

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
SOUTHERN RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**Under the Provisions of the Leasehold Reform, Housing and Urban  
Development Act 1993, Section 24**

**DECISION AND REASONS**

Case Number: CHI/29UC/OCE/2008/0003

In the matter of 39 and 40 St. Stephens Court  
Canterbury,  
CT2 7JP

Applicant : St. Stephens Court  
RTE Co Ltd

Respondent : Olwen Blattersby (Absent)

Date of Application: 31<sup>st</sup> October 2007

Date of Hearing: 30<sup>th</sup> March 2008 and 8<sup>th</sup> May 2008

Tribunal Members: Mr. S Lal LL.M (Legal Chairman)  
Mr. R Athow FRICS  
Mr. T Wakelin

Date of Decision: 8<sup>th</sup> May 2008

**Reasons**

1. The matter came before the Tribunal following an Order of the Canterbury Crown Court on 3<sup>rd</sup> December 2007. The Order was made following an application by the shareholders of the nominee purchaser company, the Applicants in the present matter, under the terms of the Leasehold, Reform, Housing and Urban Development Act 1993. The Court ordered that having regard to the evidence before it, the need to give notice of any application to the Defendant freeholder be dispensed with and that the terms and price of the freehold be determined by the Leasehold Valuation Tribunal.

2. There was before the Tribunal a detailed valuation report dated the 15<sup>th</sup> February 2008 prepared by Mr. B J Keen FRICS of Pearson Gore, Chartered Surveyors in Canterbury in respect of the subject property. The Report was tendered as expert evidence and bears the appropriate declaration to that effect. It contains a detailed and, as far as the members of the Tribunal were concerned when they inspected the property on the 20<sup>th</sup> March 2008, an accurate description of the property.

3. The Tribunal is content to adopt the description for the purposes of arriving at its decision in this matter, and considers that little will be served by copying it into this document.

4. By way of background history, when the Tribunal first convened on the 20<sup>th</sup> March 2008, Mr. Keen was not present. It appears that Solicitors acting for the Applicants had not informed him that as an expert he was expected to attend and give evidence and if need be questioned as to the contents of his Report. The matter was adjourned on that occasion part heard as the solicitor in attendance thought that she would be unable to address the Tribunal on the basis of valuation. The Tribunal reconvened on the 8<sup>th</sup> May 2008 with Mr. Keen in attendance and indeed he indicated his surprise at not having been asked to attend on the first hearing date. Be that as it may the Tribunal had the benefit of Mr. Keen's evidence and were able to confirm that he understood the nature of his professional duties as an expert witness in respect of the valuation carried out.

5. Mr. Keen informed the Tribunal that the date of the valuation adopted in his Report was 20<sup>th</sup> March 2008, in effect being the date of the adjourned part-heard hearing date above. He told the Tribunal that he took into account the requirements of the Leasehold, Reform, Housing & Urban Development Act 1993 as amended by the Commonhold & Leasehold Reform Act 2002. He assumed for the purposes of valuation of the individual flats that any improvements need not be taken into account and that they are let on the same terms as the current leases.

6. The last known owner of the Freehold Interest was Olwen Blattersby, the original Freeholder being Glengarry Property Company Limited. Mr. Blattersby could not be traced and therefore is described as an absent Freeholder who is untraceable.

7. The lease in respect of Flat 39 is dated 1<sup>st</sup> November 1966 and grants a lease for a term of 99 years from 29<sup>th</sup> September 1966 at a yearly rent of £12.10s such rent being paid quarterly in advance and not subject to any reviews. The unexpired term as at the date of the first hearing was therefore on the region of 75 years and 6 months. The lease in respect of the first floor flat is dated the 29<sup>th</sup> May 1968 but the terms is for the same period, that is 99 years from 29<sup>th</sup> September 1966 at the same yearly rent. The unexpired term is therefore also 57 years and 6 months.

8. Mr. Keen in his Report argued that the leases had a number of defects. These were that the Landlord is responsible for insuring the premises and that as there is an untraceable Freeholder, the premises appear to have been uninsured. Further no building works can be carried out without the Landlords consent and that the Leasehold Interest cannot be assigned without notifying the landlord. There are also issues as to the duty to keep common parts and other structural aspects in good repair which are deemed the responsibility of the landlord. Obviously with the Landlord being untraceable, there could be problems in arranging works to these areas.

9. In terms of factors affecting saleability, Mr. Keen stated that with unexpired terms of less than 58 years, each of the flats would be extremely difficult to mortgage and those lending institutions that would be prepared to do so would only do so at a substantially reduced loan to value ratio. He argued that the price payable would be substantially less than would be the case with an improved property on a modern lease. He added in his Report that although there was comparable evidence of flat sales which were improved, there is limited evidence of unimproved flats and little evidence of the sale of flats subject to adverse lease terms as most are un-saleable and therefore the leases are amended prior to sale. He does provide evidence of such comparables as can be found at Appendix 2 of his Report and the Tribunal have had regard in particular to sales in the period 1<sup>st</sup> January 2006 to 31<sup>st</sup> December 2007 in St. Stephens Court in Canterbury and also the flat specifically cited by Mr. Keen, Flat 5, Moat House, Rhodaus Close, Canterbury CT1 2RF which had a guide price of £102,500 in respect of the Leasehold interest on an existing lease term of 150 years from 1996. This flat was in need of substantial improvements and eventually sold in August 2007 for £102,500. The point that Mr. Keen makes in his Report is that this flat had been unable to be sold on its previous shorter lease and the sale was only realised once the lease had been extended. Mr. Keen submitted evidence of other flat sales in Rhodaus Close which are contained in the Appendix 2.

10. Mr. Keen said in his Report that in respect of marriage value, the provisions of the Commonhold & Leasehold Reform Act 2002 are taken into account and the Landlord's share of the marriage value is therefore taken at 50%. He went on to say that the yield adopted to capitalise the term is taken at 7% which is the traditional rate for valuing Leasehold Interests of this type in this area. The Reversion is capitalised at 5% to take account of the decision in *Earl Cadogan v Sportelli* 2007 which implies that a reversion rate of 5% should be adopted to the reversion in all cases.

11. The Tribunal accepted Mr. Keen's arguments about the site value. It had no difficulty on this occasion with adopting the figures advanced as to the deferment rate. No arguments were advanced to suggest why there should be a departure from that rate. His evidence was that a similar rate would be used for the purposes of capitalisation in the locality.



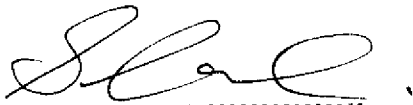
Marriage Value      £16,945

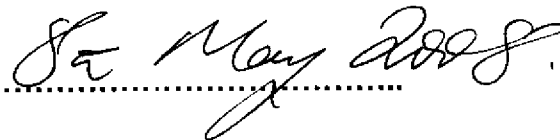
Landlords Share 50%= £8,472

**Market Value of Freehold Interest- £13,055+£8472=      £21,527**

**Or £10,763 per flat**

14. The Tribunal has determined for the reasons above that the price to be paid for the freehold reversion in respect of 39 and 40 St. Stephens Court, Canterbury, CT2 7JP is the sum of £21,527.

  
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**Chairman**

  
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