Y Tribiwnlys Eiddo Preswyl

Residential Property Tribunal Service (Wales)

Leasehold Valuation Tribunal (Wales)

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DECISION AND REASONS OF LEASEHOLD VALUATION TRIBUNAL (WALES)

Leasehold Reform Act 1967 s.27

Premises:	18 Kimberley Road, Penylan, Cardiff, CF23 5DH ("the property")
LVT ref:	10358764/Kimberely Road
Decision:	14 February 2013
Applicant:	Mr Tanveer Khan and Yasmin Akhtar Khan (Executors of Rasul Bibi Khan)
Tribunal:	Mr R S Taylor – Legal Chairman Mrs Ceri Trotman-Jones (MRICS)

ORDER

1. The price to be paid into court by the Applicant for the freehold interest of the property is £7,420.

2. The matter is remitted back to the Cardiff County Court (the County Court is invited to determine the unpaid rent pursuant to s.27(5)(b) – please see paragraph 41 of the decision.)

Dated 14 February 2013

Lawyer Chairman

Background.

1. This case concerns the valuation of the appropriate price to be paid by the Applicant for the freehold reversion of the property.

2. The Applicant made an application via Part 8 of the Civil Procedure Rules to Cardiff County Court on the 26 July 2012, pursuant to s.27 of the Leasehold Reform Act 1967 (as amended) ("the Act") for the purchase of the freehold reversion of the property.

3. The matter came before District Judge T M Phillips sitting in the Cardiff County Court on the 13 September 2012 when he ordered that application be transferred to the Leasehold Valuation Tribunal to determine the sum to be paid pursuant to "s.27(3)" of the Act. Thereafter the matter was listed for directions in the Tribunal on the 25 September 2012, when standard directions were given for a hearing of this matter.

4. The lease of the property was granted for a term of 99 years from the 29 September 1970. The lease states that the annual ground rent is £19 per annum. There were just under 57 years unexpired at the valuation date.

5. The Tribunal must determine the purchase price on the relevant day. The relevant day in this case is the date of application to court, namely the 26 July 2012 ("the valuation date.")

6. The Act enables tenants of long leases let at low rents to enfranchise their properties – in other words to acquire the freehold on terms as set out in the Act. s.27 of the Act provides for an application to the court and sets out the procedure to be followed where the landlord cannot be found.

7. One part of this procedure requires a Leasehold Valuation Tribunal to determine the purchase price, in accordance with the appropriate valuation methodology as set out in the Act. The valuation methods are set out in s.9 of the Act, which has been amended several times and now provides for valuation upon a number of different bases, depending upon which category the property and the lease fall into.

8. In the case of a property with a low ratable value outside of London, that is less than £500 on the 31 March 1990, the valuation methodology is the s.9(1) valuation. In this case the ratable value of the property on the 31 March 1990 would have been well below £500, bringing the valuation head under s.9(1) of the Act.

9. Under s.9(1) the price payable is the amount which on the valuation date, the site, if sold in the open market by a willing seller (with the tenant and members of his family not seeking to buy, thereby excluding what is called "marriage value") might be

expected to realise on certain assumptions, including the assumption that the tenant has complied with his covenants and disregarding any tenants' improvements. It is further assumed that the tenant would exercise his right to claim an extended lease under section 14 of the Act. If the lease is extended under s.14 it gives rise to a further statutory term of the lease with the ground rent (known as the modern ground rent) being set by section 15 of the Act. The statutory term is for 50 years, with a review at 25 years. Under s.9(1) the task of the Tribunal is to determine, as at the valuation date, the present capital values of the rent due for the remainder of the term of the lease and thereafter the value of the reversion.

10. For many years the calculation of reversion was valued by capitalising in perpetuity the modern ground rent and deferring for the unexpired term. Although, it was thought, there may be the property standing on the land at the end of the term, it was unnecessary to separately value how the market would value that as at the valuation date on the grounds that it was unlikely to differ substantially from the capitalised modern ground rent deferred for the unexpired term. There were exceptions to this approach, most notably *Haresign v St John the Baptist's College Oxford* (1980) 255 EG 711 where the property was substantial enough to justify the conclusion that the market would value, as at the valuation date, the property upon ultimate reversion at a figure markedly different to the deferred modern ground rent.

11. This long standing valuation approach was disapproved of by the Upper Tribunal in the case of *Re Clarise Properties Limited* [2012] UKUT 4 (LC) where it was held at [36],

> "We consider that the time has now come to move away from the two-stage approach [i.e. capitalised term rent and defer in perpetuity modern ground rent] as the standard practice in section 9(1) valuations and to apply instead the three stage approach. As a matter of good valuation practice, where a price has to be determined, every element of value should in general be separately assessed unless there is some good reason not to do so. There is now much greater likelihood that the ultimate reversion will have significant value there was when the two-stage approach became adopted as standard practice 40 years or more ago. There are two reasons for this. The first is that house prices, including the prices of houses that would fall to be valued under section 9(1), have increased substantially in real terms; and the second in the lower deferment rates that are now applied in the light of Sportelli. There is, we think, a real danger that applying the two stage approach as standard will in some cases lead to the exclusion of an element of value that ought to be included in the price. This is particularly so if the valuers and LVTs treat the criterion for the application for a Haresign addition whether the house is 'substantial'

and thus exclude any element of value in the ultimate reversion (other than that included in the capitalisation of the section 15 rent in perpetuity) where the house does not meet this ill-defined criterion. The only relevant question is whether the reversion does have a significant value. In future, therefore, we consider that the appropriate approach will be to capitalise the section 15 rent to the end of the 50-year extension and to assess the value (if any) of the ultimate reversion."

12. The Leasehold Valuation Tribunal in Wales first considered *Clarise* in the case of *6 Pen y Peel Road, Canton, Cardiff* (10 July 2012). In *Pen y Peel Road* the unexpired term was 59 years and the subject property was a stone Victorian mid terrace (where the original 99 year lease had been replaced, resulting in a second 99 term having been granted) in an area where houses had suffered subsidence and where there was the possibility of compulsory purchase and redevelopment of the area as a whole. After noting the decision in *Clarise* and reminding itself that the guidance therein did not constrain local LVTs from applying bespoke decisions particular to the evidence in a particular case, on the facts before the Tribunal, it decided the application using the 'two-stage' approach as it could not be certain that the market would factor in the value of a property at the end of the term plus 50 years. The decision thoughtfully considers the *Clarise* approach and is decided on its particular facts.

13. An identically constituted Tribunal also decided *19 Plasmarl Terrace, Plasmarl, Swansea* (25 July 2012), where the unexpired term was 17 years. There was no evidence as at the valuation date that the property would not be standing in 67 years time. The decision provides a careful review of the significant post *Sportelli* decisions which impact upon s.9(1) valuations, including a table showing in tabular form the component parts of each decision. It applies the 'three-stage' valuation as commended by *Clarise*.

14. In accordance with the Tribunal directions, the Applicant has filed a valuation report from Mr Jonathan Graham MRICS of Allied Surveyors and Valuers dated the 6 November 2012. The valuation adopts the two-stage valuation and is silent as to the applicability of the *Clarise* approach. Mindful that *Clarise* is a relatively new decision and that there have been different approaches adopted by the Welsh LVT, this Tribunal afforded the Applicants' solicitor the opportunity for Mr Graham to review his valuation in light of this recent case law. The Applicants confirmed (via their solicitors) that they were content with the valuation as provided and did not seek to file any further evidence.

Inspection.

15. The Tribunal inspected the property on 1 February 2013. The property is situated in the desirable area of Penylan. Kimberley Road is a busy thoroughfare and the property is about 100 metres from a busy junction intersecting with Penylan Hill. Kimberley Road is lined with Victorian terraced and semi detached properties which are set back from the main road by small forecourts. Penylan is situated conveniently for access to the city centre and is within walking distance of local shopping and amenities at Albany and Wellfield Road. It is situated in an excellent school catchment area which feeds into Cardiff High School. The property is a short walk from Roath Park.

16. The property occupies a regular shaped site of sloping topography with its front elevation north facing. The property is mid terraced, two storey plus lower ground floor accommodation. It is of traditional construction for its age and type, with main walls of brick construction and supporting timber pitched roof structure overlaid with composite slate tiles. The front elevation incorporates a two storey bay window with stone surround. The windows are single glazed casement type not of the original sash construction. The rear elevation is fully rendered. There is a small enclosed rear garden with rear lane access. The garden is accessed from the property via the lower ground floor accommodation or via stone steps which lead from the rear of ground floor reception room.

17. On the ground floor there is a good sized entrance hallway with original staircase leading to first floor. To the right of the hallway there is a good sized lounge which incorporates two original reception rooms which have been knocked through. There is an additional reception/breakfast room accessed from the hallway heading towards the kitchen. There is a small shower room and WC facility which has been ~~partitioned~~ out of the rear kitchen (thereby reducing the size of the kitchen and making its shape irregular. In the kitchen there is a staircase which leads to the lower ground floor accommodation at garden level. It comprises two rooms (a further shower facility being partitioned out of one) and beyond the two rooms is a corridor for storage which leads to what would have once been the coal shute. The lower ground floor is currently not in residential use but for storage and is underdeveloped. However, it has enough head height to justify development and the Tribunal is of the view that such development would be logical given that a lower ground kitchen or living area would give more ready access to the garden and expand the living accommodation substantially.

18. Upstairs there are 3 double bedrooms, one with ensuite and a further single bedroom which is currently fitted out as a second kitchen. The bathroom is small for the size of accommodation and of irregular shape.

19. The property is gas centrally heated. The property is currently in need of further updating, decoration and we noted that there are several areas where damp appears to have penetrated and deteriorated internal plaster finishes.

Valuation approach.

20. The valuation is dated the 6 November 2012 and refers back to an earlier valuation given on the 29 November 2011. The valuer states that he is conducting a valuation at the valuation date "based on the property being in average condition." Upon this basis, after inspection, he states that the property is worth £330,000. There was no detailed description of the property or any analysis or methodology for his valuation figure

21. In reaching his valuation the valuer refers to 3 sales comparisons and attaches sales information for each. We noted that the particulars for the property said to be at 25 Kimberley Road did not appear to be 25 Kimberley Road when we viewed it from outside. However, what is clear from the particulars on Kimberley Road is that broadly comparable (albeit one appears to us to have been a smaller 4 bedroom property) properties have achieved sales figures of £345,000 and £323,000 (this was the smaller property) in November 2011 and July 2012 respectively. We were also assisted by a comparable at Amesbury Road which completed for £316,000 on the 6 July 2012. However, this is a smaller property albeit one on a quieter road.

22. The valuer gives little detail as to his valuation approach of the property and there is no detailed description of the accommodation and how this may affect value. We further note that in stating that the valuation is given "based upon the property being in average condition" the valuer appears not to have undertaken the task required under s.9 of the Act, namely to assume that the property is fully modernised and developed to its full extent [see e.g. paragraph 8-09 Hague, Leasehold Enfranchisement, Fifth Edition]

23. As noted, we were impressed by the potential of the lower ground floor accommodation which could be developed to enhance the living quarters and give easier access to the south facing garden. The valuer is silent upon this feature and it does not appear to us that he has valued the property at its full potential.

24. Having considered the comparables and the potential for development of the lower ground floor we are of the opinion that a figure of £350,000 more fairly represents the entirety value at the relevant date.

25. As will be apparent from above, the approach taken in the *Pen y Peel Road* decision (namely, a two-stage analysis where there was 59 year unexpired) is at odds with the approach taken in *the Plasmarl Terrace* decision (where a three-stage analysis was used with a shorter unexpired term). Whilst we note that the Tribunal in *Pen y Peel Road* did not think, on the evidence before it (namely, Victorian stone mid-terrace, subsidence in area, possibility of compulsory purchase and redevelopment) that it could look forward to the end of the term plus the statutory term of 50 years and assume that the house would remain standing, we consider this case, on the facts before us, to be quite different. Kimberley Road is a desirable area which is well kept and likely, in our opinion, to remain sought after during the unexpired term and the 50 year extension. Whilst it is something of an artificial exercise to look into the future (and here that is 107 years) we are of the opinion that the market would value the standing house reversion as at the valuation date. The property prices generally in Kimberley Road are such that they are likely to appeal mainly to owner occupier purchasers with the resources and inclination to maintain the housing stock and protect their valuable investments. On this basis we are bound to disagree with the valuer's two stage approach and we have approached this case, following *Clarise*, using the three stage valuation.

Determination

Capitalisation rate for unexpired term

26. There remained unexpired at the valuation date 56 years and 10 months. We are content to adopt the valuer's term of 57 years. The ground rent in the lease is for £19 per annum, which the valuer has capitalised at 6.5%. In our view a figure of 6.5% is appropriate and in line with other decisions of this Tribunal.

27. This produces a figure for the valuation of the term of £284.24.

Entirety value of the property

28. Whilst we differ with the valuation figure commended by the valuer, we agree with his methodology for assessing modern ground rent using the standing house method. No comparable evidence was put forward of plot sales in the locality and ~~nor~~ were we not aware of any. For the reasons stated above we determine the entirety value of the property to be £350,000.

Plot value

29. The valuer has adopted a plot value of 25% of the standing house value. We are of the opinion that this is too low and that a figure of 27.5% would be more appropriate for this property and in keeping with similar determinations of this Tribunal for terraced properties.

Decapitalisation/Recapitalisation/Deferment rates

30. In *Plasmarl Terrace* the Tribunal stated,

> "24 In his original report, Mr Morse applied a rate of 5.0% for decapitalisation, the process to ascertain the modern ground rent. Although he provides no evidence to support that rate, as a general rule, it does not matter what rate is used for decapitalisation provided the same rate is used for recapitalisation in perpetuity. To do otherwise would be to create an adverse differential favouring one of the parties. Such matters must always be a question of fact and depend on the circumstances of the case. Applying a rate of 5% is in line with other decisions of this Tribunal and in our view produces a fair assessment of the modern ground rent attainable for the Property. Current rates of return in the market are currently at a low level, although they may not always remain this low. Returns from property are affected by economic conditions and landlords are accepting lower rents in order to keep premises tenanted. On the other hand, the modern ground rent would be fixed for a long period.
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> 25 In Clarice, however, the Upper Tribunal endorsed a rate of 5½%. This was the rate which the parties had agreed should apply to the deferment rate before the Leasehold Valuation Tribunal. The Upper Tribunal used the Sportelli deferment rate of 4¾% as its starting point. Accepting the evidence of Mr Geraint Evans, the Appellant's surveyor, the Upper Tribunal determined that the prospects for capital growth were lower in the West Midlands than in Prime Central London (PCL) and increased the rate by ½% to 5¼%. It regarded this as being in line with Zuckerman. However, it then added a further ¼% to the deferment rate because there was no reason why the risk of deterioration was less in respect of the appeal property than was the case in Zuckerman. Having found that the deferment rate was to be 5½%, it accepted that the same rate should be used to decapitalise the plot value to ascertain the modern ground rent and to recapitalise that modern ground rent for the 50 year period of the extended term. It applied the deferment rate for the purposes of decapitalising and recapitalising on the grounds that "to do otherwise would be to produce an adverse differential". It justified departing from Mansal because in that case "the second stage consisted simply of deferring the site value until the expiry of the existing lease, so that the question of an adverse differential did not arise".

26 In Sportelli, the generic deferment rate to be applied for houses, without evidence justifying a different rate, was 4¾%. For flats, the Lands Tribunal had concluded that "the management exercise...is...sufficiently more complex to warrant a generalised 0.25% addition for flats" making the generic rate 5%. In Zuckerman, Mr N J Rose FRICS accepted evidence that "it is likely to remain economically viable to repair high value properties in PCL for considerably longer than it will for similar sized flats in Kelton Court". He concluded that "a purchaser of the freehold reversion to Kelton Court would have required an increase of 0.25% in the risk premium..." He further accepted that the statistical evidence "would persuade an investor that he could reasonably anticipate significantly slower long term growth from residential properties in the West Midlands generally than in PCL"...and therefore "he would reduce his bid...accordingly. The appropriate way to assess that reduction, in my view, is by further increasing the risk premium by 0.5%..." Mr Rose then increased the deferment rate from the Sportelli rate of 5% for flats by a further 0.25% to 6% to take account of the additional administration now imposed upon landlords as a result of the various regulations introduced in recent years.

27 Following the same reasoning as in Zuckerman, the Upper Tribunal in Clarice adopted the 4¾% Sportelli rate as its starting point and added ½% for the reduced growth factor and a further ¼% for the deterioration factor, ie 5½%. It recognised that this appeared at odds with its decision in Mansal Securities Ltd (LRA/185/2007)(Mansal) and justified its different treatment because it was now deferring to a standing house value and not, as in Mansal, a site value, a two stage valuation, where "the question of an adverse differential did not arise".

28 In Mansal, the Upper Tribunal (Mr Rose) justified increasing the Sportelli rate by ¼% on the grounds that "since the reversion in the case of a section 9(1) is to ground rent only, a potential purchaser is likely to require a higher risk premium to compensate for the increased volatility and illiquidity than if the reversion also included a house standing on the site" (paragraph 27). However, one of the reasons justifying an additional ¼% in Clarice is because there is a house standing on the plot. In practice, of course, there really is no difference:

	Sportelli	Mansal	Zuckerman	Clarice
Generic	4¾% - 5%	4¾%	5%	4¾%
Illiquidity		+ ¼%		
Deterioration			+ ¼%	+ ¼%
Growth			+ ½%	+ ½%
Administration			+ ¼%	
Total	4¾% - 5%	5%	6%	5½%

In Mansal, although the Appellants had argued that the prospects for growth in the West Midlands were less than in PCL, Mr Rose was not persuaded on the basis of the evidence adduced. The difference between Mansal and Clarice is that in Clarice, the Tribunal accepted the evidence on the issue of growth. In Mansal, the Sportelli rate is increased to provide for the illiquidity factor when selling a ground rent or plot; in Clarice, it is increased to cover the possibility of greater deterioration relative to value for properties outside PCL.

29 The other issue raised by the Upper Tribunal in Clarice and alluded to in Mansal is the question of an adverse differential. Although the passage from Hague on Leasehold Enfranchisement quoted in Mansal (paragraph 13) suggests that in order to avoid an adverse differential the same rate must be used for decapitalisation, recapitalisation and deferment, the original intention was that the same rate of interest should apply to the first two processes, ie to ascertain the modern ground rent and to recapitalise it before deferring it. (See Lord Denning MR in Official Custodian for Charities and Others –v- Goldridge (1973 26 P & CR 191: "They should adopt the same percentage for re-capitalisation as for decapitalisation. This is a better way of finding 'fair terms'"). Using a different rate for recapitalisation produces an unfair advantage to one side or the other. However, for many years Tribunals deferred at a different rate as this was a different step in the process and different considerations might apply. In Clarice, the Upper Tribunal is suggesting that the deferment rate determines all three rates. In this case it is not an issue. However, we cannot see the logic in the argument that the process for determining the modern ground rent – which can be independent of the acquisition of a freehold reversion – will be governed by the deferment rate. The effect could be that two identical properties are assessed as having different modern ground rents simply because one is a basic modern ground rent calculation and the other is part of a freehold purchase.

30 In the present case, we adopt the rate of 5% for the purposes of decapitalising the site value and recapitalising the modern ground rent. Further, in the absence of

evidence to displace the Mansal rate and the basic Clarice rate, we defer the result to the contractual end of the lease term (16 years) also at 5%. This has the effect of valuing what is sometimes referred to as the first reversion at £8,363."

31. This Tribunal finds the foregoing analysis most helpful and adopts it wholesale.

32. We note that the valuer contends for a figure of 5% to decapitalise the site value to obtain modern ground rent. We agree with this approach. The valuer further capitalises the modern ground rent in perpetuity at 5% and defers at the same rate. As noted, this is only the two-stage valuation approach. We have determined that the three stage valuation should be adopted but agree that with the 5% capitalsiation and deferment rates for the reasons given in *Plasmael.*

Standing house reversion

33. For the third stage of the valuation we must determine the standing house value of the property deferred, in this instance, for 107 years (namely, 57 years unexpired + 50 years statutory extension).

34. The Tribunal's copy of Parry's Tables values and defers only up to 100 years. This is upon the investment assumption that anything over 100 years is considered to be in perpetuity. We have available to us a spreadsheet which adopts Parry's formula for calculating capitalisation and deferment formulas, which goes beyond 100 years. Having conducted draft calculations, the difference between 100 years and 107 years was over £700 pounds (prior to making any adjustment for the Schedule 10 Local Government Act 1989). We note that the decision in *Clarise* is seeking to ensure that no element of value is omitted in calculating the reversion. By the same token, we do not think that it is appropriate to overvalue the reversion simply due to the standard published tables running to 100 years. Having decided that this property will be standing in 107 years we are driven to defer for that period. The spreadsheet adopting the Parry's assumptions rounds to 4 decimal places (as opposed to the 7 in the published tables). We are content in this instance to work with 4 decimal places as the difference will be *de minimis.*

35. Case law under the Act requires us to assume the property is fully developed as at the relevant date when valuing the entirety value and subsequent calculation of modern ground rent. In contrast to this approach, at this third stage we must value the property as we find it i.e. its existing form. As already noted, the property is in need of modernisation and the lower ground floor is largely undeveloped. Viewed from this perspective we accept the valuer's valuation at £330,000 which we adopt as our standing house valuation for stage 3 of the calculation.

36. Adopting the analysis from *Plasmael* above, we defer at 5%.

Schedule 10 of the Local Government Act 1989

37. We turn once again to the reasoning in *Plasmael:-*

> "In Clarice, the Upper Tribunal commented that whilst "the purchaser of the freehold reversion would have no means of knowing whether vacant possession would be gained at the end of the 50 year lease extension"..."the fact that there can be no certainty of obtaining vacant possession would have a significant depressing effect on value..." Without the benefit of comparable evidence, the Upper Tribunal deducted 20% from the "full standing house value" of the Property.
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> 33 This issue has been considered previously by the Lands Tribunal in Vignaud –v- Keepers and Governors of John Lyon's Free Grammar School (LRA/9 & 11/1994)(Vignaud) and by the Upper Tribunal in Sillvote Ltd –v- Liverpool City Council [UKUT] 192 (LC) (Sillvote). In the former case, HH Judge Rich accepted a deduction of 10% to reflect "the remote risk that [the leaseholder] or some assignee in the last ten months of the term might" exercise her rights under Schedule 10 and remain in possession even though he was "virtually certain" that the leaseholder would not exercise those rights. In his decision, HH Judge Rich stated that "the proper deduction for this right must be a matter of evidence or agreement". In Sillvote, where there were 11 years remaining on the lease, Mr P R Francis FRICS stated that the question was "whether, as a matter of evidence, there is a likelihood that the lessee will exercise that right". He held that there was no evidence and consequently made no deduction. Following that decision, in Cardiff County Council –v- The Estate of Alice Zelia David (3 Ovington Terrace, Cardiff)(reference QA 976565) this Tribunal also held that it had no evidence upon which to base a deduction from the house value to take account of the lessee's Schedule 10 rights. In Clarice, the Surveyor for the Appellant had suggested a nominal deduction to take account of the fact that these rights would only be exercisable at the end of the statutory 50 year lease extension – in Clarice, in 78½ years' time. However, the Upper Tribunal made its 20% deduction on the assumption that the deduction had to be significant.
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> 34 Mr Morse has followed Clarice and applied the 20% deduction, but without providing any justification or evidence to support such an amount. In this case, the extended lease term ends 66 years after the valuation date, a shorter period than that in Clarice and substantially longer than Vignaud and Sillvote. We acknowledge the Upper Tribunal's guidance and therefore we conclude that a significant deduction needs to be made from the standing house value in order to take account of the lessee's Schedule 10 rights. The amount of such deduction is preferably to be based upon evidence, but, as with Clarice, we have none provided on behalf of the

Applicant. We must therefore rely upon our knowledge and experience. The value of the Schedule 10 rights is essentially a question of judgment. Whilst there is a wait of 12½ years longer before the Schedule 10 rights take effect in Clarice, the value of the property in this case is less the half that in Clarice. We do not consider that the market would factor in a deduction as high as 20% to take account of the possibility that a lessee might retain possession in 66 years' time with the benefit of an assured tenancy. In our judgment, we consider the appropriate deduction is 10% - significant enough to take account of the possibility of those rights being exercised, but not such as to over compensate bearing in mind that these rights are only exercisable in 66 years' time and indeed may not be exercised at all. This produces an adjusted standing house value of £54,000."

38. Whilst *Clarise* requires us to look into the crystal ball so far as standing house value is concerned, this Tribunal struggles to make the intellectual leap as to the likelihood of what rights of continuing occupation may be exercised in 107 years time and how they will effect valuation today. We note the unexpired terms in both *Clarise* and *Plasmael* to be someway shorter than in this case. We have no evidence before us on this point. We note that *Clarise* regarded this element as requiring a significant deduction, in that case 20%. We further note that in *Plasmael* the figure of 10% was adopted, albeit with a reversion in 67 years time. Whilst we treat 10% as a rough and ready guideline for such a discount, we depart from that figure upon the basis that the reversion in this case does not fall in for 107 years. We consider, artificial though the exercise is, that the market today would be less concerned about Schedule 10 rights for a reversion in excess of 100 years away. It is therefore, we find, in a different bracket to the discount applied in *Plasmael.* Doing the best we can, given the term, we are going to make a deduction of 5%.

Decision

39. Applying the findings we have made above, we calculate the value of the freehold of the property as follows:-

Stage 1.

Ground rent	£19		
YP 57 years at 6.5%	14.9598		
			£284.24

Stage 2.

Entirety Value	£350,000		
Plot Value @27.5%	£96,250		
Modern Ground rent @5%		£4,812.50	
YP 50 years @5%	18.2559		
PV of £1 in 57 years @5%	0.0619741		
		1.13139	
			£5,444.81

Stage 3.

Standing house value	£330,000		
Less Schedule 10 @5%	£16,500		
Adjusted value		£313,500	
PV in 107 years @5%		0.0054	
			£1,692.90

Total	**£7,421.95**
Say	**£7,420**

40. We respectfully draw the attention of the County Court to the provisions of s.27(5)(b) of the Act, substituted by section 149 of the Commonhold and Leasehold Reform Act 2002, which requires the leaseholder to pay "the amount or estimated amount...of any pecuniary rent payable for the house ... which remains unpaid." The amount so

payable can only be the amount for which the freeholder can enforce payment. If it were otherwise, a leaseholder of an untraced freeholder would be required to pay more than a leaseholder whose freeholder's identify is known. The maximum recoverable is £19 a year for the period of 6 years, namely £114. We note that the order of DJ Phillips invites the Tribunal to consider the sum under s.27(3). It may be that this is a clerical or administrative slip by the court office and reference to s.27(5) was intended. However, we cannot assume so, but have provided the calculation which the court can add in any event.

Dated 14 February 2013

Lawyer Chairman