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LVT 9 (3/94)

Ref LON/LVT/624

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT PANEL

Leasehold Reform Act 1967 Housing Act 1980

DECISION OF LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant .Twinsectra Ltd.....

Respondent .Mr J P Hynes.....

RE: 22 Crewdson Road, London SW9

RV at date when Tenant's Notice was given: £ 158

Date of Tenant's Notice: 15 December 1988

Application to Tribunal dated: 2 September 1996

Heard: 5 March 1997

Appearances: Mr J P Hynes - the tenant in person
Mr P K Solomon BSC, MSc, (Est Man), FRICS, FCIArb,
(P K Solomon & Co, Chartered Surveyors)
Mr P Abraham (Avrasons & Co)
for the Tenant

Mr E F Shapiro BSc, FRICS, IRRV, FCIArb and
Mr M R Lee BSc (Hons) ARICS
(Moss Kaye & Roy Frank Commercial)
for the Landlord

Members of the Leasehold Valuation Tribunal:
Mr G F Bowden TD MA FRICS (Chairman)
Mr P F Prior MA FRICS
Mr R Skinner

Date of Tribunal's decision 17 July 1997.

I. FACTS

The Tribunal finds facts as follows, in addition to those set out on page 1.

1. Crewdson Road is a residential side turning between the busy Brixton Road and Clapham Road. It is conveniently placed for local shopping, and has easy access to good public transport links with the City and the West End. The road itself is mainly of three-storey, turn-of-the-century, brick-built properties with the occasional infill of post-war local authority flats. The road is relatively narrow, and with its high buildings and heavy parking gives the appearance of being densly developed. Many of the properties have been converted into separate flats, though others appear to be in multiple occupation. Most properties in the road are in an indifferent state of maintenance, and that, coupled with the litter in the road and many of the small front gardens, gives the road an unkempt and run down appearance.

2 The subject property was, from an exterior inspection, in a poorish state of maintenance and repair. The roof appeared in a poor state, although it was noted that some first aid work had been carried out relatively recently. The paintwork of the windows at the front was peeling, and the back elevation was in need of attention, with plant growth sprouting from the mortar between the brickwork. There was at the back a small concrete yard with raised beds. This offered only limited space between the houses in the neighbouring road backing on to the subject property, creating the rather cramped and confined nature of the subject property in relation to the surrounding buildings.

3 The internal layout of the premises was typical of a property of its style and period, with three stories in the main structure complemented by three stories and a lower half landing level, in a back addition. The house was occupied as three dwellings, although these were not self-contained. The rooms on the second floor enjoyed greater privacy, since none of the other occupants of the house need pass by. However, the ground floor to some extent, and the first floor, occupied by the applicant, enjoyed no such element of privacy. The common hallway, with

encaustic tile floor, had, like the other rooms on the ground floor, high ceilings, maintaining many of the original architectural and decorative features. The Tribunal noted:

a) The ground floor accommodation offered three good sized rooms, and a bathroom, where tenant's improvements were noted. Some subsidence was apparent in the back addition. This ground floor accommodation was subject to a regulated tenancy.

b) The first floor accommodation, occupied by the applicant comprised a large bay windowed-south facing room, with a large back bedroom, also enjoying good natural light. There were three steps down to the back addition where there was a large kitchen/living room, with bathroom beyond.

c) The second floor accommodation, occupied by a regulated tenant, had again a large light south facing front room, and reasonably sized back bedroom, but the kitchen-living room had low sloping ceiling, with poor natural light. There was a bathroom/wc on the half landing.

Overall the interior of the property offered spacious accommodation, with good sized rooms and ample natural light. This contrasted with the rather cramped and congested appearance of the subject property and the neighbouring house seen from the outside.

4 The tenant holds the subject property on a 99 year lease, granted on 25 December 1889 expiring 25 December 1988 at a ground rent of £8.10.0 per annum. The tenant purchased the lease in 1982 for £1,500, by which time there was an unexpired term of six years. The tenant's title was not registered until 1 June 1985. The tenant served a notice on the freeholder in August 1988, and when this evoked no response, served a second notice in December 1988. It was a matter of agreement between the parties that the valuation date was 15 December 1988.

5 The parties agreed that the appropriate de-capitalisation/capitalisation rate should be 7%.

6 Mr E F Shapiro, on behalf of the landlord submitted a written proof of evidence proposing a freehold enfranchisement price of £84,000. His valuation is set out as Appendix 2.

7 Mr P K Solomon, on behalf of the tenant submitted a written proof of evidence proposing a freehold enfranchisement price of £39,000. His valuation is set out as Appendix 3.

8 The only matter for the Tribunal to decide was the enfranchisement price.

II THE TRIBUNAL'S CONSIDERATION ON DISPUTED MATTERS OF VALUATION

1 Mr Shapiro, in proposing a price of £84,000 argued, that since the unexpired term, at the time of the tenant's notice was negligible, the correct approach was to go directly to the site value. He argued that the percentage of site to entirety value in the London area, varied between 30%-45% depending upon the location. In the present circumstances, taking into account the relevant factors set out in his proof, the appropriate percentage was 35%.

2 In his proof of evidence (para 6.3) Mr Shapiro set out sales transactions of some six properties which he offered as comparables to the subject property these he argued supported a standing-house value as at 15 December 1988 of £240 000, with a 35% site value of £84,000.

3 Mr Solomon, in proposing a price of £39,000 argued that while the "standing house" approach was the appropriate method, the difficulty in finding comparables had led the Lands Tribunal to adopt the concept of "entirety value" in order to arrive at a site value. This implies ascertaining the freehold value of the entire building, including both building and site, and then the site value is calculated as a percentage of the entirety. In

arriving at the entirety value it must be assumed that the building was in good tenantable repair, and that the site had been developed to its potential. He pointed out that the subject property in its present use was in multiple occupation, with statutory-protected tenants on the ground and second floors, and the opportunity for vacant possession only on the first floor. There was no planning consent for converting the house into three self contained flats, and there was reason to believe that the present planning policy of the London Borough of Lambeth was to resist such applications in this area. In these circumstances the best evidence would be similar properties, converted into flats, but adjusted downward to take into account of the above mentioned factors. He stated that the Lands Tribunal, and Leasehold Valuation Tribunal had adopted 40%:60% ratio of site to building value in the better areas of London and 30%:70% in areas such as the one under current consideration. For the subject property he had adopted 30% as the proportion of site value.

4 Mr Solomon cited the following comparables for the Tribunal's consideration in support of his contentions.

(a) 17 Handforth Road, SW9 suggesting an adjusted value of £133,000 supporting a site value of £40,000

(b) 54 Offley Road, SW9 sale price adjusted for comparison leading to a site value of £42,000.

5. He called Mr P Abraham, who had been in practice in the locality as an estate agent since 1965, to give evidence of local house prices.

On the basis of these comparables, with their appropriate adjustments, on Mr Abraham's evidence Mr Solomon argued that the entirety value of the subject property was £140,000 (discounted for the two regulated tenancies), with a 30% site value of £40,000.

III DECISION

1. The Tribunal inspected externally all the comparables in Crewdson Road, Handforth Road and Offley Road cited by the valuers. These three parallel roads have properties of very similar style and age and so were relevant and useful comparables.

2. The task before the Tribunal is to determine the site value. This is derived from the entirety value of the existing house (because there is no direct evidence available), but the assumption is that there is a cleared site ready for development. As such the Tribunal must necessarily assume that the house is available with vacant possession, even though in this particular instance there are two statutory tenancies.

3. As at the valuation date of 1 August 1988, Mr Shapiro valued the house at £240,000 with vacant possession, Mr Solomon at £185,000 with vacant possession (£145,000 subject to the tenancies). Based on the evidence and the comparables, and allowing for the fact that the Tribunal was valuing at the valuation date when prices were at about their late 1980s peak, they were of the opinion that Mr Solomon's figure was too low. On the other hand, they formed the opinion that Mr Shapiro had not sufficiently allowed for the disadvantages of the house and its location and was too high. The Tribunal determined the entirety value at £210,000.

4. As to the percentage attributable to site value, Mr Shapiro argued for 35%, Mr Solomon for 30%. Taking into account the small, cramped site, nearly wholly covered by the house, the Tribunal accepted Mr Solomon's percentage.

5. The parties agreed to the valuation date of 1 August 1988, so a deferment for the unexpired term of the lease, amounting to 4 months and 24 days, was applied.

6. Accordingly, on the basis of the helpful arguments advanced, on the evidence and careful consideration of the comaprables, and to the inspection, the Tribunal determined the price payable for the freehold interest in 22 Crewdson Road, SW9 pursuant to Section 21 of the Leasehold Reform Act 1967 is £61,300 (sixty one thousand and three hundred pounds). The details of the Tribunal's valuation are set out in Appendix 1.

Chairman.....

Date.....17 July 1997.....

APPENDIX 1.

Determination by Leasehold Valuation Tribunal

of the premium payable by the tenant, in accordance with

Section 9 of Leasehold Reform Act 1967

22 CREWDSON ROAD, LONDON SW9 0LJ

Unexpired Term				
Nominal			Nil	
Entirety Value		£210,000		
Site Value at 30%		£ 63,000		
Section 15 Rent @ 7%				
(Modern ground rent)		£ 4,400p.a.		
Years purchase in				
perpetuity @ 7%	14.2857			
deferred 4 months				
24 days @ 7%	0.973	13.90		61,299
			Say	£61,300

Valuation of Mr E F Shapiro on behalf of the Applicant - Landlord, Twinsectra Ltd.

7.0 **VALUATION**

7.1	Standing House Value	£240,000
	Site Value Percentage	35%
	Site Value	£ 84,000

7.2 The site value percentage lies within the range of 30% to 45% in the London area depending upon location The closer to central London the higher the percentage which is of course logical since the closer to central London the higher the site value.

7.2.1 This property is located in an inner London Suburb in an area which provides easy communications to Central London and which is attractive by virtue of the quality of surrounding architecture The house is close to the Duchy of Cornwall's Estate for which there is a particular demand and where the site value would normally be in the region of 40% I therefore believe that 35% is a fair percentage in this location.

7.3 In view of the fact that the purchase price is not discounted as the lease was due to expire within days of the valuation date, the enfranchisement price is in my opinion fairly represented in the sum of **£84,000 (eighty four thousand pounds)**

ERIC F. SHAPIRO

VALUATIONS UNDER Section 59 of the LEASEHOLD REFORM ACT 1967

by P.K. Solomon BSc., MSc., FRICS., FCIArb.

on behalf of the Tenant, Mr. J.F. Campbell-Hynes

Ground rent	£8.50 pa	
Years purchase - 4 months 24 days	0.374	Nil
Site value	£40,000	
Present value - 4 months 24 days @ 7%	0.973	£38,920
Freehold Enfranchisement price	say,	**£39,000**