

150

LVT 9

Our Ref: M/EH 2319

MIDLAND 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: Mr & Mrs Mandir
Respondent: Mr M Khan
Re: 172 Sarehole Road, Hall Green, Birmingham, B28 8EF
Date of Tenants Notice: 8th December 1999
RV as at 1.4.73: £750.00
Application dated: 26th September 2001
Heard at: The Panel Office
On: 20th March 2002

APPEARANCES:

For the Tenant: Mr Hatton FRICS
For the Landlord: Mr Mahmood Khan

Members of the Leasehold Valuation Tribunal:

Mr R T Brown FRICS (Chairman)
Mr D R Salter LLB
Mrs N Jukes

Date of Tribunals decision: - 7 MAY 2002

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

in respect of

M KHAN -V- K & J MANDIR

In respect of

172 SAREHOLE ROAD, HALLGREEN, BIRMINGHAM. B28 8EF

JURISDICTION

This case follows an application by Messrs Eyre & Co Solicitors, on behalf of the Lessees Mr & Mrs Mandir, dated 26th September 2001, for a determination of the price to be paid for the freehold of the above property under section 9 (1) of the Leasehold Reform Act 1967.

The underlease is dated 19th May 1927, for a term of 99 years (less 3 days) commencing on 25th December 1926 at an annual ground rent of £7.00.

The Lessees' Notice of Claim to purchase the freehold is dated 8th December 1999 when there was approximately 26 years unexpired.

THE PROPERTY

The property comprises:- A traditional semi detached house constructed in the mid 20's in traditional materials. The centrally heated accommodation is as follows: On the ground floor, hall, 2 living rooms, kitchen. On the first floor, one double and two single bedrooms, bathroom (full suite). Outside, front and rear gardens with shared driveway to a detached garage.

THE HEARING

At the hearing, Mr A R Hatton FRICS of Hattons appeared for the Lessees, Mr & Mrs Mandir.

The Freeholder, Mr M Khan, appeared in person.

By way of background the hearing was scheduled to commence at 11.30am and the freeholder telephoned just before the commencement of the hearing to advise he would be a few minutes late. The Chairman adjourned the hearing until 11.45am. However when the freeholder had still not appeared, the hearing commenced at approximately 11.50am. The freeholder arrived at 12.25pm, as Mr Hatton was completing his evidence. The Tribunal ruled that Mr Khan was not entitled to hear Mr Hatton's evidence repeated, however, Mr Hatton was permitted to summarise his valuation for Mr Khan's benefit and did so.

Mr Hatton submitted his evidence as follows:-

In an attempt to be as reasonable as possible to the freeholder he had adopted a valuation date of 1st January 2002, somewhat after the date of the notice, and calculated the term of the lease from 1st January 1927, when there would have been 24 years unexpired on the lease. He set out his valuation as follows:-

Calculation

Ground Rent	£7.00pa	
YP for 24 years @ 6.5%	<u>11.99</u>	£83.93

Reversion

Entirety Value	<u>£92,500</u>	
Site Value @ 30%	<u>£27,750</u>	
Section 15 Ground Rent @ 6%	<u>£1665.00</u>	
YP in perpetuity deferred 24 years @ 6%	<u>4.11</u>	<u>£6843.15</u>
TOTAL		<u>£6927.08</u>
	Say	£6927.00

In support of his valuation he referred to 2 properties which had been on the market in March 2001, number 180 Sarehole Road, a semi detached house with 2 reception rooms, kitchen, 3 bedrooms and bathroom, central heating and garage on the market at £94,000, and number 161 Sarehole Road, a semi detached house on a corner plot having 2 reception rooms, kitchen, 3 bedrooms and bathroom, workshop and storage area, central heating, with an asking price of £89,950. With the benefit of this information and a search he had carried out in January 2000 in adjoining roads, which showed a level of asking price between £72,450 and £81,950, for a freehold traditional semi detached property, he concluded that the correct entirety value in January 2002 was £92,500.

As to Site apportionment, he had adopted 30%.

As to Rate of Return, he had adopted 6.5% for the term and 6% for the reversion, which he considered to be a proper adjustment to reflect two recent decisions of the Tribunal at 70 Sarehole Road (Ref M/H2119C) and 86 Sarehole Road (Ref M/LRC199), determined in January 2001 in respect of notices dated May 2000. These properties had leases with unexpired terms of between 10 and 11 years and in those cases the Tribunal had adopted a rate of return for the term of 7% and 6.5% on the reversion. These lower rates reflected a fall in the interest rate generally.

Mr Khan, then advised that he had disposed of his interest and produced a letter dated 20th March 2002 from his solicitors confirming the sale of the freehold reversion to one M Yakoob. He had no information to give with regard to the value of the freehold interest, as he claimed to have no further interest in the property.

In response, Mr Hatton produced a H M Land Registry Notice to a Cautioner dated 6th February 2002, which he said referred to a caution entered by his clients against the freehold title in connection with his clients notice under the Leasehold Reform Act 1967. Mr Hatton also indicated that the caution registered in favour of his clients was extant.

Mr Hatton asked if he could make a submission with regard to the costs. The Chairman established that there had been no application for a costs hearing and advised that a separate application must be made and appropriate forms were available from the office.

THE DECISION

1. Before issuing its decision, the Tribunal requested that the Lessees produce to the Tribunal by 18th April 2002 certified evidence of the continued existence of the caution registered in favour of the Lessees.
2. The Tribunal make a finding of fact that the valuation date is the date of the notice ie. 8th December 1999 and not the 1st January 2002 as submitted by Mr Hatton. They make a further finding of fact that the date of commencement of the lease is 25th December 1926, not 1st January 1927 as submitted by Mr Hatton.
3. Entirety Value. The Tribunal questioned Mr Hatton on the effect the altered valuation date would have on his entirety value and concluded that the proper entirety value for the date of valuation was £80,000.
4. Site Apportionment. The Tribunal adopt Mr Hatton's 30% as being in line with recent decisions of the Tribunal.
5. Yield Rate. The Tribunal questioned Mr Hatton on the effect that the altered valuation date would have on his yield rate and he proposed 7% for the term and 6.5% for the reversion. The Tribunal note, however, that in those cases referred to by Mr Hatton there was between 10 and 11 years unexpired as opposed to 26 years in the subject case and conclude that this is not an appropriate case, in which due to the length of the unexpired term of the lease, varying rates should be used and therefore adopt 7% throughout the calculation.

The Tribunal's valuation is as follows:-

THE TRIBUNAL'S VALUATION

Term

Ground Rent	£7.00 pa	
Years Purchase 26 years @ 7%	11.8256	<u>£82.77</u>

Reversion

Entirety Value	£80,000	
Site Value @ 30%	£24,000	
Section 15 Rent @ 7%	£1680 pa	
Years Purchase deferred 69 years @ 7%	<u>2.4599</u>	<u>£4132.62</u>
		<u>£4215.39</u>

We determine that with the benefit of our inspection, and the use of our knowledge (but not any special knowledge) and experience in the evaluation of the evidence adduced, that the sum to be paid for the freehold interest in the above described property in accordance with section 9 (1) of the Leasehold Reform Act 1967 (as amended) is £4215.39. (four thousand two hundred & fifty pounds).

Signed... Robert T Brown

Robert T Brown FRICS
Chairman

Date..... - 7 MAY 2002