

REF: LON/LVT/843/98

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT
ASSESSMENT PANEL

LEASEHOLD REFORM ACT 1967

HOUSING ACT 1980

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Grosvenor Estate Belgravia

Respondent: Mr and Mrs B Carl

RE: 46 Chester Square, London SW1

Date of Tenant's Notice: 5 August 1996

Application to the Tribunal dated: 18 March 1998

Heard: 3 and 4 June 1999

Inspection: 7 June 1999

Appearances:

Miss K Holland (of Counsel)

Mr J M Pearson - (Rosling King, Solicitors)

Mr M Minting (George Trollope, Chartered Surveyors)

Mr M Latham, FRICS ACI Arb, Michael Latham Associates

for the Tenant

Mr S Burrell (of Counsel)

Miss L Blackwell (Boodle Hatfield, Solicitors)

Mr I Macpherson MA FRICS (Gerald Eve, Chartered Surveyors)

Mr G Pope FRICS FSVA

Mr R Dalton (Grosvenor Estate Holdings)

for the Landlord

Members of the Leasehold Valuation Tribunal

Mrs J S L Goulden JP (Chairman)

Mr D L Edge FRICS

Mr P S Roberts DipArch RIBA

Date of the Tribunal's decision: **19 AUG 1999**

THE FACTS

46 Chester Square London SW1 (hereinafter called 'the subject property') was inspected by the Tribunal on the morning of 7 June 1999. It is a listed Grade II substantial corner end terrace six storey house circa 1835 located on the south east side of Chester Square with garden and also a garage at 46 Ebury Mews SW1. The main entrance at the side is opposite St Michael's Church and the principal rooms overlook the garden square. The accommodation at the valuation date is as described at Appendix A.

The Tribunal also inspected the exteriors of Nos. 3, 10, 21, 22, 24, 26, 50, 62, 64, 65, 66, 80, 82 and 84 Chester Square SW1 and 29 Rutland Gate SW7.

The subject property is subject to a lease dated 16 December 1977 and granted for a term of 74 years and 103 days from 14 September 1976, to 24 December 2050. The lease had approximately 54.4 years unexpired as at the agreed valuation date of 5 August 1996. The lease reserved a rent of £450 per annum, subject to review at 25 December in 1986, 1996, 2006, 2016, 2026, 2036 and 2046. These reviews were to be upwards only to 10% of the estimated full market rental value per annum of the property as calculated at each review date for the letting as a whole upon the terms of the lease (save as regards the amount of the rent and the premium) from the review date. The ground rent payable at the date of valuation was £6500 per annum, fixed as from December 1986.

Matters agreed

- a. The statutory basis of valuation to the enfranchisement price is in LRA 1967 Section 9(1C).
- b. The valuation date is 5 August 1996.
- c. The yield rates applicable in the relevant valuation of the landlords' interest excluding marriage value are agreed at
 - 5% for capitalising the rental income until review at 25 December 1996
 - 5.5% for capitalising and deferring the rental income following the review and
 - 6% for deferring the value of the landlord's ultimate reversion to the freehold with vacant possession
- d. The landlord's share of the marriage value is agreed at the minimum 50%.

At the Hearing, it was accepted by both parties that the subject property had been substantially refurbished and partially extended in recent years. Although the condition and schedule of accommodation could not be verified as at the commencement of the present lease on 14 September 1976, it was agreed that the basis of valuation of the unimproved property would be in accordance with the floor plans dated June 1984.

The points in issue are as follows:-

- (a) Estimate of relevant rent at 25 December 1996 rent review

- (b) Value of unimproved freehold interest
- (c) Value of unimproved leasehold interest
- (d) Claim to compensation for severance of 46 Ebury Mews
- (e) Premium payable

THE HEARING

- (a) Estimate of relevant rent at 25 December 1996 rent review.

Mr Macpherson for the landlord relied on the furnished letting to the Respondents of the subject property plus 46, Ebury Mews for 1 year less 1 day from 15 August 1996 at £406,153 per annum. In addition he relied on the open market letting at Nos. 62 and 84 Chester Square SW1 - No.62 at £416,000 per annum for 1 year less 1 day commencing 7 September 1998 and No.84 at £156,000 per annum for 1 year less 1 day commencing 5 December 1997. No.84 was also subject to a rent review from 25 December 1997 to 10% of its full market rental value per annum at the date of the review on the terms of its lease and was settled at £11,500 per annum. He further relied on a rent review settlement on No.86 Chester Square at £11,500 per annum on similar lease terms to No.84. Using the relativity in the case of No.84 he adjusted it downwards, applied it to the subject property's rent with a further adjustment for size and arrived at an estimated market rental value of £195,000 per annum for the subject property plus garage. Mr Minting for the Respondents relied on rent reviews agreed between the Grosvenor Estates and respective lessees relating to comparable properties held on leases for similar terms and on similar conditions. He did so on the basis that there had been no open market lettings of comparable properties on an

unimproved basis on a long term lease at a market rent and on the basis that short term lets of substantially improved Belgravia properties were inappropriate comparables. He was directly involved in the agreements reached in relation to his principal comparables, namely

50 Chester Square - 25/3/1993 review (£4,825 sq.ft) £39,667 pa

20 Chester Square - 25/3/1993 review (£4,169 sq.ft) £38,000 pa

23 Chapel Street - 25/12/1996 review (£3,605 sq.ft) £40,000 pa

These he adjusted for August 1996 values on an indexation basis as follows:-

50 Chester Square	£51,210 pa	10.61 psf
20 Chester Street	£39,862 pa	9.56 psf
23 Chapel Street	£38,980 pa	10.82 psf

He also adduced evidence of agreed rent reviews on flats in Eaton Square held on 9 or 12 year leases to illustrate maximum rental values.

He was of the opinion that the full market rental value of the subject property at the valuation date to be £85,000 per annum plus £4,000 per annum for the garage making a total of £89,000 per annum.

Whilst the Tribunal accepts that the differing approaches of Mr Macpherson and Mr Minting are both valid, the Tribunal does not consider that Mr Minting has made adequate allowance for the superior location and condition of the subject property and Mr Macpherson has not made sufficient allowance for the furniture (said during the hearing to have a value in the region of £1.5 million), improvements, repairing obligations or the lease term and has simply applied relativity based on his comparable.

From the market rent obtained, the Tribunal made adjustments for the exclusion of the remainder of 46 Ebury Mews, the improvements, including extra floor space, the furniture and the differing terms between the lease and short term rental agreement (to include repairing obligations) and considered the rent payable on such basis to be £150,000 per annum.

(b) Value of unimproved freehold interest.

Mr Pope suggested this was £4.268 million (having been adjusted at the Hearing from £4.318 million) and Mr Minting £2.825 million.

Mr Pope considered the sale of the subject property and 46 Ebury Mews in February 1997 at £3.6 million and then considered the following comparable evidence at February 1997:

64 Chester Square	Leasehold	89 yrs	December 1994	£3,275,000
80 Chester Square	Leasehold	64 yrs	December 1991	£3,200,000
29 Rutland Gate	Freehold		November 1996	£4,500,000
21 Chester Square	Leasehold	71 years	February 1997	£2,700,000

Mr Pope concluded that the value of the freehold of the subject property and 46 Ebury Mews in February 1997 was £5.75 million. He then (a) adjusted this to £5,043,000 to arrive at an August 1996 figure (b) adjusted this by deducting £350,000 so as to exclude the remainder of 46 Ebury Mews to £4,693,000 (c) adjusted this in respect of

the marriage value attributable to ownership of both properties by deducting £225,000 to £4,468,000 and (d) adjusted this in respect of improvements by deducting £150,000 to arrive at £4,318,000. At the hearing Mr Pope conceded a further £50,000 discount for improvements and revised his figure to £4,268,000.

Mr Minting relied upon the following freehold sale comparables, namely

24 Chester Square	Unimproved	Sold May 1992	£1,350,000	Adjusted £2,033,502
83 Eaton Terrace	Improved	Sold August 1996	£1,200,000	
54 South Eaton Place	Improved	Sold December 1996	£1,090,000	
14 South Eaton Place	Improved	Sold September 1996	£1,900,000	

Mr Minting also referred to the following leasehold sales

3 Chester Square	Improved	Sold March 1996	54 3/4 yrs unexpired	£1,635,000
10 Chester Square	Improved	Sold May 1996	54 1/2 yrs unexpired	£2,350,000
22 Chester Square	Improved	Sold September 1996	13 1/2 yrs unexpired	£1,010,000
23 Chester Square	Improved	Sold January 1996	75 yrs unexpired	£1,650,000

The comparable evidence led Mr Minting to conclude that the freehold valuation of the Property, excluding 46 Ebury Mews, is assessed for August 1996 as at £2,825,000.

Mr Minting then analysed and adjusted his comparables (save for No.10 Chester which he considered was "way out of line" due to the high level of modernisation) to arrive at an average rate per square foot for both improved and unimproved properties.

In order to reflect the unimproved condition of the subject house he considered that it would be reasonable to adopt a base freehold value on a directly comparable basis at a roughly midway point between the established unimproved and improved values, namely £2,500,000 to which he added £250,000 as a "more than reasonable allowance" for the superior location of 46 Chester Square and its garden and a further £75,000 for the garage included in the claim. He concluded that the most comparable evidence supported his opinion that the vacant possession value of the freehold interest in the subject property (disregarding the effect on value of the lessee's improvements and alterations but reflecting the superior location and the garden) was "very generously assessed" at £2,825,000 to include the garage at 46 Ebury Mews (equivalent to £485.90 per square foot overall).

The Tribunal considers that it is too simplistic to value the unimproved freehold interest on Mr Minting's basis of an average rate per square foot and prefers Mr Pope's approach. Although the Tribunal was presented with evidence of the sale of the leasehold interest for £3.6 million, it was not convinced that this was a true arms length transaction. The Tribunal considers that the marketing of the subject property in early 1995 (at an original asking price of £5 million but later reduced by the end of May 1995 to £4.5 million) was relevant, as was the fact that by August 1996 it had not sold, although still on the market. However, based on the sales of other corner properties ie 64 and 80 Chester Square referred to by Mr Pope, the Tribunal considers the probable value of the subject property in its present condition subject to a 54 year lease at August 1996 was in the region of £4 million. Adopting a differential of leasehold to freehold of 77.5%, gives a freehold value of £5,160,000. From this

figure, the Tribunal deducted amounts of £350,000 in respect of 46 Ebury Mews, £400,000 for improvements and £150,000 for severance, resulting in an adjusted freehold figure for the subject property unimproved of £4,260,000.

(c) Value of unimproved leasehold interest

Mr Pope and Mr Macpherson relied on settlement evidence and the graph derived therefrom in producing a figure for the relativity to be applied to the freehold valuation to value the claimants' leasehold interest without rights. Applying relativity at 77.5%, Mr Pope reached a figure of £3.342 million. He made a further deduction of £250,000 to take account of the substantial ground rent with further rent reviews. He valued the leasehold interest without rights at the valuation date at £3.1 million. This figure was later adjusted to £3.064 million.

Mr Minting for the tenant relied on the following comparable evidence by way of support of his figure of £2,175,000 being 77% of the freehold unimproved value.

49 Eaton Terrace	Unimproved	49½ yrs	August 1996	£1,150,000
3 Chester Square	Improved	54 3/4 yrs	March 1996	£1,715,115

The Tribunal accepts that a substantial ground rent with further reviews will have a considerable impact on the leasehold value in comparison with a similar leasehold interest with a modest ground rent, and it is noted that Mr Minting made no adjustment in this respect. The Tribunal recognises that a reduction on account of a high rent in this situation is appropriate, but feels the figure suggested by Messrs Pope and Macpherson of £250,000 is too high and a sum in the region of £130,000 (ie 10

times the residue of the revised ground rent over a figure of £2000 as suggested by Mr Pope) to be more appropriate.

Applying a differential of 77.5% to the freehold unimproved value of £4,260,000 and allowing for the adjustment referred to above, results in a figure of £3.172 million for the unimproved leasehold interest.

d. Claim to compensation for severance of 46 Ebury Mews

This is the difference in value between the subject property and 46 Ebury Mews for sale together and separately. It is the landlord's case that this enfranchisement will deprive it of the opportunity to realise the marriage value in 54.4 years time, supported by the decision of the Leasehold Valuation Tribunal in relation to 11 Wilton Crescent and 40 Wilton Crescent. Mr Minting's approach is to the effect that compensation ought not to be awarded in respect of this because such prospective loss is too speculative.

The Tribunal determines that a case had been made for compensation to the landlord under this head for the inability, as a consequence of this enfranchisement, to sell the subject property with the contiguous rear property viz 46 Ebury Mews. The landlord's valuers calculate this loss at £9450 based on £225,000 deferred for the unexpired term. The Tribunal determines that a figure of £6300 is appropriate in this case, based on a figure of £150,000.

e. Premium payable

Mr Macpherson for the landlord applicants proposed a premium of £866,200 and Mr Minting for the tenant respondents a premium of £450,700. Their valuations are attached to this Decision as Appendices C and D respectively.

The Tribunal determines the sum to be paid for the freehold interest is £767,200 (Seven hundred and sixty seven thousand two hundred pounds).

Details of the Tribunal's valuation is set out in Appendix B.

CHAIRMAN



DATE

19 AUG 1999

Floor	Description	Dimensions in	
		Metres	Feet & Inches
46 Chester Square Ground	Entrance Hall		
	Dining Room	6.60 x 5.13	21'8" x 16'10"
	Study	6.71 x 3.78	22' x 12.5"
	Kitchen	7.47 x 5.38	24'6" x 17'8"
	Cloakroom		
	Access to lift		
Half landing	Access to lift		
	Access to terrace		
First	Drawing Room	12.27 x 6.55	40'3" x 21'6"
		(narrowing to: 4.01	13'2")
Half landing	Cloakroom		
	Access to lift		
Second	Master Bedroom	6.32 x 5.38	20'9" x 17'8"
	Ensuite Dressing Room		
	Bathroom		
Half landing	Laundry Room		
	Access to lift		
Third	Bedroom 3	5.26 x 3.86	17'3" x 12'8"
	Bedroom 4	4.16 x 3.66	13'8" x 12'
	Bedroom 5	4.14 x 2.31	13'7" x 7'7"
	Bathroom		
	Kitchenette		
Fourth	Bedroom 2	3.76 x 3.45	12'4" x 11'4"
	Ensuite bathroom		
	Sitting room	4.52 x 4.12	14'10" x 13'6"
	Kitchenette		
	Access to lift		
Lower ground	Library (access to patio)	5.97 x 5.13	19'7" x 16'10"
	Shower room		
	Office (access to patio)		
	Boiler room		
	Cellar		
	Self Contained staff flat		
	- Reception room	5.11 x 4.01	16'9" x 13'2"
	- Kitchen		
	- Bedroom	3.68 x 3.38	12'1" x 11'1"
	- Bathroom		
Garden (access to 46 Ebury Mews)		10.97 x 7.31	36' x 24'
	Garage at 46 Ebury Mews	8.84 x 2.36	29' x 7'9"

LEASEHOLD REFORM ACT 1967 AS AMENDED
Section 9 (1C)
Valuation
of
46 Chester Square, London, SW1
at 5 August 1996

Appendix B

Unexpired term: 54.4 years

VALUATION IN ACCORDANCE WITH SECTION 9 (1C) OF THE LEASEHOLD REFORM ACT 1967

Valuation of lessor's interest
exclusive of marriage value

	£	£	£
For remainder of term -			
Ground rent currently payable for Subject House including single garage	6,500		
Years purchase for 0.4 years @ 5.0%	<u>0.38</u>		
		2,470	
Reversion to rent review on 25 Dec 1996 to 10% of full market rental value (unimproved)			
	say 150,000		
	@ <u>10%</u>		
	15,000		
Years Purchase for 54 years @ 5.5%	17.173		
Deferred 0.4 years @ 5.5%	<u>0.98</u>		
	16,830		
		252,450	
For reversion to-			
Value of freehold interest with vacant possession (unimproved)	4,260,000		
Deferred 54.4 years @ 6.0%	<u>0.042</u>		
		178,920	
			433,840
<u>Add lessor's share of marriage value</u>			
Value of freehold interest with vacant possession		4,260,000	
<u>Less</u>			
Value of lessor's interest exclusive of marriage value	433,840		
Value of lessee's interest exclusive of marriage value (unimproved)	<u>3,172,000</u>		
Gain on marriage		<u>3,605,840</u>	
		654,160	
Attributed to lessor @ 50%			<u>327,080</u>
Enfranchisement price			760,920
<u>Add for other loss</u>			
Difference in value between 46 Chester Square and 46 Ebury Mews for sale together and separately	150,000		
Deferred as above	<u>0.042</u>		
			<u>6,300</u>
			£ 767,220
		SAY	£ 767,200

LEASEHOLD REFORM ACT 1967 AS AMENDED
Section 9(1C)
Valuation
of
46 Chester Square, London, SW1
at 5th August 1996
by
Ian Macpherson M.A. FRICS

Unexpired term: 54.389 years

VALUATION IN ACCORDANCE WITH SECTION 9(1C) OF THE LEASEHOLD REFORM ACT 1967

<u>Valuation of lessor's interest exclusive of marriage value</u>	£	£	£
For remainder of term-			
Ground rent currently payable for Subject House including single garage		6,500	
Years purchase for 0.389 years @ 5.0%		<u>0.376</u>	2,444
Reversion to rent review on 25 Dec 1996 to 10% of full market rental value (unimproved)		say 195,000 @ 10% <u>19,500</u>	
Years Purchase for 54 years @ 5.5%	17.173		
Deferred 0.389 years @ 5.5%	<u>0.979</u>		
		<u>16.812</u>	327,834
For reversion to -			
Value of freehold interest with vacant possession (unimproved)		4,268,000	
Deferred 54.389 years @ 6.0%		<u>0.042</u>	179,256
			509,534
<u>Add lessor's share of marriage value</u>			
Value of freehold interest with vacant possession		4,268,000	
<u>Less</u>			
Value of lessor's interest exclusive of marriage value		509,534	
Value of lessee's interest exclusive of marriage value (unimproved)		<u>3,064,000</u>	
Gain on marriage		3,573,534 <u>694,466</u>	
Attributed to lessor @ 50%			<u>347,233</u>
Enfranchisement price			856,767
<u>Add for other loss</u>			
Difference in value between 46 Chester Square and 46 Ebury Mews for sale together and separately Deferred as above		225,000 <u>0.042</u>	<u>9,450</u>
			866,217
		SAY	866,200

Appendix MM746 Chester Square.

Valuation in accordance with Section 9 (1C) of the Leasehold Reform Act 1967, as amended, based on the assumption that the garage reverts to the Reversioner on the expiry of the subsisting lease.

Freeholder's Existing Interest.

Current Rent:	£6,500	
YP for ½ year at 5%:	0.476	£ 3,094
Rent review to	£ 8,900	
YP for 54 years at 5.5%:	<u>17.1726</u>	
	£152,836	
Deferred ½ year at 6%:	0.97170	£148,511
Freehold reversion to unimproved value of house:	£2,750,000	
54½ year lease of garage:	<u>£ 57,750</u>	
	£2,807,750	
Deferred 54½ years at 6%:	0.041784	<u>£117,319</u>
		£268,924

Marriage Value

VP value of unimproved freehold, excluding the garage:	£2,750,000	
54½ year lease of garage:	<u>£ 57,750</u>	
	£2,807,750	
Freeholder's existing interest:	£ 268,924	
Lessee's interest in the unimproved house excluding the garage:	£2,117,500	
Lessee's current interest in the garage:	<u>£ 57,750</u>	
	<u>£2,444,174</u>	
Marriage Value:	£ 363,576	
Freeholder's share at 50%:		<u>£181,788</u>
		£450,712

Enfranchisement price, say £450,700.

Michael Minting
George Trollope
12th March 1999