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**NORTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL
LEASEHOLD REFORM ACT 1967**

MATTER NO: LVT 100

NAME OF APPLICANTS: Mr Simon and Mrs Francine Radivan

NAME OF LEASEHOLDER: Freehold Properties Ltd

ADDRESS: 42 Marle Croft, Whitefield, Manchester

PUT BEFORE TRIBUNAL ON: Monday 11th November 2002

**TRIBUNAL HELD AT: 20th Floor, Sunley Tower, Piccadilly Plaza,
Manchester**

ATTENDING FOR APPLICANT: Mr Simon Radivan

No attendance for or on behalf of the Respondent/Freeholder

**MEMBERS OF TRIBUNAL: Mr S. Chesters-Thompson MA FRICS (Chairman)
Mr J W Shaw JP FRICS
Mrs J P McDougall LLB JP**

42 MARLE CROFT, WHITEFIELD, MANCHESTER.

- I. This document records the decision with reasons of the Tribunal following the application to determine the price payable for the freehold estate in the house and premises above mentioned in accordance with the provisions of the Leasehold Reform Act 1967 as amended.
- II. Following a request dated 9th June 2002 from Mr. S. and Mrs. F. Radivan to purchase the freehold, their right to purchase was acknowledged in correspondence on behalf of the freeholders by Chaucery St. James P.L.C. of 5 St. James' Square, London, SW1Y 4SJ and by their solicitors Messrs: Stevensons of 6 Market Hill, Huntingdon, Cambridgeshire, PE29 3NR.
The freeholders had originally indicated in a letter dated 24th April 2002 that they required a purchase price of £700.00 with a further sum of £428.88 in respect of legal and administration fees and 17½% V.A.T.
However, in a letter from the freeholder's solicitors Messrs: Stevensons this figure was reduced to £500.00 plus £250.00 for legal and administration costs. This letter was forwarded to the Northern Rent Assessment Panel being dated 8th November 2002.
- III. The Tribunal inspected the subject property on the morning of Monday 11th November 2002 in the presence of Mr. and Mrs. Radivan.
The subject property is a detached dwelling house constructed of brick with a tiled roof and originally built in about 1978. There are gardens to the front and rear and the property is situated on an estate of generally similar type houses. The house has the benefit of full central heating and full double glazing to all windows.
The accommodation briefly comprises:-
Hall, living room, dining room, fitted kitchen, cloakroom (with w.c. and wash basin) on the ground floor and 3 bedrooms and a bathroom/w.c. on the first floor. There is also a single attached brick garage.
- IV. Following the inspection on the morning of 11th November 2002 a hearing was held at the Tribunal's offices at 20th Floor, Sunley Tower, Piccadilly Plaza, Manchester, M1 4BE.
Mr. Simon Radivan appeared on behalf of himself and his wife but there was no appearance for or on behalf of the freeholders.
The Tribunal did however have before it a letter dated 8th November 2002 from Messrs: Stevensons the freeholder's solicitors enclosing a valuation obtained by their clients and brief details of a sale of ground rents in the Whitefield area.
Mr. Radivan informed the Tribunal that he considered the freehold was worth the sum of £350.00 being 10 years purchase of the Ground Rent of £35.00 per annum. He had based this figure on the price determined by the Leasehold Valuation Tribunal in respect of the freehold interest in 32 Redcot Court, Old Hall Lane, Whitefield on 19th November 1998, the written reason for the decision being dated 3rd December 1998. In this decision the Tribunal determined a purchase price of £420.00 for a slightly larger Ground Rent of £40.00 per annum.
- V. In coming to its decision the Tribunal noted that the lease was for 999 years from 1st January 1978 at a Ground Rent of £35.00 per annum payable by yearly payments in advance. There are 975 years left on the lease.
The Tribunal took note of the written evidence provided by the freeholder's solicitors in their letter of 8th November 2002 in particular the brief evidence of the sale by

auction of a parcel of ground rents in the Whitefield area with a yield of 7.2%. However, the Tribunal was aware that the statutory wording involved envisaged the sale on its own as one lot ie not included in a parcel of ground rents.

The Tribunal in making its decision took into account the possible small loss of fees to the freeholder in approving alterations and additions to the property and the right to receive the nominal fee of £4.00 in respect of acknowledging assignments, assents, transfers, underleases etc.

- VI. In coming to its decision the Tribunal took its first function to be that of determining a price in accordance with Section 9 of the Leasehold Reform Act 1967 viz: “ ---- the amount which at the relevant time the house and premises, if sold in the open market by a willing seller (with the tenant and members of his family who reside in the house not buying or seeking to buy) might be expected to realise ----“.

Certain statutory assumptions must be made, but the only one of significance in this case was that in effect the freehold would be sold subject to the existing lease, i.e. with its 999 year term extendable for a further 50 years (s.9(1)(a)).

In discharging this function of determining the price, the Tribunal (following the earlier Tribunal decisions in *Yates - v - Bridgewater Estates Ltd* [1982] 261 EG 1001 and *Williams - v - Walsh and Others* [1983] 268 EG 915) took into account the following points:

- i) that there was nothing in the statute which would restrict their determination to the limits indicated by the prices considered appropriate by the parties;
- ii) that it would not be consistent with the verbal definition of price in Section 9 (1) of the 1967 Act or with the circumstances of the case to apply the algebraic formula prescribed by Parliament for the redemption of rent charges (Rentcharges Act 1977, s10);
- iii) that they were entitled to rely on their general knowledge and experience whatever the evidence or representations (or the absence of such) submitted by the parties;
- iv) that the statutory wording involved envisaged the sale on its own as one lot, i.e. not as included in a parcel of ground rents;
- v) that the possibility of bids from the sitting tenant which might push up the open market price had been expressly excluded by the 1967 Act;
- vi) that the seller (although not also the buyer) had been statutorily described as “willing” so that any policy or practice of the landlord restricting sales had to be disregarded;
- vii) that the resultant loss of income to the landlord/seller was not comprehended by the statutory formula for determining the price payable;
- viii) that the hypothetical and potential buyers in the market would have in mind their own conveyancing costs (although not also those of the seller under Section 9 (4) of the 1967 Act and any covenants which would be continued in the conveyance (see Section 9 (1) (c) and Section 10 (4) of the 1967 Act) and most

important the length of the term and the amount of ground rent under the lease;
and

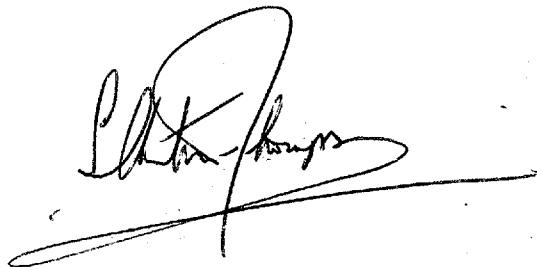
- ix) that the costs of collection of the ground rent, which might involve agents, the giving of receipts and proceedings for recovery of arrears must be taken into account as a yearly matter strictly in accordance with the terms of the lease notwithstanding any practice of less frequent payment.

In the present case there were 975 years of the lease unexpired. In those circumstances the Tribunal took the view (as did the Lands Tribunal in the case of *Janering - v - English Property Corporation Ltd and Nessdale Ltd* [1977] 242 EG 388) that a reversion of more than 900 years would not be of any significance and (as in the above case) the right to receive a ground rent of £35.00 per annum with no prospect of capital appreciation would be of limited attraction.

The Tribunal was also aware that in many cases tenants in their anxiety to purchase the freehold of their properties often without valuation advice put forward offers which include the tenants bid as an element which the Tribunal have to exclude [see *Dalaforce - v - Evans* 1970 215 EG 31].

- VII. The Tribunal with the very limited professional valuation evidence available concluded that it would rely on its knowledge, experience and judgement.
The Tribunal therefore considers that the maximum justifiable in the present case is a purchase price of £350.00 this figure to include the possible small loss of income arising from the covenants in the lease previously referred to above. This amount is exclusive of permitted costs.
- IX. By Section 142 and Schedule 22, Part I, paragraph 2 of the Housing Act 1988 an appeal to the Lands Tribunal may be made by any person who:-
- a) Appeared before or was represented before the Tribunal and
 - b) is dissatisfied with the Tribunal's decision.

Such appeal must be made within 28 days of the issue of reasons (Land's Tribunal Act 1949 Section 6/3) and the (Land's Tribunal Rules 1975) as amended.



S. CHESTERS-THOMPSON
CHAIRMAN OF THE LEASEHOLD VALUATION TRIBUNAL