant's freehold title and the leasehold title together with a copy of the flat lease and the transfer between the original tenant, a Mr Ronald Jan Mazanec (Mr Mazanec) and Miss Brown. This transfer dated 21st September 2015 recorded a consideration for the lease of £110,000.

3. In addition to a travelling draft containing the disputed terms we also had copies of the flat leases for Flats 1, 4 and 7 at 2 Lennox Gardens. In respect of the valuation, we were provided with an agreed statement of facts and the reports of Mr Stimson and Mr Symington and a witness statement of Miss Eleanor Murray of CMS Cameron McKenna LLP dated 2nd March 2016 with exhibits and a further statement of Miss Murray dated 4th March 2016 again with exhibits. We will refer to these documents as necessary during the course of this decision.

ISSUES

4. There were two elements of the case that we needed to consider. The first was the terms of the new lease and the second was the premium payable for the lease extension. Mr Loveday for the Applicant had helpfully produced a form of Scott Schedule setting out the existing terms of the lease, the landlord's proposed replacement terms and the tenant's comments upon same. Although at the commencement of the hearing there appeared to be five issues, only two remained for us to consider, the first being the question of caretaker's accommodation and the rent payable and the second being wording relating to the common parts. We should say that insofar as this last element was concerned, towards the end of the hearing there appeared to be agreement reached on this issue as well.

5. Insofar as the premium was concerned much had been agreed. An agreed statement prepared by the valuers for both sides and signed by them recorded that the following valuation matters were agreed:-

- The valuation date is 30th June 2015 when the existing lease has an unexpired term of 0.22 years.
- The freehold vacant possession value (FHVP) was agreed at £1,045,500 and the extended lease value agreed at £1,003,680.
- The capitalisation rate was agreed at 5%
- The extended lease/freehold relativity was 96%.
- Discount the Freeholder's reversion in relation to the reversion of the lease claimed at 5%
- Discount the Freeholder's reversion at 1.49% in relation to the existing lease
- There are no improvements to be disregarded
- The rent on the assumption that the property has been repaired in accordance with the lease but disregarding tenant's improvements is £400 per week

The issues we had to determine can be summarised as follows: when valuing the landlord's freehold, subject to the existing tenancy, what value should be given to the risk that the tenant could take advantage of the security of tenure provisions in the Local Government and Housing Act 1989 Schedule 10 and, if so, what should that discount be? We will also be required to determine the value of the existing lease having a term of .22 years or 2 months and 21 days.

6. We were assisted in our determination by the skeleton arguments produced by both Mr Loveday and by Mr Dutton. We also had the opportunity of reading the reports of Mr Stimson and Mr Symington. We will briefly refer to those reports before we move on to the hearing of the matter, although before we do so we should record that Mr Dutton raised a preliminary point which was linked to the inclusion of the resident caretaker accommodation. It was said that on behalf of the Respondent the freehold value had been agreed following discussions between the surveyors that the Applicants would not be pursuing the resident caretaker point to any great degree. It was suggested that Mr Symington would not have agreed the freehold value of the property if he thought there had been a risk of there being a resident caretaker. His submission was therefore that the FHVP had been agreed on a misunderstanding and suggested that we either muddle along dealing as best we could or that discussions were undertaken to see if the matter could be resolved.

7. Mr Loveday responded indicating that the statement of agreed facts had been signed and that the question of the caretaker accommodation had always been an issue. He did not think it appropriate for the Respondents to lead evidence now seeking to support a change in value as this was too late. In the end it was agreed that Mr Symington could seek to introduce changes to reflect the caretaker but that he would be open to cross examination. In fact, this point fell away during the course of the hearing.

8. Returning then to the two experts reports we would seek to paraphrase the contents without wishing to do a disservice to both Mr Stimson and Mr Symington. From Mr Stimson's point of view he considered that there was no end

allowance to be given because of the short term remaining on the lease. Although in the case known as Vale Court in fact Carey-Morgan v the Trustees of the Sloan Stanley Estate the Upper Tribunal had made a 5% end allowance for what was termed by Mr Stimson as being lack of control towards the end of the term. No such allowance was made by him for the reasons that the remaining term of this lease is so short and that the usual risk of a tenant failing to pay rent or requiring repairs was minimal or indeed non-existent. He gave further information and arguments to support this contention for no deduction in respect of this element.

9. As to relativity and a marriage value he suggested that following the Vale Court case, where there were leases of less than five years unexpired, the usual sources of relativity could not be relied on but instead there should be a capitalisation of the net rent for the remainder of the term. He told us that he had calculated a relativity of .32% for a lease of 0.22 years and on that basis arrived at an existing lease value of £3,366. He confirmed that the subject property sold with an existing lease on 21st September 2015 for £110,000 having the benefit of a notice 42 of the Act which had been served on behalf of the vendor. His view was that the price paid was purely for the benefit of the assignment of the rights under the Act as evidenced by the fact that by the time of the sale the contractual term of the lease had expired. He had analysed short lease transactions and produced a schedule which captured all sales of leases of less than 2.5 years across the Welcome Trust South Kensington Estate and from Lonres. Insofar as any rights to hold over under the Local Government and Housing Act 1989 (the 1989 Act) were concerned, whilst accepting this was a possible element that could be attributable to the purchase price, he did not in this instance think it was. His view was that this right was rarely exercised in practice and that all the sales that he had found took place with the benefit of notices under the Act and none appeared to be bought as a way to obtain Rights under Schedule 10 of the 1989 Act. He gave further reasons as to why he did not consider that a purchaser would be interested in any rights under the Act, certainly not to the extent of paying any value for it and concluded that in fact this case was where there was negative marriage value which he adjusted to zero.

10. Insofar as the Schedule 10 rights were concerned, at paragraph 8 of his report, he dealt with this element giving the history surrounding Mr Mazanec's occupancy, the fact that he had not responded to a Schedule 10 notice served on him by the Applicant's solicitors and instead had concentrated on seeking to dispose of the property with the benefit of a Section 42 notice. It should be recorded that the notice served by the solicitors proposed a weekly rent of £836.54 which on Mr Stimson's evidence was a full rent being an opening offer. His view was that in truth a hypothetical purchaser would not consider there was a real risk of a leaseholder holding on an assured tenancy and that it would not have reduced its bid to reflect that risk. He therefore concluded that no allowance should be made for holding over under the 1989 Act. With these elements borne in mind his valuation seeks a premium of £1,029,300.

11. For the Respondent, as might be expected, Mr Symington takes a different view on the impact of the 1989 Act. At paragraph 7 of his report headed *'Effect on value of the possibility that the tenant may be entitled to remain in occupation as an assured tenant pursuant to the Local Government and Housing Act 1989'*, he goes into some detail with regard to the history of the lease, the enquiries he made to

determine the rateable value and reached a conclusion that if Mr Mazanec did not satisfy the principle resident's criteria he would not be prevented from assigning to someone who did. As to the existing lease value, he reminded us that by reliance on the Act the property sold with the benefit of a Section 42 notice for £110,000 which he considered represented the full and fair market value for the Property. He put forward comparable properties both in Lennox Gardens having similarly short leases although slightly longer than the subject premises and achieving not insubstantial sums notwithstanding the position. He confirmed that he was not surprised that Mr Mazanec chose to sell the property with the benefit of the notice as he accepted that the flat would be more valuable with the rights to extend, particularly given the Welcome Trust had proposed quite a significant rent if the matter were to continue under the 1989 Act.

12. His comments on the Vale Court case was that the determination was, in his words, "complex and arguably too technical." He went on to suggest that tenant in some cases would be prepared to pay a considerable amount of rent in advance for perhaps even two or three years for reasons that he explained. He then went on to consider a hypothetical flat with a freehold value of £1.5m on a five-year lease where an unimproved rent would be £750 per week and applied the Vale Court methodology to this after making further adjustments. He then considered the same flat assuming a five-and-a-half-year unexpired term and considered that the difference between the two showed the potential problem in following the Vale Court methodology. He indicated that whilst accepting that short leases would be more valuable in the 1993 Act world, he considered that if we were considering the matter in the no act world, as in the case of the subject property, there would be a value in remaining as an assured tenant. Mr Mazanec he said could have assigned the leasehold interest in the property to an incoming lessee who provided they met the requirements of the 1989 Act had an ability to remain in occupation in a highly prestigious location for the duration of their lifetime at a lower than open market rent as tenants' improvements would be disregarded. He also relied on a decision by a Tribunal involving Flat 1 at 36 Lennox Gardens reference LON/OOAW/OLE/2012/0500, where at paragraph 26 the Tribunal indicated that rents assessed by Rent Assessment Committees on assured tenancies are typically 30% lower than rents on flats let on short holds. The decision went on to say *"...being able to live in Knightsbridge for life at a rent of 30% below the market rent would be extremely attractive."* He went on to consider a number of rented properties and considered the demographic of people who might wish to take on an assured tenancy. His report considered non-extendable leases in the locality compared to those properties let on an open market rent and concluded that in fact non-extendable leases often of 20 years or less had a higher weekly rent level than flats let on assured tenancies for a year or more on the open market.

13. His view was that the opportunity to remain as an assured tenant would appeal to young professionals estimating that they could remain in occupation for ten years. He also considered that it would appeal to the more elderly members of society. His report went on to consider a number of positions and assessments of yields and values resulting in one assessment of £74,943, a second of £70,677 and by reference to opinions sought from various local estate agents a value to remaining as an assured tenant of £56,700. He indicated that having considered these matters at point 7.2.38 of his report and adding various figures in and making

discounts that an existing lease value of £53,600 was the appropriate sum to be allowed in respect of the rights under the 1989 Act.

14. With regard to the discount of the freehold reversion to reflect the risk of the tenant holding over, he went into detailed submissions on this point which we have noted. He disregarded the discount based on agreed components of the valuation which he thought came to £3,463 and which he said in the real world he thought would be unlikely to cover professional fees and would therefore provide no viable incentive over buying a comparable vacant flat. In the end, however, taking all matters into account he concluded that there was an approximately 25% discount to the agreed freehold vacant possession value to provide for the risk that the property would be subject to an assured tenancy or the potential to be subject to such an assured tenancy. He applied this in his valuation which resulted in the freehold reversion being downgraded to £784,125. The resulting premium he calculated at £859,419.

HEARING

15. We will deal with the legal arguments put to us in respect of the terms of the lease in the findings section of this decision.

16. As to the evidence relevant to the premium we firstly heard from Miss Murray who is a solicitor with CMS Cameron McKenna LLP. Her witness statement dealt with the circumstances surrounding Mr Mazanec's occupancy of the subject premises and the service of the notice under the 1989 Act. Her witness statement confirmed that enquiries had been made concerning Mr Mazanec which determined he was an elderly gentleman in poor health who had been in hospital. Given his circumstances, the Applicants retained a Welfare Officer to make further enquiries and she reported in April 2015. Her report indicated that she considered it unlikely that Mr Mazanec would be returning home. However, given the vulnerable nature of Mr Mazanec, the Applicants decided that they would not oppose a claim for an assured tenancy whilst he was in hospital and therefore served a notice under provisions of paragraph 4(1) of the 1989 Act terminating the lease on 4th November 2015 and proposing an assured tenancy. This notice was served on Mr Mazanec at the flat on 1st May 2015 and also a copy sent to his solicitors and the appropriate department at the Chelsea and Westminster Hospital and the Head of Client Affairs at Kensington and Chelsea. In response to this, a notice under Section 42 of the Act was served on 30th June 2015 and the property marketed for sale.

17. The report goes on to confirm further enquiries were made, apparently through enquiry agents, which determined that Mr Mazanec had returned home briefly just before Christmas in 2014 but that he had then gone to hospital and from January of 2016 was resident at a care home in Barnet. Various exhibits were attached. A further supplementary witness statement was made on 4th March 2016 which set out enquiries made with Mr Mazanec's solicitors and requested a copy of the order of the Court of Protection made on 13th July 2015 and a second order on 20th July 2015. These orders appeared to provide for the appointment of Mr Morris, Mr Mazanec's solicitor, as a deputy to deal with the sale of the subject property. There was also an email from Mr Morris dated 4th March 2016 which indicates that Mr Mazanec was in a care home from April to November 2015. It was said that these

were enquiries that a hypothetical purchaser might have been able to make and ascertain this information at the relevant time. On questioning from Mr Dutton she confirmed that nothing had been discovered to suggest that Mr Mazanec did not want to go back to his flat and she conceded that this was where he lived but it was known that he was in hospital and clearly not in good health.

18. We then heard from Mr Stimson who was asked whether in the no act world somebody would pay for an interest and right under the 1989 Act. He did not consider there was a value to this. His view was that in the no act world there was no evidence of people acquiring any interest for the right to remain in occupation under the 1989 Act. He did not consider that they would pay more for the right to occupy for the rest of the lease whatever that may be and then get protection under Schedule 10 of the 1989 Act. He confirmed that there was a right under the unexpired original lease to take on assignment which expired once the assured tenancy had been entered into. As to the value of the freehold, the question was put to him how much a hypothetical purchaser would know. He said that they could get particulars off the internet and inspect and that as the property had been on the market before the valuation date there was ample opportunity to obtain information. Further the agent had told Mr Stimson the flat was unoccupied during the period of sale and therefore inspection could be undertaken.

19. The questioning then moved on to whether or not a resident caretaker would be installed but Mr Stimson did not think that that would be the case as at the present there was nowhere for him to reside. It was he thought a wider estate benefit although he did think that when arriving at the freehold value the fact of a resident caretaker would enhance the freehold value. He thought it would be possible to apply to the First Tier Tribunal to get the requirement removed. It was he said rare for there to be a caretaker in a building of four flats, which are of this value. Throughout the questioning he did not depart from his report and its findings.

20. After the lunch adjournment we heard from Mr Symington initially on his views with regard to the inclusion of a resident caretaker. He thought that the cost could impact on the freehold and the reversion with regard to service charge contributions being greatly increased. However, he had explored the position and had taken the view that it was unlikely to happen and did not depart therefore from the figures he had put forward.

21. Under cross examination he told us that he had not attended a Tribunal before and that he had no knowledge of Mr Mazanec. Asked what money might be spent on the flat to bring it up to a decent condition, he thought that a figure of £25,000 might be appropriate although one could move into the flat as it was.

22. He had received advice from the Respondent's solicitors Wilson Barca in a letter dated 1st March 2016 setting out some assumptions to be made when applying the provisions of Schedule 10 of the 1989 Act. He had borne these in mind in reaching his conclusions on the risks associated with a lessee holding over. It was pointed out to him that his valuation did not assess the risk of a lessee not being able to obtain an assured tenancy. Asked about the existing lease value and net rental yield approach, he concluded that the figure would be around £3,100 as set out at point 7.2.13 of his report. That being the case he was quite happy to accept Mr Stimson's assessment at a slightly higher figure of £3,366.

23. Asked why he had taken a ten-year period in respect of the occupancy under an assured tenancy he related this to the 20 year leases, details of which he had produced in his report comparing those with the assured lettings. He thought that a ten-year period would enable elderly people to pass money to children avoiding inheritance tax but had no real evidence to say why ten years was the appropriate period other than it would exceed seven years in respect of the inheritance tax liabilities.

24. He thought the primary motivation of buying a short lease was to release capital without an IHT liability and lower stamp duty. Asked what he considered a hypothetical purchaser would be he responded that it would be somebody who was prudent at making enquiries and subject to client confidentiality. Asked about the difference between fair rent and assured tenancies he thought that that would be somewhere around 33%. Finally, he confirmed that in the present case the reversion was so short that the difference between the freehold and value of the reversion was £3,000 or so and therefore there was no incentive to buy the flat on that basis.

25. On the 9th March we received submissions from Mr Loveday and from Mr Dutton both of whom had condensed those to writing. In support of his written submissions Mr Dutton firstly dealt with the lease terms. He suggested that it was the landlord's option whether or not to provide caretaker accommodation and that nothing had really changed over the years for that to happen. It was also suggested that the inclusion of the caretaking was such that it constituted a change under the Act (s57(6)(b)and could therefore be removed by us. It was not he said relevant that the other leases had different terms and the result could create different obligations. There was he said no covenant in this lease that other leases in the block would be the same. Further he could see no justification for increasing the rent payable for the accommodation if it were to be allowed from a fair rent to a rack rent. He accepted that the exclusion of the provision did create something of a messy arrangement. Different service charge provisions have to be carefully dealt with by the landlord but this was a sophisticated landlord and these were not insurmountable.

26. On the question of the common parts, the concern was relating to the possibility of the Applicants interfering with certain rights to be included under the lease. He wished to establish that the wording "*and provided further that the lessor should have the right at any time and from time to time on giving in each case at least three months' written notice to that effect to the tenant to exclude from any easements rights and liberties granted by this lease all or any part or parts of the garden or land forming part of the common parts but not so as to make access to the demised premises impracticable*" as suggested by the landlord should in fact be "*significantly more difficult*" as suggested by the Respondent. Mr Dutton indicated that if the word "open" were inserted in the phrase "part or parts of the garden or *open land* forming part of the common parts" then he would be satisfied. Mr Loveday in his submission dealt with this and we will respond to the position in the findings section. Turning to the question of the premium he pointed out that there appeared to be something of an anomaly in that the agreed extended lease value is £1,003,680 yet the premium suggested to be paid for the

extended lease is in excess of that sum at £1,029,300. He asked us to bear that in mind.

27. As to the efficacy of the notice given by the Applicant under paragraph 4(1) of the 1989 Act, he asked us to consider the residence requirements and whether Mr Mazanec regarded the property as his own residence. This was he said a physical manifestation that is to say was there anything suggesting it was Mr Mazanec's home, for example personal effects. He told us that the photographs showed possessions still in the flat at valuation date. He therefore submitted to us that a purchaser would be taking "a punt" about the Property being empty and this punt would be reflected in the purchase price. He suggested that if Mr Mazanec did not satisfy the residence test then the notice served under Section 4(1) was invalid and Mr Mazanec would not need to meet the residence test. If he did satisfy the resident's test, then a number of factors would need to be taken into account leading to potential adjustments. We were referred to the Clarise case [2012 UKUT4(LC)] and the Midlands Freehold Appeal [2014 UKUT0304(LC)]. This was he said the fag end of a lease which would attract security under the 1989 Act. That security would be looming much larger as a result of the near extinction of the lease. The Vale case would indicate a value of around £3,000. Improvements would double the rent. Anyone who has statutory rights could live in a nice area of London, disregard improvements, suffer no stamp duty and stay as long as they wanted provided the flat was your principal home. There was also he said the possibility of reaching a deal with the landlord suggesting that there might be some nervousness on the part of any purchaser. He submitted that there was a risk that on reversion there may be an assured tenancy at a discounted rent and that this is a risk that needed to be factored in.

28. In his submission a modest premium payable gives the potential for a home as long as the purchaser would wish at an unimproved rental value with improvements being disregarded. If there is a value in this, then it should be included in the price and should not be ignored. The valuation date is the appropriate time as it is the tenants at that time who will be the purchaser. Legal title he said only passes when the Register is altered. It was Mr Dutton's submission that in the real world rights under the 1993 and 1989 Act existed. Mr Stimson said there was no value for the rights under the 1989 Act, which he said could not be correct. The ability to live in a nice flat by paying a relatively small sum of money and having a reduced rent must have a value. He reminded us that Mr Stimson's analysis showed that the value of the extended lease is lower than the premium to be paid for the lease extension. This he said must be a wake up call. Paying a premium to acquire a short lease to enable them to acquire a longer lease should not, he said, result in them paying a significant premium. His submission was that Mr Stimson had not correctly analysed the comparable.

29. In response Mr Loveday on the question of the lease terms submitted that the inclusion of the provisions relating to caretaker should remain. There had been no changes which warranted an alteration to the provisions of the lease. Furthermore, he reminded us that other leases in the building have caretaker provisions and therefore any change would break up a scheme of management. He referred us to the case of *Rossman v Church Commissioners [2015] UKUT 0288.* As to the rent passing, he thought that there was a change under the provisions of Section 57 6(b) following the introduction of the Housing Act and market rents

since the lease was first granted and that other new leases in the building included a market rent. In those circumstances, therefore, it should not be a fair rent but a market rent. As to the common parts, he confirmed that the intention of the wording was not to include not only external but also internal parts. However, after discussions it was agreed that the existing lease terms would remain so far as the common parts were concerned.

30. He then moved on to the question of premium. He said the real risk in the case was that the existing lessee will stay on without paying a premium. The allowances for risk in practice are very small. There was no open market transactional evidence. He referred us to the Clarise case and to Hague. These in the case of the Clarise matter provided for a 20% reduction because of the risk of an assured tenancy arising, but in the Midlands Freehold Limited case referred to above a discount of 4% was agreed to reflect the rights. All cases he said were fact-sensitive. The existence of the notice under paragraph 4(1) of the 1989 Act is not disputed but it ends the continuation of the lease and therefore the purchaser only faces a possibility of an assured tenancy being created. The question of the evidence obtained by Miss Murray as to Mr Mazanec's intentions needed to be considered and that evidence was that it was unlikely that Mr Mazanec would be returning. A purchaser would be interested in the identity of his existing lessee and had a great incentive to make proper enquiries both of the vendor and others. If they considered the Housing Act and other documents and commentary, these requirements might indicate Mr Mazanec would not be able to satisfy the provisions of the Housing Act at the relevant time. In his submission Mr Loveday thought that a hypothetical purchaser would discount the risk which they might consider to be negligible. There was he said a narrow window for action available to Mr Mazanec. The notice expired the day after the date that Mr Mazanec could have responded under the 1989 Act and this alone suggested that Mr Mazanec was not intended to occupy. He would have had a rent of £836 plus per week and so the hypothetical purchaser would consider that he would either get vacant possession or letting at £836 which would be a full market rent.

31. In Mr Loveday's view nothing more than 1 or 2% should be allowed. Mr Loveday also asked us to view the letter given by Wilson Barca to Mr Symington as not dealing with all the risks that might arise.

32. Mr Loveday accepted that the difference between the agreed extended lease value and the price argued for by Mr Stimson for the premium is odd and that perhaps the premium should not exceed the agreed extended lease sum. He asked why a negative marriage value had been achieved but an uplift in relativity by 2% would he said remove the negative marriage value and remove the increased lease figure over the amount to be paid.

33. There was he said no market for assured periodic tenancies with a premium payable. No evidence had been adduced. No submission as to the net rental yield approach had been made but this was not used by Mr Symington in any event. He posed the question why Mr Symington had not used the usual way of dealing with the net rental approach, perhaps a lack of experience. The ten-year term suggested by Mr Symington as an assured letting was unrealistic. The market was restricted. You were not able to use it as a second home or to rent it out. The use of random and unexplained allowances could have been intended to smooth out the valuation

but they are unexplained. In addition, also the estate agents' responses to Mr Symington should be considered. Mr Loveday submitted that if we are dealing with the no act world which is the case, it is likely that steps would have been taken earlier to cover the 1989 Act. It was his submission that the Respondents had fallen a long way short to show anything more than the net rental yield should be paid. The approach was unconventional and there was no evidence adduced to support it.

34. Mr Dutton came back on the provisions of the notice under paragraph 4(1) of the 1989 Act and the dates that had to be considered. The hope that Mr Mazanec would not have served a counter notice under the 1989 Act is remote given that he was represented. In essence the question was for us to consider whether there was a value and if we do how do we assess it.

THE LAW

35. The provisions of the 1989 Act are set out below and we have borne in the mind the provisions of the Act itself and the 13th schedule when considering the valuation process.

FINDINGS

36. We first deal with the question of the lease terms. As a result of the parties' agreement in respect of this matter we are left only to consider whether or not it is appropriate to include within the new lease the provisions relating to caretaker's accommodation and the level of rent that should be paid if such accommodation is to continue. We were also requested to consider the wording of the clause relating to the common parts. In fact this issue was resolved between the parties and the clause remains as shown on the schedule attached hereto.

37. The law governing the terms of the new lease is to be found at Section 57 of the Act. In this case we are particularly required to consider the provisions of sub-section 6 which says as follows: *"(6) Sub-sections (1) to (5) shall have effect subject to any agreement between the landlord and tenant as to the terms of the new lease or any agreement collateral thereto; and either of them may require that for the purposes of the new lease any term of the existing lease shall be excluded or modified in so far as – (a) it is necessary to do so in order to remedy a defect in the existing lease; or (b) it would be unreasonable in the circumstances to include, or include without modification, the term in question in view of changes occurring since the date of the commencement of the existing lease which affect the suitability on the relevant date of the provisions of that lease."* It does not seem to us that sub-section 6(a) applies. We therefore need to consider whether or not the impact of sub-section (b) leads to any changes.

38. We address firstly the question of the caretaker accommodation. The existing lease is dated 22nd December 1983. In the schedule of disputed lease terms the provisions of clause 5(4)(f) contains the following wording: *"(f) For the purposes of performing the covenants on the part of the lessors herein contained at their discretion to employ on such terms and such conditions as the lessor shall think fit, one or more caretakers, porters, maintenance staff, gardeners, cleaners or such other persons as the lessors may from time to time and with absolute*

discretion consider necessary and in particular to provide accommodation either in the building or elsewhere (free from payment of rents or rates by the occupier) and any other services considered necessary by the lessors for them whilst in the employ of lessors." There are other provisions relating to the occupancy by a caretaker or other member of staff and those are set out in clauses 5(4)(a)(v), 5(4)(b)(iii) and schedule 5 paragraph 1(1)(c). We will return to that last clause when considering the question of the assessment of any rent that might be payable. We have borne in mind all that was said both in the skeleton arguments and in the submissions, both in writing and verbally by Counsel for both parties. We have considered also the case or *Gordon v Church Commissioners (2006)LRA/110/2006* and case of *Rossman v Church Commissioners [2015] UKUT 0288(LC).* We accept that the landlord appears not to have employed a resident caretaker for many years, maybe at no time during the course of the current lease. We consider also that the likelihood that Wellcome would in fact provide accommodation for a resident caretaker or other member of staff is probably unlikely. Given the value of a flat in this building we suspect that Wellcome is more likely to offer such flat on the market with a long lease or to modernise it and to recoup the money on the basis of an assured short hold letting. The question therefore to be considered, on the basis there is no defect, is whether in the circumstances it is appropriate to exclude the term in view of changes occurring since the commencement of the lease. We do not consider on the evidence before us that there have been changes in relation to the possibility of providing accommodation for a member of staff since the commencement of the existing lease. The fact that the landlord has not chosen to utilise the rights contained in the lease, which are at its discretion, does not in our view constitute a change of circumstances. It is for the Respondent to establish that there has been some change which supports the removal of this provision. We bear in mind that three new leases have been granted in respect of Flat 1, Flat 4 and Flat 7, all include the provision for the accommodation of a caretaker or other member of staff in a flat in the premises. In truth the only accommodation that could be used is the one presently occupied we understand under a Rent Act tenancy.

39. It would concern us that the new lease would be inconsistent with the three other leases granted, which could lead potentially to considerable difficulties if the landlord were to take up the rights contained in those other leases. We heard all that was said by Mr Dutton that this is a sophisticated landlord who would be able to deal with those changes but that does not of itself give sufficient justification for the clause contained in the existing lease to be excluded from the new lease. We suspect that in truth it is not going to be an issue but it does not seem to us that the Respondent can establish the provisions contained at Section 57 (6)(b) to our satisfaction. We do not consider it to be unreasonable in the circumstances for the existing term to be included. We find that the wording contained in the schedule of disputed terms under caretaker accommodation at clause 5 (2)(a) of the new lease should remain. The subsequent clauses under the heading Landlord's Proposed Terms at clause 5.2.1(a)(v), 5.2.1(b)(ii), 5.2.2(d) should therefore be incorporated into the new lease.

40. We then turn to whether or not the existing rent payable under the terms of the existing lease should continue or whether that should be amended. We note that the new leases contain reference in the 5th schedule to the rent being based on the current market rent of the accommodation. This is at odds with the terms of the

existing lease which under the 5th schedule paragraph 1(1)(c) records that the rent is to be *"an annual sum equivalent to the fair rent of any accommodation owned by the lessors and provided by them rent-free to any other the persons referred to in clause 5(4)(f) of this lease."* The Respondent's position is that if there is to be any rent then it should be the fair rent whereas the Applicants seek to include the current market rent provision as is already contained in the other leases. It would seem from perusal of the other leases at least some were dealt with under the 1993 Act. We do not know what may have been negotiated by the parties to those leases.

41. The burden of satisfying us that it is reasonable to make changes rest on this point with the Applicants. Again we do not see what changes in circumstances have arisen since the lease was granted. We accept that the Housing Act 1988 has come to statute which deals with assured lettings. However, there are still plenty of lettings throughout the country under the Rent Act 1977 and indeed the property has a letting under that provision which is likely to be the accommodation which would form part of any caretaker's housing arrangement. In those circumstances it would be quite simple to calculate the rent that might flow under a fair rent as opposed to an assured tenancy. We do not see that the apportionment of same between the leaseholders would create an insurmountable problem for the landlord. In those circumstances, therefore, we do not consider that there are circumstances which exist which require us to change the existing terms insofar as the rent passing for any accommodation that is occupied by a caretaker is concerned. In that regard, therefore, the existing wording remains.

42. This deals with outstanding issues relating to terms of the new lease, the other terms set out in the schedule of disputed lease terms annexed hereto having been agreed between the parties.

43. We turn then to the more vexed question of the premium payable for the lease extension in this case. This matter centres around the impact that the provisions of the Local Government and Housing Act 1989 schedule 10 might have.

44. There appears to be no dispute that on the face of it Mr Mazanec was a lessee who may have been entitled to avail himself of the protection contained in schedule 10. Although the statement by Miss Murray indicates that the Applicants were acting in a somewhat philanthropic matter in granting a notice under paragraph 4(1), the impact of such notice was to terminate the long residential tenancy on a set date and proposed an assured monthly periodic tenancy at a full market rent. It is right that no counter notice was served within the two-month period by Mr Mazanec. We are, of course in the real world dealing with a short lease to which the provisions of the 1993 Act would apply and perhaps not unnaturally Mr Mazanec or rather his legal representatives concluded that more money was to be made by serving an initial notice under section 42 of the Act than relying upon Mr Mazanec's potential rights to occupy under the 1989 Act.

45. We drift into the realm of conjecture when we try to establish what Mr Mazanec might have done if we were dealing with the property in a no act world. We suspect that a counter notice under schedule 10 would have been served at some time during the appropriate period seeking to preserve Mr Mazanec's right to live in the property at a rent which would either be agreed or the subject of

determination by the First Tier Tribunal. A question is posed as to whether or not Mr Mazanec would have occupied the property as his principal dwelling and we suspect that it is probable, given the history that is now known of him, he would not have done. However, there is no doubt, and this is not we think in dispute, that if the counter notice under the 1989 Act were served, he would have been able to have assigned the benefit of the remainder of the short lease and provided that assignee was intending to occupy the premises as their principal residence they would have had the right to continue in occupancy under the 1989 Act.

46. We have listened to all that has been said by Mr Stimson and Mr Symington and carefully considered their reports. Mr Stimson is of the view that there is no risk of a person holding over under the 1989 Act and that therefore no allowances should be made. Further he does not consider that the short lease has any value. Mr Symington in his report, which was detailed and considered, used, in the phraseology of Mr Loveday "random and unexplained allowances." In his report he expressed the opinion that the Vale Court determination was "complex and arguably too technical." Notwithstanding that he embarked upon what can only be described as a fairly complex and technical assessment of issues seeking to justify his views on the premium payable. For example, he started off indicating that a tenant might in some cases be prepared to pay rent for up to two or three years in advance although no evidence was given to support this. He then considered hypothetical flats either with a five year or a five-and-a-half-year lease designed it seemed to show that the provisions in the Vale case could not be correct. However, the Vale case dealt with leases of less than five years and did not appear to address the provisions of the 1989 Act save under the Deferment rate conclusions at paras 140 onwards where guidance as to the end allowance of 5% was given. We were therefore at somewhat of a loss as to understand how taking five and five and a half year leases, which were in any event hypothetical, assisted us greatly. What we do, however, accept to a point, is his suggestion contained at 7.2.15 of his report that Mr Mazanec could have assigned his leasehold interest in the property to an incoming lessee who provided the flat was to be their principal residence would be able to remain in occupation at what would potentially be a below market rent.

47. The valuers have agreed that the rent would be £400 per week, which is under half the amount that the Applicants included in their notice under 1989 Act. Mr Symington then spent considerable time considering other short term lettings contrasting those with leases which had no rights under the Act. He mentioned that the market was falling although no evidence of such assertion was given to us. He suggested that the existence of an assured tenancy created the expectation of a deal with a freeholder. For our part we find it difficult to consider that an individual, knowledgeable or not, might seek to acquire a short lease which gives them rights under the 1989 Act on the possibility that the landlord may do some deal with them as to continued occupancy. There is no evidence to support such an assertion and it seems to us that a landlord may well sit tight waiting for the rent to be reviewed on an annual basis and to achieve vacant possession in due course without paying any form of money to the lessee for them to leave.

48. His report sees the possibility of older people with funds acquiring an assured tenancy to release money which avoids inheritance tax provisions. He contrasts 20-year leases let by the Grosvenor Estate in Eaton Square and around, with comparable assured lettings. However, he seems to be suggesting that anybody

looking to take the subject premises would be occupying for a period of ten years. We find that difficult to accept. Although it may be a property which would appeal to young professionals, as is suggested by him, the chances are that those young professionals are not going to remain living in a flat of that nature for ten years. Similarly, we would suggest that it may be not the ideal accommodation for more elderly members of society, access being dependant upon a lift and relatively small accommodation for the purposes of down marketing. His use of various comparables and the "evidence" he gleaned from local estate agents is also somewhat speculative. He makes deductions that vary. No compelling explanation is given as to how those deductions have been calculated. For example, the analysis contained at 7.2.30 of his report leading to a value of £74,943 in respect of the short lease or at 7.2.32 taking other figures again with differing percentages and reaching a figure of £70,677. We then have the responses to emails sent in by a number of estate agents which are of themselves inconsistent giving a range of value that might be paid to acquire an assured tenancy between £27,500 and £91,000. He puts a figure of £53,600 as being the existing lease value. In respect of the discount to the freehold value he assesses this at approximately 25% again utilising somewhat unexplained deductions and percentages.

49. We therefore have the position that the Applicant puts no value on these elements in this transaction whereas the Respondents discount the freehold value of £1,045,500 by 25% and assesses the value attributable to the existing lease at £53,600. For our part we cannot agree those elements at that level. We do, however, bear in mind the submissions made by Mr Dutton and as he said if there is a value it should be included in the price. The question therefore is whether the views advanced by Mr Symington do have such an impact so that they should be reflected in the premium payable.

50. We consider that there is some merit to Mr Symington's proposition but not at the levels he suggests. In a no act world the only valuable element left to Mr Mazanec with a lease of this length would be any rights to continue under the 1989 Act. We anticipate on the evidence before us that he would not have had an intention to remain living at the property given his age and state of health. However, it is clear that he was being well advised by solicitors who indeed sought the court of protections involvement. We believe on the balance of probabilities that if there were no rights under 1993 Act available to him he would have responded to the notice sent by the Applicants under paragraph 4(1) and sought to argue for an assured letting at a lower rent. Indeed we understand that the Applicant suggested this rent was at the very top and it is likely that an agreement would have been reached at a lower figure, indeed the two valuers agree £400 per week. That may well have an attraction to a purchaser. The ability to acquire an assured letting in a prestigious address at a below market rent (see our colleague's decision in respect of 1 Lennox Gardens) would in our findings have some value. What is that value?

51. Doing the best we can, therefore, we have concluded that given the short term remaining on this lease, which we find would have an impact on the actions of the lessee and any purchaser, there is a risk to the hypothetical purchaser of the freehold of around 5% in relation to the letting under the 1989 Act. There is some

support for this in the Clarice and Midlands Freehold cases and in Hague. This would reduce, therefore, the virtual freehold of £1,045,500 to £993,225.

52. We then need to consider whether or not there is a sum of money that the purchaser of the short lease might pay in the no act world. For our part we cannot accept that such a person is going to pay £53,600 to acquire the right to live in the property as an assured tenant. The evidence Mr Symington uses to reach this figure is uncompelling, as we have indicated above. It seems to us that the basis upon which such a person might consider paying something for the short lease would be a reflection of the savings that might be made on an open market rent. We know that the Applicants consider the rent for the property to be in excess of £800 per week although equally it is accepted by them that this is a very full figure. The valuers have agreed a rent for the property as an assured tenancy of £400 per week.

53. Taking a broad brush approach it seems to us that in the first year an incoming tenant might see the possibility of saving something in the region of £20,000 in respect of rent as an attraction for which money may change hands. The rent would be subject of a review, which would need to be factored in. Further we do not accept that somebody seeking to occupy the subject premises as an assured letting would do so on the basis of ten years' occupancy. That in our view is unrealistic and is not supported by any evidence. We do think, however, that such a person might be prepared to pay something for the difference between an open market rent and an assured rent. We have dismissed the notion that such a person might take a 10 year letting. We suspect that something around 2 or 3 years is more likely. They would probably wish to improve the property, at a cost, Mr Symington suggests, of £25,000, which is not unrealistic. The full market rent might be something in the region of £775 per week,(see para 7.2.16 of Mr Symington's report) which is annually £40,300. This is close to the amount that the hypothetical purchaser might pay for the first years rent and improvements. If they do indeed occupy for 2 to 3 years they would want to see a "return" on this investment but we are doubtful that they would pay more than another £10,000 for that as being the value of the remaining lease term. This sum seems a reasonable fraction of the consideration actually paid in the act world of £110,000.We therefore conclude that the existing lease value on an unimproved basis should be £10,000 but no more than that.

The other factors are agreed. Incorporating these adjusted figures into the valuation leads to a total premium payable of £985,460 as set out on the attached valuation schedule.

Andrew Dutton

Judge:

A A Dutton

Date: 25th April 2016

ANNEX – RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-Tier at the Regional Office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request to an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

APPENDIX 1: SCHEDULE OF DISPUTED LEASE TERMS

Draft clause	Existing Lease (22.12.83)	Landlord's proposed terms	Tenant's proposed terms
1.CARETAKERS' ACCOMODATION - DISPUTED			
Clause 5.2(A)Expenditure of Service Charge (provision of caretakers' accommodation) [p.117]	Clause 5(4)(f) For the purpose of performing the covenants on the part of the Lessors herein contained at their discretion to employ on such terms and conditions as the Lessors shall think fit one or more caretakers porters maintenance staff gardeners cleaners or such other persons as the Lessors may from time to time in their absolute discretion consider necessary and in particular to provide accommodation either in the Building or elsewhere (free from payment of rents or rates by the occupier) and any other services considered necessary by the Lessors for them whilst in the employ of the Lessors [p.79]	(Existing) Clause 5.2(A) (A) Employ on such terms and conditions as the Landlord shall think fit one or more caretakers porters maintenance staff gardeners cleaners or such other persons as the Landlord may from time to time in its absolute discretion consider necessary and in particular provide accommodation either in the Building or elsewhere (free from payment of rents or rates by the occupier) and any other services considered necessary by the Landlord for them whilst in the employ of the Landlord [p.117]	Clause 5.2(A) Employ on such terms and conditions as the Landlord shall think fit one or more caretakers porters maintenance staff gardeners cleaners or such other persons as the Landlord may from time to time in its absolute discretion consider necessary **TRIBUNAL'S FINDINGS** The new lease term will remain as set out in the existing lease with any alteration required to accommodate any changes in the numbering
Clause 5.2.1(a)(v) Expenditure of Service Charge (maintenance of caretaker's accommodation) [p.114]	Clause 5(4)(a)(v) the flat or flats or accommodation whether in the Building or not occupied or used by any caretakers porters maintenance staff or other persons employed by the Lessors in accordance with the provisions of Clause 5(4)(f) hereof [p.76]	(Existing) Clause 5.2.1(a)(v) (v) the accommodation (whether in the Building or not) occupied or used by any caretakers porters maintenance staff or other persons employed by the Landlord in accordance with the provisions of Clause 5.2(A) [p.114]	None **TRIBUNAL'S FINDINGS** The new lease term will remain as set out in the existing lease with any alteration required to accommodate any changes in the numbering

Clause 5.2.1(b)(ii) Expenditure of Service Charge (decoration of caretaker's accommodation) [p.114-5]	Clause 5(4)(b)(iii) (iii) to paint paper varnish colour grain and whitewash such of the parts of any flat or flats or accommodation occupied or used by any caretakers porters maintenance staff or other persons employed by the Lessors in accordance with the provisions of Clause 5.(4)(f) hereof as have been or are usually painted papered varnished coloured grained and whitewashed [p.76]	(Existing) Clause 5.2.1(b)(ii) (ii) to paint paper varnish colour and grain such parts of any accommodation occupied or used by any caretakers porters maintenance staff or other persons employed by the Landlord in accordance with the provisions of Clause 5.2(A) as have been or are usually painted papered varnished coloured and grained [p.114-5]	None **TRIBUNAL'S FINDINGS** The new lease term will remain as set out in the existing lease with any alteration required to accommodate any changes in the numbering
Clause 5.2.1(d) Expenditure of Service Charge (taxes and outgoings on caretaker's accommodation) [p.116]	Clause 5(4)(e) To pay and discharge any rates (including water rates) taxes duties assessments charges impositions and outgoings assessed charged or imposed on the Building and the curtilage thereof as distinct from any assessment made in respect of any flat in the Building and the rates (including water rates) assessed on any flat or flats accommodation whether in the Building or not occupied or used by any caretakers porter maintenance staff or other person employed by the Lessors in accordance with the provisions of Clause 5(4)(f) and also all or any other outgoings payable in respect of such accommodation [p.79]	(Existing) Clause 5.2.2(d) (d) To pay and discharge any rates (including water rates) taxes duties assessments charges impositions and outgoings assessed charged or imposed on the Building and the curtilage thereof as distinct from any assessment made in respect of any flat in the Building and the rates (including water rates) and other outgoings assessed on any accommodation (whether in the Building or not) occupied or used by any caretakers porters maintenance staff or other persons employed by the Landlord in accordance with the provisions of Clause 5.2(A)	None **TRIBUNAL'S FINDINGS** The new lease term will remain as set out in the existing lease with any alteration required to accommodate any changes in the numbering

Sch.5 Para 1(b) The Service Charge (notional rent for caretaker's accommodation) [p.126]	Sch.5 Para 1(1)(c) an annual sum equivalent to *the fair rent* of any accommodation owned by the Lessors and provided by them rent free to any of the persons referred to Clause 5(4)(f) of this Lease ... [p.91]	Existing (with modification) Sch.5 Para 1 (b) An annual sum equivalent to the *current market rent* of any accommodation owned by the Landlord and provided by the Landlord rent free to any of the persons referred to in Clause 5.2(A) [p.116]	None – or "fair rent", if allowed **TRIBUNAL'S FINDINGS** The new lease term will remain as set out in the existing lease with any alteration required to accommodate any changes in the numbering
2.ALIENATION - AGREED			
Clause 4.11 Assignments etc. [p.110-1]			(Existing) Clause 4.11 4.11.2 Not at any time to assign or underlet for a period exceeding twelve months or part with possession of the whole of the Demised Premises or permit or suffer the same to be done unless there shall previously have been executed at the expense of the Tenant and delivered to the Landlord for retention by them a Deed expressed to be made between the Landlord of the first part and the Tenant of the second part and the person or persons to whom it is proposed to assign underlet or part with possession as aforesaid of the third part whereby the person to whom it is proposed to assign underlet or part with possession shall have covenanted directly with the Landlord to observe and perform throughout the said term the covenants

			on the part of the Tenant herein contained including the covenant contained in this sub-clause 4.11.2 (and including a covenant to pay all arrears of service charge due and/or owing under the terms hereof whether quantified or not and whether relating to a period prior to the execution of the Deed or otherwise) but excluding in the case of an underletting the covenant to pay the rents hereby reserved PROVIDED ALWAYS that the Landlord shall not themselves be required to execute such a Deed.
3.USER - AGREED			
Clause 4.18 User [p.112]			(Existing) Clause 4.18 4.18 Not to use or permit the Demised Premises or any part thereof to be used for any business purposes or for any illegal or immoral purpose or in any manner which may be or become a nuisance annoyance or damage to the Landlord or the Landlord's tenants or to the owners or occupiers of any adjacent or neighbouring property nor in any manner save as a private residential flat only
4.MUTUAL ENFORCEMENT - AGREED			
Clause 5.2(E) (enforcement of	(Existing)		

covenants) [p.117]	Clause 5(3) At the request of the Tenant and subject to payment by the Tenant of (and provision beforehand of security for) the costs of the Lessors on a complete indemnity basis to enforce any covenants entered into with the Lessors by a tenant of any flat in the Building of a similar nature to those contained in Clause 4 of this Lease [p.75]		
5.COMMON PARTS - AGREED			
Sch.2 Para 1 Included Rights (exclusion by L of certain common parts) [p.121]	(Existing with modification) Sch.2 Para 1 Full right and liberty for the Tenant and all persons authorised by the Tenant (in common with all other persons entitled to the like right) at all times and for all purposes in connection with the permitted user of the Demised Premises to go pass and repass over and through and along the Common Parts including the main entrances and the passages landings halls and staircases leading to the Demised Premises PROVIDED ALWAYS the Lessors shall have the right temporarily to close or divert any of the Common Parts and the right to construct subject to leaving available reasonable and sufficient means of access to and from the Demised Premises AND PROVIDED FURTHER THAT the Lessors shall have the right at any time and from time to time on giving in each case at least three months' written notice to that effect to the		

	Tenant to exclude from any easements rights and liberties granted by this lease all or any part or parts of the garden or land forming part of the Common Parts but not so as to make access to the Demised Premises *impracticable* [p.85-6]		

VALUATION FOR PREMIUM FOR A NEW LEASE

Leasehold Reform & Urban Development Act 1993

Flat 9, 2 Lennox Gardens, London SW1X 0DG

Facts and matters agreed

Lease commences 22/12/1983, expires 19/9/2015

Valuation date	30th June 2015
Unexpired term	0.22 years
GIA	57.13 sq.m./ 615 sq.ft
Improvements	none
Ground Rent	£250 per annum fixed
Capitalisation rate	5%
Deferment rate after existing lease	1.49%
Deferment rate after extended lease	5%
Virtual freehold value	£1,045,500
Current rental value in lease repair	£400 per week
Extended lease value at 96% of FHVP	£1,003,680

Matters determined

Existing lease value (unimproved)	£10,000
Risk to immediate FHVP	5%
Freehold adjusted for risk of tenant remaining	£993,225

Diminution in Value of Freeholder's interest	£	£	£
Present value of Freeholder's interest			
Ground rent		250	
YP for 0.22 years @ 5%		0.2135	54
Value of term			
Reversion			
Virtual F/H risk adjusted value unimproved	993,225		
Deferred 0.22 years @ 1.49%	0.996751	989,998	
less Value of Reversion after extension	1,045,500		
deferred 90.22 years @ 5%	0.012255	12,812	977,186
			977,240

Calculation of Marriage Value

Value of proposed interests:			
Landlord's	12,812		
Tenant's new 90.22 year lease at a peppercorn	1,003,680	1,016,492	
Less value of existing interests:			
Landlord's	990,052		
Tenant's existing lease	10,000	1,000,052	
Marriage Value		16,440	
50% marriage value attributed to landlord			8,220
	TOTAL PREMIUM PAYABLE		**£985,460**