



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)**

Case reference : **MM/LON/00AN/0CE/2024/028**

Property : **45 Addison Gardens, London W14 0DP**

Applicant : **74 Eaton Square Limited**

Representative : **Mr Michael Pryor (Counsel)**

Respondent : **Ms Wanda Radziszewska**

Representative : **Mr Richard Rothschild**

Type of application : **Section 24 of the Leasehold Reform,
Housing and Urban Development Act
1993**

Tribunal members : **Judge J P Donegan
Mr I Holdsworth FRICS (Valuer
Member)**

Date of hearing : **17 and 18 September 2024**

Date of decision : **12 November 2024**

DECISION

Summary of the Tribunal's decision

- (1) The appropriate premium payable for the collective enfranchisement is **£54,267** (Fifty-Four Thousand, Two Hundred and Sixty-Seven Pounds).
- (2) The other terms of acquisition are those set out in the attached transfer deed, with the Tribunal's amendments shown in red.

Background

1. These proceedings arise from an enfranchisement claim for 45 Addison Gardens, London W14 ODP ('the Property'), which is a six-storey, Victorian, mid-terraced townhouse containing four self-contained flats, all let on long leases.
2. The respondent, Ms Radziszewka, is the freeholder of the Property and a joint leaseholder of the Basement and Ground Floor Flat ('BGFF'), in which she resides. The other joint leaseholder is her daughter-in-law, Ms Charmaine de Souza.
2. By an initial notice dated 07 April 2022, served under section 13 of the Leasehold Reform, Housing and Urban Development Act 1993 (the 'Act'), the leaseholders of the First and Third Floor Flats exercised the right to collective enfranchisement. They proposed a premium of £68,985 for the freehold of the Specified Premises, as coloured red on the notice plan and £100 for freehold of the land coloured green ('the Land'). The notice named the applicant as the nominee purchaser.
3. On 15 June 2022, Ms Radziszewska served a negative counter-notice, opposing the claim on the basis she is a resident landlord. This contention was the subject of Part 8 proceedings in the Central London County Court. On 02 October 2023, District Judge Revere made an order in favour of the applicant, (a) declaring the participating leaseholders were entitled to exercise the right to collective enfranchisement and the counter-notice was of no effect, and (b) ordering Ms Radziszewska to give a further counter-notice by 06 November 2023 and pay the applicant's costs of the claim.
4. On 06 November 2023, Ms Radziszewska served a further counter-notice admitting the validity of the claim but counter-proposing £450,723 for the freehold of the Specified Premises and £100 for the freehold of the Land.
5. The relevant legal provisions are set out in the appendix to this decision.

The procedural history

6. The applicant seeks a determination of (a) the premium to be paid for the freehold of the Property and (b) the terms of the freehold transfer, pursuant to section 24 of the Act.
7. The section 24 application is dated 10 January 2024 and was submitted by the applicant's solicitors, Merali Beedle Limited ('MBL'). It named Ms Radziszewska solicitors, Edwin Coe LLP ('ECL') as her representative.

8. The Tribunal issued directions on 02 May 2024. Paragraphs 5-7 dealt with expert valuation evidence and required the valuers to meet by 23 May 2024, exchange and file statements of agreed facts and issues by 27 June 2024 and exchange expert reports at least three weeks before the hearing date. Paragraph 7 provided for a remote video hearing and required the parties to return completed listing questionnaires in the week commencing 20 May.
9. Paragraph 15 set out the procedure for giving evidence from abroad and is recited below:

Evidence from abroad: any party or witness

15. If you or your witness intends to give oral evidence at the hearing from somewhere outside of the United Kingdom, you must:
1. Follow the guidance provided in the Guidance Note for Parties: Giving Evidence from Abroad, which can be **obtained from the Tribunal's case officer**.
 2. Notify the Tribunal by email to London.Rap@justice.gov.uk, within 5 working days of receipt of these Directions, to confirm that you or your witness intends to apply to give evidence from abroad, confirming
 - i. the matters set out in paragraph 7 of the Guidance Note, **and**
 - i. the witness's citizenship or permitted residence status in the country in question.

Failure to follow the Guidance is likely to result in you or your witness being unable to give oral evidence from abroad.

15. The Tribunal wrote to the parties' solicitors on 07 June 2024, notifying them the video hearing would take place on 17 and 18 September 2024.
16. The parties' valuers produced a statement of agreed facts and issues in accordance with the directions. This was signed by Mr Stephen Jones MRICS for the applicant and Mr Angus Fanshawe MRICS for Ms Radziszewska. The terms are pasted below:

Agreed Facts

Date of valuation	7 th April 2022
Flat description	Four flats (Gr & lwr, 1 st , 2 nd , 3 rd & 4 th)
Term date of each flat lease	23 rd March 2112
Unexpired term of each flat lease	89.96 years
Rent passing in each flat lease	£400pa each rising to £600/£800/£1,000pa
Rent review pattern	14.96 yrs until next review, then every 25 yrs
Capitalised value of ground rent	£33,500

Disputed Issues

Value of freeholder's reversionary value	
Development value	Potential development value on roof, and lower ground floor

17. It appears Mr Jones and Mr Fanshawe had settlement discussions in July and August 2024 and the parties were close to agreeing terms. However, the potential settlement unravelled when the applicant

discovered a new lease of the BGFF. The statement of agreed facts and disputed issues gave the term date of all four leases as 23 March 2112 and the ground rents as £400 per annum, rising to £600, £800 and £1,000pa.

18. It transpires that a new lease of the BGFF was granted after the initial notice was served in April 2022. The notice included details of the original lease, dated 20 December 1999. The new lease is dated 23 July 2024. It extends the term by 90 years, so it expires on 22 March 2202 and reduces the ground rent to a peppercorn. The premium was £27,500.
19. The new lease was granted by Ms Radziszewska to her and Ms de Souza and signed by a High Court Judge, the Honourable Sir Jonathan Cohen, on behalf of Ms Radziszewska. The Land Registry application to register this lease was submitted on 31 July 2024. At the time of the Tribunal hearing, it had not been registered.
20. It is necessary here to comment on the circumstances giving rise to this new lease. Ms de Souza is married to Ms Radziszewska's son Mr Richard Rothschild. They have been engaged in long running divorce proceedings in the Family Division of the High Court ('the Divorce Proceedings'). Ms de Souza is the applicant in the Divorce Proceedings, Mr Rothschild is the first respondent and Ms Radziszewska is the second respondent.
21. On 12 July 2023, Sir Jonathan Cohen made an order in the following terms:
 1. The following provisions shall apply to 45 Addison Gardens, Kensington [Title Number BGL32316]:
 - a) The property shall be sold subject to an extension of the lease of a further 90 years; in the event that the purchasers wish the lease to be extended to 999 years, the respondents agree that the second respondent will provide such an extension.
 - b) The First and Second Respondent shall provide vacant possession of the premises upon sale. **This part of the order is penally endorsed.**
 - c) The Second Respondent shall validly sign and execute the lease extension to the property by 1pm on 31 July 2023 together with such other documents as a required to give effect to that lease and its registration. In the event she has not done so by then, the Court will execute the documents on her behalf so that the same may be presented to HM Land Registry with the application for registration of the lease extension and a certified copy of this order.
 - d) The Applicant retains sole conduct of the sale but she must give the respondents immediate notice of any offer for the property being accepted by her.
 - e) Unless an offer is received by 31 July 2023 in the sum of £1.4 million or more, the asking price is to be reduced by the selling agents to £1.4 million. The applicant may accept any offer in excess of £1.35 million.
 - f) For the avoidance of doubt⁵ the power for a sale by auction contained in paragraph 3 of the order of 1 November 2022 is suspended.

- g) In the event that the property is not the subject of an acceptable offer by 30 September 2023 there is permission for the parties to restore.
2. There shall be paid to the Applicant out of the proceeds of sale the sum of £635,150. This sum replaces the sum of £594,985 set out at paragraph 4(i) & 6 of 1 November 2022.
 3. The First and Second Respondents shall pay a contribution towards the Applicant's further costs of enforcement and the hearing of 12 July 2023, which are summarily assessed in the sum of £1,600 and the First and Second Respondent are jointly and severally liable for these costs. They shall stand added to the schedule referred to above and annexed.

The title number stated at the start of paragraph 1 of the order is that for the BGFF, so this was an order for the sale of this flat subject to a lease extension. The leasehold register in the hearing bundle reveals Ms de Souza has obtained interim and final charging orders over this flat.

22. It is clear from paragraph 1 f), this was not the first order for the sale of the BGFF and there had been at least one earlier order, if not more.
23. There was some debate as whether the new lease was granted in July 2023 or 2024. The date "*23 July 2024*" has been inserted, by hand, in two places but this is 12 months after the order. It would be surprising if Ms de Souza waited a year to ask the Court to execute the lease but there may be good reasons for the delay.
24. Turning back to the Tribunal proceedings, the valuers were due to exchange expert reports by 27 August 2024 (three weeks before the first day of the hearing). In an email to the Tribunal case officer dated 06 September 2024, Mr Baars of MBL explained the applicant's original valuer, Mr Jones, was unable to attend the hearing, having undergone brain surgery and his client had appointed an alternative valuer, Mr James Hayes MRICS.
25. Mr Baars sent a follow-up email on 10 September attaching an application to determine the costs payable under section 33(1) of the Act and explaining the respondent was unlikely to be represented at the hearing.
26. At 8:58am on 16 September, Ms Simpson of ECL sent an email to the case officer stating:

As William Baars has already informed you, my client (the Respondent) has not instructed their valuer to produce an expert report or to give evidence at tomorrow's hearing. Edwin Coe is also not instructed to attend for the purpose of representing the Respondent at the hearing.

My colleague, Daniel Samola, in copy, will however be attending for the purpose of taking a note of the proceedings, essentially for our internal record.
27. At my request the case officer then wrote to the parties in the following terms:

Judge Donegan has studied the hearing bundle, and his comments/directions are set out below:

1. *The bundle does not include any valuation reports, and the parties are yet to file their reports in breach of the directions.*
 2. *If either party wishes to rely on expert evidence at the hearing on 16/17 September, they must file and serve their valuer's report by **3:00pm today**.*
 3. *The Tribunal will deal with the breach of the directions at the start of tomorrow's hearing. The hearing will now start at **11:15am, rather than 10:00am**.*
28. Mr Hayes' report was emailed to the Tribunal at 14:35pm. No report was filed for the respondent.
29. At 16:25pm on 16 September, Ms Simpson sent a further email to the case officer stating:
- Further to my email below, Richard Rothschild, the Respondent's son and lay representative, has been in communication with me and has confirmed that he will be attending the hearing together with the Respondent, Wanda Radziszewska.

The hearing

30. The hearing took place, by video, on 17 and 18 September 2024. Mr Pryor appeared for the applicant and was accompanied, remotely, by Mr Baars, Mr Hayes and the participating leaseholders, Ms Sables (First Floor Flat) and Ms Buiel (Third Floor Flat). Mr Rothschild appeared for the respondent, from Dubai. He did not seek permission to give evidence from abroad, prior to hearing. He was accompanied (remotely) for part of the hearing by his assistant, Ms du Plessis. Ms Radziszewska did not attend.
31. The applicant filed a digital hearing bundle on 12 September 2024. This included copies of the statement of agreed facts and issues, the initial notice and counter-notices, orders from the County Court proceedings, a draft transfer deed, official copies of the freehold and leasehold registers and plans, the High Court order dated 12 July 2023, the original and new leases of the BGFF and a summary of issues.
32. In addition to the documents in the bundle, we were supplied with a copy of Mr Hayes' report and written submissions from Mr Pryor, both dated 16 September 2024 together with an amended transfer deed. We were also supplied with a separate costs bundle.
33. At the start of the hearing, Mr Rothschild applied for an adjournment on the following grounds:
- (a) his mother is aged 80, has hearing issues and does not have the technical skills to participate in a video hearing,

- (b) his mother was not expecting the hearing to go ahead, as the valuers had agreed terms, but the applicant then backed out from the settlement,
 - (c) he and his mother needed additional time to consider Mr Hayes' valuation report and serve her own expert evidence, and
 - (d) the current freehold value is academic, as the High Court has ordered the "*collapse*" (surrender) of the new BGFF lease, which will substantially increase the freehold value.
34. Mr Pryor opposed the adjournment, on the following basis:
- (a) the application was made tactically to delay the freehold purchase,
 - (b) there was no evidence Ms Radziszewska could not participate in the hearing.
 - (c) Ms Radziszewska has known the hearing was going ahead since 06 September 2024, when Mr Baars requested access to the BGFF so Mr Hayes could inspect,
 - (d) ECL were acting for the Ms Radziszewska until very recently and had not requested a postponement or a face-to-face hearing,
 - (e) the respondent has not disclosed any order for the surrender of the BGFF lease,
 - (f) it is immaterial who backed out from the settlement,
 - (g) Ms Radziszewska has 'form' in that an unless order had to be made against her in the County Court proceedings and ECL had also ceased acting for her in that case, shortly before the final hearing, and
 - (h) it was unclear when the new BGFF lease completed. The High Court was made back on 12 July 2023, but the lease is dated 23 July 2024.
35. In response, Mr Rothschild said the respondent wears hearing aids, the High Court has recently ordered the removal of Ms de Souza as a leaseholder of the BGFF, and the new lease was granted "*circa July 2024*". He also said he had not put ECL in funds to attend the hearing.
36. After a short break, I informed the parties, the hearing would be adjourned to 3:00pm that day to give Ms Radziszewska and Mr Rothschild time to consider Mr Hayes' report. I explained the Tribunal would only hear Mr Hayes' evidence-in-chief that afternoon, meaning Mr Rothschild could prepare his cross-examination that evening. I refused a longer adjournment as the parties had been notified of the video hearing back in June 2024 and Ms Radziszewska, who had been professionally represented, had not requested a postponement or a face-to-face hearing. Further, the potential settlement had unravelled in late August/early September, so the parties still had two weeks to serve expert evidence and prepare for the hearing.

37. As to cross-examination, I explained Mr Rothschild could ask questions about Mr Hayes' valuation but could not advance alternative figures as there was no expert evidence for Ms Radziszewska. Further, he could not give oral evidence as he is in Dubai and had not obtained permission to give evidence from abroad, as required by the directions.
38. During the adjournment, and at my request, Mr Rotschild produced a redacted copy of the recent High Court order and Mr Baars supplied Mr Rothschild with a further copy of the hearing bundle. Mr Baars also forwarded an email from Ms Simpson with breakdowns of the section 33(1) costs. These revealed Mr Fanshawe had inspected the Property on 16 April 2024 before producing a valuation report. The report was not disclosed to the Tribunal, but it is clear Ms Radziszewska obtained expert valuation advice long before the hearing.
39. The High Court order is a consent order dated 05 August 2024, made by Sir Jonathan Cohen in the Divorce Proceedings. Paragraph 10 of the order records Mr Rothschild and Ms Radziszewska's intention to remove Ms de Souza from the mortgage secured against the BGFF with a view to transferring legal title to Ms Radziszewska. Paragraphs 29 and 30 of the order are recited below:
29. If the Applicant has not been removed from the mortgage and legal title of 45 Addison Gardens by 1 June 2025, and there is no imminent transaction in progress which will achieve that, the order for the sale of 45 Addison Gardens of 18 January 2022, as supplemented by the orders of 21 July 2023, 19 April 2024, and 2 May 2024 shall resume effect and the property will be marketed for sale in the open market subject to these provisions.
30. If by 1 June 2025, the Applicant has not been removed from the mortgage and legal title of 45 Addison Gardens, and there is no imminent transaction in place, the parties, together with [REDACTED], must agree a provisional marketing and sale price for the property. In the first instance they will consult 3 local agents.
40. Following the resumption of the hearing, there was a brief discussion as to the terms of the order. This gives Ms Radziszewska and Mr Rothschild an opportunity to buy out Ms de Souza but does not compel them to do so. If they do, and the new BGFF lease is validly surrendered, this will increase the freehold value. Whether this is possible, given the ongoing enfranchisement claim, will turn on the wording of section 19 of the Act. If so, and as pointed out by Mr Pryor, the applicant can purchase the flat (as part of the freehold) based on its value on 07 April 2022.
41. I also informed the parties the Tribunal would not deal with the section 33(1) costs at the hearing, given the application had only been made very recently. At the end of hearing, I outlined proposed directions for a paper determination of these costs. I then issued directions on 23 September 2024.
42. For the sake of completeness, I should point out that Mr Rothschild made further applications to adjourn during the first afternoon and second day of the hearing, all of which were refused. He also applied to

give oral evidence from Dubai, which we refused. The United Arab Emirates has not given unconditional consent for evidence to UK courts and tribunals from its jurisdiction. Further, it is a non-Hague Convention country, which means a formal Letter of Request must be submitted to the Foreign Process Service in the Royal Courts of Justice and then forwarded through diplomatic channels. The Tribunal has no power to bypass this procedure.

43. During the evening of 17 September Ms du Plassis, supplied the Tribunal and Mr Baars, with various additional documents, by email. These all relate to the flat values and include photographs, sales information, comparisons and Land Registry searches for nearby properties, as well as a valuation report for the BGFF dated 12 September 2022 and Mr Rothschild's response to that report.
44. The valuation report had been prepared by Mr Adam Grace MRICS of Willmotts Chartered Surveyors, as a joint expert in the Divorce Proceedings. He valued the flat £1.525 million, based on a gross internal area ('GIA') of 1,772 square feet, which equates to £861 per square foot. He inspected and measured the BGFF on 09 August 2022. Mr Rothschild responded in a 10-page, undated letter in which he challenged various aspects of Mr Grace's valuation.
43. On the second morning of the hearing, Mr Pryor pragmatically agreed the additional documents could be admitted and considered by Mr Hayes but questioned their utility. The Tribunal adjourned the hearing briefly, to give Mr Hayes an opportunity to read them.

Mr Hayes' evidence

44. Mr Hayes is a Member of the Royal Institution of Chartered Surveyors and a RICS Registered Valuer, with approximately 22 years' experience in the property industry. He is the sole director of Cooper Hayes Limited, which is niche Chartered Surveyors' practice based in Guildford. Leasehold enfranchisement valuations account for approximately 90-95% of his work.
45. Mr Hayes' spoke to his report dated 16 September 2024, in which he valued the term and reversion at £49,675. This is almost £30,000 less than the figure proposed in the initial notice, which is largely attributable to the longer term and peppercorn ground rent in the new BGFF lease.
46. Mr Hayes valued the Land at £100, in line with the initial notice and counternotice. He followed Schedule 6 to the Act when valuing the Specified Premises, but then adjusted his term and reversion figure to reflect management issues at the Property. When valuing the freehold vacant possession ('FHVP') of the Specified Premises he used a deferment rate of 5%, which is uncontroversial and a capitalisation rate

of 7%. The latter is slightly higher than that used by Mr Jones and Mr Fanshawe (6%) when agreeing the capitalised ground rents at £33,500.

47. Mr Hayes considered 7% to be appropriate, having regard to the “*fairly modest*” ground rent increases (£200pa every 25 years) and the other factors identified in ***Nicholson v Goff [2007] 1 EGLR 84***. In his experience the ground rent market has shifted in recent years, with onerous rents now less attractive than regular rents due to anticipated leasehold reforms. He was unable to comment on why Mr Jones and Mr Fanshawe agreed 6% but suggested this might be a compromise figure.
48. Mr Hayes’ report included brief descriptions of each flat. The BGFF originally comprised three bedrooms, a bathroom, kitchen, dining room, living room and rear garden. It now comprises four bedrooms, two bathrooms, a shower room, kitchen, utility room, reception/dining room and the garden. The GIA is uncertain but is probably in the region of 1,700-1,800 sq. ft.
49. The First Floor Flat (‘FFF’) originally had two bedrooms, two bathrooms, a kitchen and reception room. It now comprises one bedroom with walk-in wardrobe, a bathroom, kitchen and extended reception room. The GIA is approximately 723 sq. ft.
50. The Second Floor Flat (‘SFF’) has two bedrooms, two bathrooms, a kitchen and reception room. The GIA is approximately 688 sq. ft.
51. The Third Floor Flat (‘TFF’) has two bedrooms, two bathrooms, a kitchen, reception room and open loft room. There is also a roof terrace, accessed from the loft room. The GIA is approximately 1,081 sq. ft. but 300 sq. ft. is in the loft and 165 sq. ft of this area is below 1.5m ceiling height. The loft is accessed via a spiral staircase, but no staircase is shown on the lease-plan. This suggests it did not exist, and there was only ladder access, when the lease was granted.
52. Mr Hayes inspected the FFF, SFF and TFF on 10 September 2024 but was unable to obtain access to the BGFF. His improved long lease values were:

BGFF	£1,400,000
FFF	£700,000
SFF	£800,000
TFF	£865,000

These figures were based on sales of nearby, comparable properties, adjusted for time and with lump sum adjustments for condition and layout. He took account of the adjusted price per sq. ft. for these comparables but did not rely solely on these figures.

53. The BGFF figure is largely based on the marketing of this flat. It has been marketed since March 2022 with several price drops over the last 2.5 years. As at September 2024, it was being marketed by three agents, Druce, Barnard Marcus and Wilford, all at £1.4 million. It went under offer with Druce, in Summer 2024 but the sale fell through. Copies of Druce's marketing particulars were appended to Mr Hayes' report. These give the GIA as approximately 1,812 sq. ft.
54. Mr Hayes also relied on two comparables for the BGFF:
- 37 Irving Road W14 oJT** - This is a five-bedroom, two-reception, mid-terraced house, with a GIA of 2,120 sq. ft. that sold for £1.775 million in June 2021. Adjusting for time, using the Land Registry index for Hammersmith and Fulham, yields a figure of £1,787,290, which equates to £843psf.
- 51A Addison Road W14 oDP** – A basement and ground floor flat in a building that appears identical to the Property that sold for £1.6 million in November 2022. The time adjusted price is £1,596,863. Based on the agents' particulars, the footprint appears to be the same as the BGFF, although the condition and layout are superior. The particulars state the remaining lease term is 995 years with a peppercorn ground rent. The GIA is stated to be 1,643 sq. ft. which (if accurate) equates to £981psf. Mr Hayes considers the BGFF is worth at least c£200,000 less than this flat, to reflect refurbishment costs, including layout changes.
55. Mr Hayes attached more weight to 51A Addison Road and used 37 Irving Road more as a 'sense-check'. His view was the BGFF must be worth substantially less than a freehold terraced house that is 400 sq. ft. larger but not as grand.
56. Mr Hayes relied on two comparables for the FFF:
- First Floor Flat, 31 Addison Gardens W14 oDP** – A one-bedroom flat that sold for £731,750 in August 2021. The time adjusted price is £660,977. The particulars state the remaining lease term is 995 years with a peppercorn ground rent. The GIA is stated to be 739 sq. ft., which equates to £894psf.
- First Floor Flat, 33 Addison Gardens W14 oDP** – A one-bedroom flat that sold for £730,000 in May 2022. The time adjusted price is £729,284. The particulars state the remaining term is 986 years with a share of freehold. The GIA is stated to be 739 sq. ft, which equates to £987psf.
57. Mr Hayes described both comparables as "*incredibly good*" but considered a deduction of around £30,000 is appropriate to reflect the slightly dated condition of the FFF.
58. Mr Hayes adopted three different approaches to the SFF. Firstly, he uplifted the FFF value by £100,000 to reflect the additional bedroom

(but no extra space) to arrive at £800,000. Next, he analysed the sale of the Second Floor Flat at 59 Addison Gardens (W14 oDP), which is part of a small mansion block. It sold for £730,000 in July 2022 and the time adjusted price is £698,440. The GIA is stated to be 738 sq. ft., which equates to £946psf. Mr Hayes increased the sale price by 10% to reflect the superior layout of the SFF and it being in a converted house rather than mansion block. Again, this yielded a value of approximately £800,000. Finally, Mr Hayes analysed the last sale of the SFF. It sold for £588,000 in November 2018 and the time adjusted value is only £600,325, which he attributed to condition and management issues at the Property.

59. Mr Hayes also relied on two comparables for the TFF:

31C Westwick Gardens W14 oBU –A three-bedroom, two-bathroom flat with roof terrace, on first, second and third floors. The time adjusted price is £1,283,828. There are no lease details. The GIA is stated to be 1,488 sq. ft., excluding eaves storage, which equates to £863psf.

Third/Fourth Floor Flat, 39 Addison Gardens W14 oDP - A three-bedroom, two-bathroom flat that sold for £925,000 in September 2023. The time adjusted price is £880,870. The particulars state the remaining term is 961 years with a share of freehold. The GIA is stated to be 1,048 sq. ft, excluding eaves storage, which equates to £841psf.

60. Mr Hayes reduced the Westwick Gardens rate by £50psf., to reflect condition and the fact that most of this flat is not in the roof to arrive at a value of £865,000 (1,081 @ £800=£864,800). This involves some rounding and use of the sale price, rather than the time adjusted price. Deducting £50 from the latter (£863psf) would increase this figure to £878,853 (1,081 @ £813).
61. 39 Addison Gardens sold two years after the valuation date but in other respects “*is an incredibly good comparable.*” Mr Hayes considers it superior to the TFF as the condition is better and the loft room has a door with much more usable space. This suggests £800psf might be too high but he chose to stick with this rate, based on the Westwick Gardens sale.
62. Mr Hayes made the following deductions for improvements:
- BGFF - £0 (improvements of £100,000 disregarded as the leaseholders are not participating tenants)
 - FFF - £0 (no improvements)
 - SFF - £0 (no improvements)
 - TFF - £90,000 (spiral staircase to loft and roof terrace and creation of loft room)

63. Mr Hayes then added 1% arrive to the unimproved values to arrive at freehold values. This is uncontroversial and gives the following FHVP figures:
- BGFF - £1,414,141
FFF - £707,071
SFF - £808,081
TFF - £782,828
64. Mr Hayes addressed both development value ('DV') and development hope value ('DHV'). He concluded there was no DV, as there was no planning permission, or applications for such permission. As to DHV, the potential to develop is restricted to extending the basement level into the rear garden and extending the loft room in the TFF. Neither are "*obviously profitable developments*", given build costs, the nature of the existing flats and the local planning history. Further, it is unclear whether freeholder consent would be required for either development, given the lease terms. Mr Hayes did not believe the hypothetical purchaser ('HP') would pay extra for the freehold based on the possibility of charging for consents and concluded there was no DHV.
65. Mr Hayes' term and reversion figure of £49,675 assumes real world issues affecting the freehold are to be ignored. However, if management issues are considered the value reduces. The issues at the valuation date, include:
- (a) a charge is registered against the freehold title, in favour of American Express Services Europe Limited ('Amex'),
 - (b) the Property was in poor external condition, the communal décor was poor and communal parts were not fire-safety compliant,
 - (c) there were ground rent and service charge arrears for the BGFF of approximately £14,000,
 - (d) Ms Radziszewka had been ordered to sell the BGFF within the Divorce Proceedings and had been given a suspended prison sentence for failing to comply with this order, and
 - (e) Ms Radziszewka was well known and had a reputation amongst local estate agents that would probably make it harder to sell the freehold or the flats.
66. Mr Hayes adopted three different approaches to real world issues. The first was to discount the flat values by 10%. This reduced his term and reversion figure to £46,801.
67. The second approach was to determine the market value, taking account of the management issues. The Amex charge is unusual and would prompt further enquiries, as part of the HP's due diligence. It is an equitable charge, created by an interim charging order dated 13 March

2020 and is noted paragraph 2 of the Charges Register. There is no note, or evidence of a final charging order. Mr Hayes understood the sum due to Amex in August 2024 was approximately £40,000. The charge, in and of itself, is not an issue but the nature of the charge would raise concerns as to Ms Radziszewka's ability or willingness to pay her bills.

68. A simple Google search reveals various newspaper reports of the Divorce Proceedings and suspended prison sentences given to Ms Radziszewka and Mr Rothschild, arising from non-compliance with High Court orders. This would alert the HP to Ms Radziszewka's approach to such orders and would highlight potential difficulties in recovering her arrears and future service charges, as a 'red flag'. There may be issues with the arrears, as these relate to Ms Radziszewka's period of ownership and recovery is dependent on the charges being demanded correctly and reasonably incurred. The future charges will be sizeable, given the extensive works required at the Property. The BGFF's service charge proportion is 40% and the prospect of expensive and lengthy litigation would lead the HP to walk away, rather than negotiate a reduction in the price.
69. Mr Hayes acknowledged "*there is simply not a rational discount calculable to reflect the risk of a habitual non-payer and court-order-defier leaving you tens of thousands of pounds out of pocket....*". His view is the freehold would not sell by private treaty, meaning a nil value. However, he acknowledged (as a third approach) it could sell at auction, where it might achieve price of £20,000 or 30,000 if bidders get carried away and there is no due diligence. £30,000 is close to a 5% yield, based on the current ground rents but £20,000 reflects the Property attracting fewer bidders, due to the management issues.
70. Prior to cross-examination, the Tribunal valuer member questioned Mr Hayes on the additional documents disclosed during the evening of 17 September. They agreed Mr Grace's report was the most useful document. His valuation of the BGFF (£1.525 million) is approximately 9% higher than Mr Hayes' figure (£1.4 million), which Mr Hayes considered a reasonable margin. He also pointed out that any difference in the long lease value of this flat had negligible impact on the freehold value, given the duration of the new lease.
71. Mr Hayes accepted there was a disparity between the GIA of the BGFF and 51A Addison Road, as shown in the agents' particulars but said a difference of 50-100 sq. ft. would make no difference to his valuation. He had been unable to access the BGFF, so was unable to take his own measurements. He did not accept the floor measurements in the additional documents, as he had no way of checking them but pointed out the prices per sq. ft. were broadly similar to his figures.
72. Mr Hayes was cross-examined at some length. Mr Rothschild largely focussed on the value of the BGFF, the real-world valuation approaches

and DHV. Barnard Marcus, one of the current sales agents, put the GIA of the BGFF 1,969 sq. ft. Mr Rothschild, suggested various alternative prices per sq. ft, based on nearby sales, with the highest being £1,221. This would put the value of the BGFF at £2,404,149 (using the Barnard Marcus GIA). Mr Hayes pointed out the flat had not sold, despite being marketed at much lower figures and his prices per sq. ft. were similar for the BGFF, FFF and TFF.

73. As to the 10% discount for management issues, Mr Hayes described this as a “*rule of thumb*” but acknowledged the HP might apply a higher or lower discount. He put the range at 5-20% and said a discount would be appropriate, even if there were no arrears for the BGFF given the extensive works required to the Property and the Amex charge. Mr Rothschild suggested there were no arrears.
74. As to DHV, Mr Rothschild suggested the loft room in the TFF could be extended onto the roof terrace or a “*new technical window*” could be installed so this room would enjoy indoor/outdoor living. Mr Hayes pointed out the former would reduce the size of the terrace, and the latter would be costly and there was no evidence planning permission would be granted. Mr Hayes thought it unlikely BGFF could be extended to the rear under Permitted Development Rights, without full planning permission, as the Property is in conservation area.
75. Mr Rothschild did not challenge or admit Mr Hayes’ capitalisation rate, leaving this to be determined by the Tribunal.
76. In re-examination, Mr Hayes acknowledged the Property is not about to collapse but said considerable work is required to bring the exterior “*up to standard*” and this will require expensive scaffolding.

Submissions

77. Following Mr Hayes’ evidence, I invited closing submissions on value and the terms of the transfer deed. Mr Rothschild made no submissions on either but criticised the enfranchisement process, suggesting England is a “*totalitarian state*” and the Act “*can’t control the market*”. He also asked the Tribunal to value the freehold without the BGFF lease on the basis this would be “*collapsed*” shortly. I made it clear we would value based on the leases in existence at the hearing and would not speculate on future changes.
78. Mr Pryor submitted we should value the freehold, based on the new lease of the BGFF. Paragraph 3(1)(a) of Schedule 6 to the Act requires us to value Ms Radziszewska’s interest in the Property “*subject to any leases subject to which the freeholder’s interest in the premises is to be acquired by the nominee purchaser*”. It follows we are to value the freehold subject to the leases in existence at the acquisition date, rather

than the valuation date. This dovetails with the vesting order provisions at section 24(4) of the Act. The court can make an order vesting the freehold on the terms agreed by the parties or determined by the Tribunal (s.24(4)(a). Alternatively, it can vest the freehold on those terms, but subject to such modifications as “*may have been determined by the appropriate tribunal, on the application of either the nominee purchaser or the reversioner, to be required by reason of any change in circumstances since the time when the terms were agreed or determined...*” (s.24(4)(b)). Put simply, we value the freehold based on the leases at the time of our determination, even if they are different to the leases on the valuation date. However, we value the flats as at the valuation date. If there is a change in circumstances following our determination, either party can seek a new determination.

79. Mr Pryor suggested we should value the BGFF based on the new lease term at the date it was granted rather than the notional term on the valuation date.
80. Mr Pryor’s valuation submissions focussed on Mr Hayes’ three real world approaches. The first was to use the term and reversion figure but then adjust, as appropriate, to reflect the market. The second was to look at the price that could be achieved, if any, on a private treaty sale and the third was to consider the price that could be achieved at auction. Mr Pryor submitted the auction approach was a realistic and fair method of determining market value.
81. Finally, Mr Pryor dealt with the terms of the transfer deed. The amended version had been approved, subject to instructions, by ECL but had not been formally agreed by Ms Radziszewska. The only issue was the wording of clause 11.4 (panel 11) that recites details of the new BGFF lease. Given there is some uncertainty over the date of this lease, Mr Pryor suggested alternative wording that refers to Sir Jonathan Cohen’s order dated 12 July 2023.
82. The hearing concluded at approximately 3pm on 18 October 2024 and the Tribunal members determined the application later that afternoon.

Freehold value determination

83. The Tribunal determines that the total premium payable for the freehold of the Property is £54,267 (Fifty-Four Thousand, Two Hundred and Sixty-Seven Pounds). A breakdown of this figure is given in the attached valuation calculation.

Reasons for the Tribunal’s determination

84. We accept the freehold is to be valued based on the leases at the time of our determination, including the new lease of the BGFF, for the reasons

advanced by Mr Pryor. We must determine the value of Ms Radziszewska's interest in the freehold, subject to the leases to be acquired by the applicant pursuant to paragraph 3(1)(a) of Schedule 6. The valuation date is 07 April 2022, being the relevant date (the date the initial notice was served), pursuant to paragraph 3(1). We also accept the BGFF is to be valued based on the term of the new lease on the date it was granted. On the balance of probabilities, we find it was granted on 23 July 2024 being the date inserted in the lease. This is consistent with the application to register the lease, made on 31 July 2024 and the information provided by Mr Rothschild.

85. Turning now to the valuation itself, the capitalisation and freehold uplift rates (5% and 1%) are uncontroversial and were not challenged by Mr Rothschild. We have no hesitation in accepting these.
86. We are not constrained by the proposals in the initial notice or counter-notice when determining the freehold value, as neither has been accepted. Our determination can be lower than the former or higher than the latter.
87. It is convenient to deal with the FHVP value of the flats and the real word approaches to market value, before determining the capitalisation rate. It is also appropriate to comment on Mr Hayes' evidence. He was instructed late in the day and produced a thorough and helpful report. His oral evidence was carefully considered, and he answered questions candidly. He acknowledged his comparable enquiries and analysis were not as thorough as he would like, given his late involvement in the case. We found him to be a credible and reliable expert witness who clearly understood his duties as an expert witness.
88. There was no expert evidence for Ms Radziszewska, but this does not mean we must accept Mr Hayes' figures. As an expert Tribunal, with considerable experience of enfranchisement valuations, we carefully assessed his evidence taking account of the points raised in questioning and cross-examination.
89. We agree Mr Hayes' unimproved long lease value for the BGFF (£1.4 million), as this is only 9% lower than Mr Grace's figure and within a reasonable range. Further, it is consistent with the current marketing price and the figures at paragraph 1 e) of the order dated 12 July 2023. Mr Grace had the benefit of inspecting and measuring the flat and we attach greater weight to his GIA figure (1,772 sq. ft) than the figures in the estate agents' particulars. Having said that, we find that a difference of 50-100 sq. ft. would make little, if any, difference to the value of the BGFF, given its size. Based on a GIA of 1,772 sq. ft, the price per sq. ft is £790.07.
90. We also agree Mr Hayes' unimproved long lease values for the FFF, SFF and TFF (£700,000, £800,000 and £865,000). His comparables for the

FFF and TFF were particularly good and the adjusted prices per sq. ft. were consistent, ranging from £841 to £987. As one would expect, the rates were higher for the smaller flats.

91. There was only one comparable, outside the Property, for the SFF but we agree Mr Hayes' methodology and find it is worth £100,000 more than the FFF. The resultant value of £800,00 equates to approximately £1,162 psf., which is higher than the rates for the other flats. This suggests £800,000 might be too high but we accept Mr Hayes' figure.
92. Where we differ from Mr Hayes is on the improvement deduction for the TFF. The improvements in question were the spiral staircase and the creation of the loft room. Clearly these added some value, but the loft and roof terrace were always part of the demise and could be accessed internally. Further, the current loft room does not have its own door and has limited useable space, given the pitch of the roof. Taking these factors into account, the Tribunal determines the appropriate deduction is £65,000. This reduces the unimproved long lease value to £800,000, in line with that for SFF.
93. The Tribunal accepts there is no DV or DHV. There are no planning consents to develop the BGFF or TFF or evidence the leaseholders wish to develop, so no basis to claim DV. As to DHV, Mr Rothschild suggested ways to extend/improve each of these flats but there was no evidence as to potential profit or viability, if any. At the very least, we would expect figures for the potential uplift in value and likely costs for each project. In the absence of such evidence, we reject the DHV claim.
94. We turn now to Mr Hayes' three approaches to real world issues. We accept that management problems can, potentially, be considered under paragraph 3(2) of schedule 6. However, this can only apply where the problems are severe. The external condition of the Property, whilst shabby, is not unusual for its age. Redecoration is required and this will involve expensive scaffolding, but the leases provide for redecoration at intervals between 3 and 7 years, with the costs recoverable from leaseholders (via their service charges). Additional fire-safety and internal works may be required. Again, these are not unusual.
95. The longstanding Amex charge is unusual and may prompt further investigations, but the HP would probably be satisfied by a solicitor's undertaking to discharge from the sale proceeds. Arrears are not unusual on a freehold sale but the fact they are due from the freeholder (and Ms de Souza) might cause concern. This could be allayed by a solicitor's undertaking, or contractual provision, for payment so the HP takes the freehold free of the arrears.
96. Finally, there is the potential concern that Ms Radziszewska is a 'bad payer' and does not comply with Court orders. We are not convinced the HP would undertake a Google search against her name or, if they did, the

adverse publicity would deter them. They might be concerned by their ability to recover future service charges, including a contribution to major works, from her but she is not the only leaseholder of the BGFF. Ms de Souza was a leaseholder on the valuation date and remains so. The HP could pursue a claim against her, as well as Ms Radziszewska. Further the flat is subject to a Bank of Scotland mortgage dated 13 June 2001 and the HP could seek payment from this lender. If neither option were successful, the HP might be able to forfeit the lease. There is the possibility that forfeiture might be abolished in the future, but this remedy was available on the valuation date and is still available now.

97. Taking all these factors into account, we do not believe the HP would adjust the term and reversion value to reflect the management issues at the Property. Rather, they would reflect these issues in their capitalisation rate. But for these issues, we would have adopted a rate of 7%. This is the rate agreed by Mr Jones and Mr Fanshawe. We are not bound by this agreement, but it is persuasive. Further, the ground rents for the FFF, SFF and FFF are sufficiently attractive to justify 7%, as at the valuation date.
98. Our starting point was a 7% capitalisation rate, but we have reduced this to 6% to reflect the management issues.

The transfer deed determination

99. The Tribunal determines the other terms of acquisition are those set out in the attached transfer deed.

Reasons for the Tribunal's determination

100. We were only required to determine clause 11.4. We made some minor amendments to the wording suggested by Mr Pryor to clearly identify the new lease, as shown in red type. We also inserted the determined purchase price of £54,267 at panel 8, again in red type.

Name: Tribunal Judge Donegan **Date:** 12 November 2024

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

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 Tribunal at the regional office which has been dealing with the case.

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.

If the application is not made within the 28-day time limit, such application must include a request for 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.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. 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.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix of relevant legislation

Leasehold Reform, Housing and Urban Development Act 1993 (as amended)

Section 1 The right to collective enfranchisement

(1) This chapter has effect for the purpose of conferring on qualifying tenants of flats contained in premises to which this Chapter applies on the relevant date the right, exercisable subject to and in accordance with this Chapter, to have the freehold of those premises acquired on their behalf -

- (a) by a person or persons appointed by them for the purpose, and
- (b) at a price determined in accordance with this Chapter;

and that right is referred to in this Chapter as “the right to collective enfranchisement”.

(2) Where the right to collective enfranchisement is exercised in relation to any such premises (“the relevant premises”) -

- a) the qualifying tenants by whom the rights is exercised shall be entitled, subject to and in accordance with this Chapter, to have acquired, in like manner, the freehold of any property which is not comprised in the relevant premises but to which this paragraph applies by virtue of subsection (3); and
- (b) section 2 has effect with respect to the acquisition of leasehold interests to which paragraph (a) or (b) of subsection (1) of that section applies.

(3) Subsection (2)(a) applies to any property if at the relevant date either –

- (a) it is appurtenant property which is demised by the lease held by a qualifying tenant of a flat contained in the relevant premises; or
- (b) it is property which any such tenant is entitled under the terms of the lease of his flat to use in common with the occupiers of other premises (whether those premises are contained in the relevant premises or not).

(4) The right of acquisition in respect of the freehold of any of such property as is mentioned in subsection (3)(b) shall, however, be taken to be satisfied with respect to that property, if on the acquisition of the relevant premises in pursuance of this Chapter, either –

- (a) there are granted by the person who owns the freehold of that property –
 - (i) over that property, or
 - (ii) over any other property,

such permanent rights as will ensure that thereafter the occupier of the flat referred to in that provision has as nearly may be the same rights as those enjoyed in relation to that property on the relevant date by the qualifying tenant under the terms of his lease;
or

- (b) there is acquired from the person who owns the freehold of that property the freehold of any other property over which any such permanent rights may be granted.
- (5) A claim by qualifying tenants to exercise the right to collective enfranchisement may be made in relation to any premises to which this Chapter applies despite the fact that those premises are less extensive than the entirety of the premises in relation to which those tenants are entitled to exercise that right.
- (6) Any right or obligation under this Chapter to acquire any interest in property shall not extend to underlying minerals in which that interest subsists if –
- (a) the owner of the interest requires the minerals to be excepted, and
 - (b) proper provision is made for the support of the property as it is enjoyed on the relevant date.
- (7) In this section –
- “appurtenant property”, in relation to a flat, means any garage, outhouse, garden, yard or appurtenances belonging to, or usually enjoyed with, the flat;
- ...
- “the relevant premises” means any such premises as are referred to in subsection (2).
- (8) In this Chapter, “the relevant date”, in relation to any claim to exercise the right to collective enfranchisement, means the date on which notice of the claim is given under section 13.

...

Section 13 Notice by qualifying tenants of claim to exercise right

- (1) A claim to exercise the right to collective enfranchisement with respect to any premises is made by the giving notice of the claim under this section.
- (2) A notice given under this section (“the initial notice”) –
- (a) must
 - (i) in a case to which subsection 9(2) applies, be given to the reversioner in respect of those premises; and
 - (ii) in a case to which section 9(2A) applies, be given to the person specified in the notice as the recipient; and
 - (b) must be given by a number of qualifying tenants of flats contained in the premises as at the relevant date which –
 - (i) ...
 - (ii) is not less than one-half of the total number of flats so contained;

...

- (3) The initial notice must -
- (a) specify and be accompanied by a plan showing –
 - (i) the premises of which the freehold is proposed to be acquired by virtue of section 1(1),
 - (ii) any property of which the freehold is proposed to be acquired by virtue of section 1(2)(a), and
 - (iii) any property over which it is proposed that rights (specified in the notice) should be granted in connection with the acquisition of the freehold of the specified premises or of any such property so far as falling within section 1(3)(a)

...

Section 19 Effect of initial notice as respects subsequent transactions by freeholder etc.

- (1) Where the initial notice has been registered in accordance with section 97(1), then so long as it continues in force -
- (a) any person who owns the freehold of the whole or any part of the specified premises or the freehold of any property specified in the notice under section 13(3)(a)(ii) shall not –
 - (i) make any disposal severing his interest in those premises or in that property, or
 - (ii) grant out of that interest any lease under which, if it had been granted before the relevant date, the interest of the tenant would to any extent have been liable on that date to acquisition by virtue of section 2(1)(a) or (b), and
 - (b) no other relevant landlord shall grant out of his interest in the specified premises or in any property so specified any such lease as mentioned in paragraph (a)(ii),

and any transaction shall be void to the extent that it purports to effect any such disposal or any such grant of a lease as is mentioned in paragraph (a) or (b).

...

Section 21 Reversioner's counter-notice

- (1) The reversioner in respect of the specified premises shall give a counter-notice under this section to the nominee purchaser by the date specified in the initial notice in pursuance of section 13(3)(g).
- (2) The counter-notice must comply with one of the following requirements, namely –

- (a) state that the reversioner admits that the participating tenants were on the relevant date entitled to exercise the right to collective enfranchisement in relation to the specified premises;
 - (b) state that, for such reasons as are specified in the counter-notice, the reversioner does not admit that the participating tenants were so entitled;
 - (c) contain such a statement as is mentioned in paragraph (a) or (b) above but state that an application for an order under subsection (1) of section 23 is to be made by such an appropriate landlord (within the meaning of that section) as is specified in the counter-notice, on the grounds that he intends to redevelop the whole or a substantial part of the specified premises.
- (3) If the counter-notice complies with the requirement set out in subsection (2)(a), it must in addition
- (a) state which (if any) of the proposals contained in the initial notice are accepted by the reversioner and which (if any) of those proposals are not so accepted, and specify –
 - (i) in relation to any proposal which is not so accepted, the reversioner’s counter-proposal, and
 - (ii) any additional leaseback proposals by the reversioner;
 - (b) if (in a case where any property specified in the initial notice under section 13(3)(a)(ii) is property falling within section 1(3)(b) any such counter-proposal relates to the grant of right or the disposal of any freehold interest in pursuance of section 1(4), specify –
 - (i) the nature of those rights and the property over which it is proposed to grant them, or
 - (ii) the property in respect of which it is proposed to dispose of any such interest, as the case may be;
 - (c) state which interests (if any) the nominee purchaser is required to acquire in accordance with subsection (4) below;
 - (d) state which rights (if any) any relevant landlord desires to retain–
 - (i) over any property in which he has any interest which is included in the proposed acquisition by the nominee purchaser, or
 - (ii) over which any property in which he has any interest which the nominee purchase is to be required to acquire in accordance with subsection (4) below,

on the grounds that the rights are necessary for the proper management or maintenance of property in which he is to retain a freehold or leasehold interest; and
 - (e) include a description of any provision which the reversioner or any other relevant landlord considers should be included in any

conveyance to the nominee purchaser in accordance with section 34 and Schedule 7.

...

Section 24 Applications where terms in dispute or failure to enter contract

(1) Where the reversioner in respect of the specified premises has given the nominee purchaser -

- (a) a counter-notice under section 21 complying with the requirement set out in subsection (2)(a) of that section, or
- (b) a further counter-notice required by or by virtue of section 22(3) or section 23(5) or (6),

but any of the terms of acquisition remain in dispute at the end of the period two months beginning with the date on which the counter-notice or further counter-notice was so given, the appropriate tribunal may, on the application of either the nominee purchaser or the reversioner, determine the matters in dispute

(2) Any application under subsection (1) must be made not later than the end of the period of six months beginning with the date on which the counter-notice or further counter-notice was given to the nominee purchaser

...

SCHEDULE 6

PURCHASE PRICE PAYABLE BY NOMINEE PURCHASER

PART II

FREEHOLD OF SPECIFIED PREMISES

Price payable for freehold of specified premises

...

Value of freeholder's interest

3 (1) Subject to the provisions of this paragraph, the value of the freeholder's interest in the specified premises is the amount which at the relevant date that interest might be expected to realise if sold on the open market by a willing seller (with no person who falls within sub-paragraph (1A) buying or seeking to buy) on the following assumptions -

- (a) on the assumption that the vendor is selling for an estate in fee simple -
 - (i) subject to any leases subject to which the freeholder's interest in the specified premises is to be acquired by the nominee purchaser, but

- (ii) subject also to any intermediate or other leasehold interests in the premises which are to be acquired by the nominee purchaser
- (b) on the assumption that this Chapter and Chapter II confer no right to acquire any interest in the specified premises or to acquire any new lease (except that this shall not preclude the taking into account of a notice under section 42 with respect to a flat contained in the specified premises where it is given by a person other than a participating tenant);
- (c) on the assumption that any increase in the value of any flat held by a participating tenant which is attributable to any improvement carried out at his own expense by the tenant or by any predecessor its title is to be disregarded; and
- (d) on the assumption that (subject to paragraphs (a) and (b)) the vendor is selling with and subject to the rights and burdens with an subject to which the conveyance to the nominee purchaser of the freeholder's interest is to be made, and in particular with an subject to such permanent or extended rights and burdens as are to be created in order to give effect to Schedule 7
- (1A) A person falls within this sub-paragraph if he is –
 - (a) the nominee purchaser, or
 - (b) a tenant of the premises contained in the specified premises, or
 - (ba) an owner of an interest in which the nominee purchaser is to acquire in pursuance of section 1(2)(a), or
 - (c) an owner or an interest which the nominee purchaser is to acquire in pursuance of section 2(1)(b).
- (2) It is hereby declared that the fact that sub-paragraph (1) requires assumptions to be made as to the matters specified in paragraph (a) to (d) of that sub-paragraph does not preclude the making of assumptions as to the other matters where those assumptions are appropriate for determining the amount which at the relevant date the freeholder's interest in the specified premises might be expected to realise if sold as mentioned in that sub-paragraph.

...