

MIDLAND RENT ASSESSMENT PANEL

Case No: BIR/00CN/0AF/2003/0019
BIR/00CN/0C6/2003/0012Leasehold Reform Act 1967Housing Act 1980

DECISIONS OF LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER S.21 OF THE LEASEHOLD REFORM ACT 1967 (THE ACT)

TO DETERMINE THE PRICE PAYABLE BY THE TENANT

ON ENFRANCHISEMENT UNDER S.9(1) OF THE ACT AND THE REASONABLE COSTS

PAYABLE UNDER S.9(4) OF THE ACT

Applicant Tenants: Mr and Mrs T HarperRespondent Landlord /Freeholder: Martinvale Developments LimitedProperty: 77, Wilmington Road, Quinton, Birmingham B32 1DZDate of Tenant's Notice: 4 November 2002RV as at 1 Apr. 1973: Less than £500Application dated: 27 January 2003Heard at: The Panel OfficeOn: 19 May 2003

APPEARANCES:

For the Tenant: Mr A BruntFor the Landlord /Freeholder: No appearanceMembers of the Leasehold Valuation Tribunal:

Mr A.J Engel (Chairman)

Mr D.J Satchwell

Mrs C.L.Smith

Date of Tribunal's decision: 29th August 2003

/continued.

1. Background:-

Mr and Mrs Harper are the **Tenants**, by a 99 year lease from 29 September 1934, of the dwelling house and premises at 77, Wilmington Road, Quinton, Birmingham B32 1DZ (the '**Property**'). The **Freeholder** and the **Landlord** is Martinvale Developments Limited. By a notice dated 4 November 2002 (the '**Date**') the Tenant claimed to acquire the freehold under the Leasehold Reform Act 1967 (as amended) (the '**Act**'). By applications dated 27 January 2003 the Tenant applied to the Tribunal, pursuant to Section 21 of the Act, to determine the price payable on the acquisition of the freehold of the Property under section 9(1) of the Act and the reasonable costs payable under Section 9(4) of the Act.

2. Representation:-

The Tenants were represented by Mr A Brunt of Anthony Brunt & Co. (Valuers). Mr Brunt appeared at the hearing, which took place on 19th May 2003. The Landlord was represented by Fell Estates Limited but there was no appearance by and on behalf of the Landlord at the hearing on 19th May 2003.

3. Directions:-

On 28 February 2003, Mr S.J. Duffy (President of the Midland Rent Assessment Panel) issued Directions (a copy of which are annexed hereto, marked "A").

These Directions were later varied by Mr Duffy in so far as the time for serving and lodging the Agreed Statement of Facts and Issues was extended until 15th May 2003 (see letters of 8th May 2003 from the Tribunal to Fell Estates Limited and Brunt & Co., copies of which are annexed hereto, marked "B").

It appears that a hearing date of Monday 19th May 2003 was, at some stage, fixed and (we assume) notified to the parties.. It seems that this was done after 28th February 2003 but the evidence before the Tribunal did not show when the hearing date was fixed

4. Applications for Adjournments:-

On Thursday 15th May 2003, Fell Estates Limited applied (by fax) for an Adjournment (copy annexed hereto, marked "C").

On Friday 16th May 2003 at 9-30, the Tribunal replied (by fax) to Fell Estates Limited (copy annexed hereto, marked "D").

/continued.

On the same day, at 11-35, Fell Estates Limited sent a fax to the Tribunal (copy annexed hereto, marked "E")

On the same day, at 16-05, the Tribunal replied (by fax) to Fell Estates Limited (copy annexed hereto, marked "F").

On Monday 19th May 2003, at 9-49, Fell Estates sent a fax to the Tribunal (copy annexed hereto, marked "G")

On the same day, at 10-17, the Tribunal replied (by fax) to Fell Estates limited (copy annexed hereto, marked "H").

4. Inspection:-

The members of the Tribunal inspected the property on the morning of Monday 19th May 2003.

We found that it was an inter-war semi-detached house of traditional brick and tile construction in a pleasant established residential area. The extended and modernised accommodation comprises:-

On the Ground Floor – Enclosed porch, 2 reception rooms, kitchen, utility room and conservatory.

On the First Floor – 3 bedrooms and shower room.

The property has double glazed windows and gas central heating. There is a rear garden and a front garden with direct car access to a built-on single garage.

5. Hearing of Application for Adjournment:-

After the inspection, the members of the Tribunal returned to the Panel Office and the hearing commenced at 11-35. Mr Brunt was in attendance on behalf of the Tenants; there was no-one present on behalf of the Landlord.

The Chairman stated that that there was an application for an adjournment. Mr Brunt indicated that he opposed the application; he submitted that if the Directions had not been complied with, the Landlord was not prejudiced.

The Tribunal then examined each of the documents which were before the Tribunal.

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During the course of this examination:-

- (i) Mr Brunt explained to the Tribunal that there were certain documents in his possession which were not before the Tribunal because they were inadmissible as being "without prejudice" documents.
- (ii) Mr Brunt produced to the Tribunal a document (which was not previously before the Tribunal), being a letter, dated 13th May 2003, sent by fax from Anthony Brunt & Co to Fell Estates Limited, which had attached to it a (draft) Statement of Agreed Facts (letter and attachment, annexed hereto, marked "I").

At the conclusion of the examination of the documents, Mr Brunt submitted:-

- (a) that Fell Estates Limited had been provided with his (Mr Brunt's) valuation and comparables 2 months before the hearing;
- (b) that Mr Brunt had submitted his Statement of Agreed Facts within the extended time limit;
- (c) that Mr Brunt did not understand the reference to a bundle of documents, made by Mr M.A.Fell (of Fell Estates Limited).

At 12-35, the Tribunal retired to consider its decision on the application for an adjournment of the hearing.

The Tribunal returned at 12-45 and the Chairman announced:-

- (i) that the application for an adjournment to another day was refused and that the substantive hearing would take place at 2p.m. that day, unless Fell Estates Limited informed the Tribunal before 2p.m. that a representative of the Landlord would attend at 3 p.m., in which event the substantive hearing would take place at 3p.m.;
- (ii) that Fell Estates Limited was to be informed accordingly, by the Tribunal staff, forthwith, by fax and telephone.

At 13-00 the same day, the Tribunal (staff) sent a fax to Fell Estates Limited (copy annexed hereto, marked "J") and telephoned the office of Fell Estates Limited.

/continued,

7. The Reasons for the decision to refuse the Application for an Adjournment:-

Fell Estates Limited referred to 2 specific matters in support of the application and a generalised allegation that the Applicants had failed to comply with the Directions. The specific matters were that the Applicants were in breach of the Directions in that there had been a failure by the Applicants to provide a bundle of documents and that Mr Brunt's statement had been submitted on 15th May 2003.

The Tribunal's view was:-

1. Bundle of Documents

This was not a case involving "a significant number of documents"; accordingly, in our view, there was no breach of Direction No.19. In any event, it was clear that neither party was prejudiced by the absence of bundle(s) of documents.

2. Mr Brunt's Statement

It is correct that Mr Brunt's (expert) witness statement was sent (by fax) to Fell Estates Limited on 15th May 2003, whereas Direction No. 15 provides for exchange of expert witness statements not later than 15 working days before the hearing. However, the Tribunal was not aware that any expert witness statement was sent to the Applicants or their representative by or on behalf of the Landlord. Accordingly, the Tribunal was of the view that, on the evidence before it, no breach of Direction 15 was demonstrated.

In any event, Mr Brunt's witness statement was a repetition of information supplied to Fell Estates Limited in March 2003 and the Tribunal was of the clear view that the Landlord was not prejudiced, in any way, by the fact that Mr Brunt's expert witness statement was served on Fell Estates Limited on 15th May 2003.

3. General

Obviously, it is difficult for a Tribunal to deal with general allegations. However, we noted the following matters:-

(a) The Directions were in standard form;

(b) The person dealing with the matter for Fell Estates Limited was away from 28th April 2003 (or before) until 8th May, 2003;

(c) There were "without prejudice" documents that were not before the Tribunal.

/continued

We considered that, on the evidence before us, it had not been established that there had been a unilateral breach by the Applicants of any of the Directions. Further, we were of the definite view that if there had been such a breach, the Landlord was not prejudiced in any way whatever.

8. The valuation method:-

The generally recognised valuation method to derive the price payable for the freehold interest, accepted in *Farr v Millerson Investments Ltd* (1971) is: (i) capitalise the ground rent from the Date for the unexpired term of the Lease; (ii) capitalise the modern ground rent (s15 of the Act), as at the Date, as if in perpetuity but deferred for the unexpired term of the Lease - 'as if in perpetuity' because, although the value of the modern ground rent is for a term of 50 years (as the extension to the Lease), the value of the freehold reversion in possession at the end of the fifty years' extension is ignored as being too remote to have a separate value for it. As no evidence of cleared sites is adduced, the modern ground rent is derived by the standing house method: by decapitalising the site value, as a proportion of the entirety value. The entirety value is the value of the freehold interest in the Property with vacant possession assuming it to be in good condition and fully developing the potential of its site provided always that the potential identified is realistic and not fanciful.

It was clear from the documents before us that both parties agreed that this method of valuation should be adopted. The Tribunal was of the same opinion.

(It should be noted that this method of valuation does not include a *Haresign* addition - recognised in *Haresign v St John The Baptists' College, Oxford* [1980] when specific account was taken of the reversion to the full value of the dwelling after the expiration of the assumed fifty years' extension of the lease.)

9. Items which were in dispute (and items which were agreed):-

In the documents before the Tribunal were valuations from both Anthony Brunt & Co and Fell Estates Limited. Both agreed that the annual ground rent was £6 and that the correct yield rate to be applied in respect of the ground rent was 7%. However, there were differences, as follows:-

| <u>Item</u> | <u>Fell Estates Limited</u> | <u>Anthony Brunt & Co</u> |
|--------------------------|-----------------------------|-------------------------------|
| Unexpired Term | 30 years | 31 years |
| Entirety Value | £160,000 | £150,000 |
| % (to obtain site value) | 35% | 33.333% |
| Yield (re S.15 rent) | 6% | 7% |

/continued.

Also among the documents before the Tribunal was a Scott Schedule (copy attached hereto, marked "K") setting out the parties contentions in respect of the reasonable costs issue, as follows:-

| <u>Item</u> | <u>Fell Estates Limited</u> | <u>Anthony Brunt & Co</u> |
|-----------------------------|-----------------------------|-------------------------------|
| Solicitors' costs | £325 | £250 |
| Valuation Fee | £300 | £250 |
| Section 9(4) – other | £130 | £50 |
| Retrospective consent costs | £500 | NIL |

There was also, before us, a schedule dated 11th April 2003, attached to a letter to the Tribunal, dated 24th April 2003 from Fell Estates Limited (letter and schedule attached hereto, marked "L"), which sets out the Landlord's case in respect of the valuation fee and the (other) section 9(4) costs, which differs from the Scott Schedule in that the other section 9(4) costs amount to £150.

10. The Substantive Hearing:-

The Tribunal re-convened at 14-00 on 19th May 2003. Again Mr Brunt was in attendance but there was no representative in attendance on behalf of the Landlord. The Clerk stated that there had been no communication from Fell Estates Limited. The substantive hearing proceeded.

Mr Brunt referred to his valuation (see No. 9 above) and explained that his letter of 28th April 2003 (copy annexed hereto, marked "M") was in error,

Mr Brunt then gave (expert) evidence and made submissions to the Tribunal in support of his valuation. He referred to 2 (freehold) properties which he said were comparable to the property in question, namely:-

(i) 79, Clydesdale Road, Quinton, Birmingham B32 1DT, which Mr Brunt told us had been sold for £143,500 – sale agreed in the autumn of 2002 and completed in January 2003;

(It is possible that the Chairman's note is in error and that the figure mentioned by Mr Brunt was £143,000.)

and

/continued.

(ii) 89, Wilmington Road, Quinton, Birmingham B32 1DZ, which Mr Brunt told us had been sold for £153,000 – sale completed in April 2003.

(The written particulars prepared by Estate Agents in respect of both properties were before the Tribunal.)

Mr Brunt also gave (expert) evidence and made submissions in support of the figures for “reasonable costs” (in respect of the first 3 items) that he had inserted in the Scott Schedule (Annex K). He told us that he had made enquiries with the Tenants’ solicitors who had confirmed that the freehold title to the property was registered. He also explained that the last item on the Scott Schedule (retrospective consent costs) had been included in the Scott Schedule in error, as it was not a matter within the jurisdiction of the Tribunal. He also told us that Fell Estates Limited were not registered for VAT. He conceded that his figure of £50 (for other section 9(4) costs) was somewhat low and that £75 would be more appropriate.

(The Tribunal accepted Mr Brunt’s evidence in so far as it related to factual matters.)

The Tribunal retired at 15-25 and returned at 15-40 when the Chairman stated that the Tribunal was inclined to the view that 33.33% was the correct figure for the % to be applied (to the entirety value) in order to obtain the site value but that, in view of No.2 of the letter of 28th April 2003 (Annex M), the Tribunal was minded to adjourn in order to give the Landlord a further opportunity of making representations. Mr Brunt then enquired whether the Tribunal would order an adjournment if he conceded 35% (as per No.2 of Annex M). The Tribunal retired at 15-45 and returned at 15-50, when the Chairman announced that if 35% was conceded, the Tribunal would proceed to decide the case (without an adjournment); Mr Brunt then conceded that 35% should be applied to the entirety value in order to calculate the site value.

11. Decisions:-

PRICE OF FREEHOLD

Ground Rent:- £6 per annum – as per the Lease (Agreed by parties)

/continued.

| | | |
|--------------------------|----------|---------------------|
| <u>Yield thereon :-</u> | 7% | (Agreed by parties) |
| <u>Unexpired term:-</u> | 31 years | |
| <u>Entirety Value:-</u> | £150,000 | |
| <u>% to be applied:-</u> | 35% | (Conceded) |
| <u>Yield (s.15):-</u> | 7% | |

VALUATION:-

| | | |
|---|--------------|---------------|
| Annual ground rent | £6-00 x | |
| YP 31 years @ 7% | <u>12.53</u> | £75 |
| Entirety | £150,000 | |
| Site Value @ 35% | £52,500 | |
| Section 15 ground rent | £3,675 x | |
| YP in perpetuity deferred 31 years @ 7% | <u>1.754</u> | <u>£6,446</u> |
| | | £6,521 |

REASONABLE COSTS

| | |
|--------------------------|------|
| Solicitors' costs:- | £250 |
| Valuation Fee | £250 |
| Other section 9(4) costs | £75 |

/continued.

Retrospective consent costs

No determination (Application withdrawn)

12. Reasons for Decisions on disputed items:-

Unexpired term:- This is a matter of arithmetic. The lease commenced on 29th September 1934 for a term of 99 years expiring on 29th September 2033. The date of the Notice (to acquire the freehold) was 4th November 2002. Accordingly, there was (to the nearest quarter) 31 years between the date of the Notice and the date that the lease would expire.

Entirety Value:- We accepted Mr Brunt's evidence and opinion, which accorded with our own general knowledge and experience.

Yield (s.15) :- Again, we accepted Mr Brunt's evidence and opinion which accorded with the Tribunal's opinion, based on our general knowledge and experience. In particular, we considered it right that the same percentage yield should be used for both the unexpired term and the s.15 calculations and that the correct figure was 7%.

Solicitors' costs:- Based on our general knowledge and experience of the (reasonable) costs charged by solicitors to Landlords for such work, taking into account Mr Brunt's evidence and bearing in mind that the property is registered land and that the document will be drawn up by the Tenants' solicitors and submitted to the Landlord's solicitors for approval/amendment, we considered that the reasonable costs of this item should be limited to £250.

We assumed that the Landlord was registered for VAT and that if (as is likely) the Landlord's solicitors charged VAT, then this could be recovered by the Landlord as an input. Accordingly, we made no allowance for VAT.

Valuation Fee:- We accepted Mr Brunt's evidence and opinion which accorded with the Tribunal's opinion, based on our general knowledge and experience. As (on the evidence before us) Fell Estates Limited is not registered for VAT, there is no VAT to be included and the reasonable costs of this item should, in our view, be limited to £250.

Other Section 9(4) costs:- We considered the costings in the schedule, dated 11th April 2003 (Annex L) to be excessive. We accepted Mr Brunt's evidence and opinion, which accorded with the Tribunal's opinion, based on

/continued.

our general knowledge and experience. In our view, the reasonable costs under this item should be limited to £75. Again VAT is irrelevant for the reason(s) referred to above.

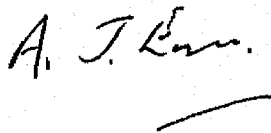
13. Conclusion:-

We determine that the sum to be paid by the Tenants for the acquisition of the freehold in the Property in accordance with section 9(1) of the Leasehold Reform Act 1967, as amended, is £6,521 (Six thousand five hundred and twenty one pounds) and that the costs payable by the Tenants, pursuant to Section 9(4) of the Leasehold Reform Act 1967, shall be limited as follows:-

| | |
|------------------|------|
| Solicitors costs | £250 |
| Valuation Fee | £250 |
| Other costs | £75 |

Date: 29th August 2003

Signed:



A.J Engel
CHAIRMAN

(A)

In the matter of

(1) TERRANCE NORMAN HARPER
(2) IRENE SHEILA HARPER

(Applicants)

and

MARTINVALE DEVELOPMENTS LIMITED

(Respondent)

and in the matter of an application to the Leasehold Valuation Tribunal
for
a determination of the price payable
under section 21(1)(a) Leasehold Reform Act 1967
and
an application for the landlord's reasonable costs
under section 21(1)(BA) Leasehold Reform Act 1967

RE: 77 WILMINGTON ROAD, QUINTON, BIRMINGHAM B32 1DZ

DIRECTIONS

Upon considering the Applicants' and the Respondent's applications without a pre-trial review:

It is directed that:

1. A representative having conduct of a party's case shall comply with this direction as if the party.
2. The Applicants shall provide, to the Respondent and the Tribunal, the Applicants' valuation of the price payable on enfranchisement and a schedule of comparable transactions intended to be relied upon within 10 working days of the parties' receipt of this direction.
3. The Respondent shall provide, to the Applicants and the Tribunal, the Respondent's valuation of the price payable and a schedule of comparable transactions intended to be relied upon within 10 working days of the Respondent's receipt of the Applicants' valuation.
4. Within 10 working days of the Applicants' receipt of the Respondent's valuation the parties shall provide disclosure to each other copies of all documents in their possession relevant to matters in dispute.

5. The Applicants and the Respondent shall hold a without prejudice meeting/discussion to identify the issues in dispute and those matters which are agreed and not agreed within 15 working days from the Applicants' receipt of the Respondent's valuation. Within 3 working days after that meeting the parties shall confirm to Tribunal that the meeting has taken place.
6. Within 5 working days of the without prejudice meeting/discussion the Applicants shall provide the Respondent with a draft Statement of Agreed Facts and Issues.
7. Within 10 working days of the without prejudice meeting/discussion the Respondent shall provide the Applicants with a response to the draft Statement of Agreed Facts and Issues, identifying those facts and issues which are agreed and those which remain in dispute.
8. Within 15 working days of the days prejudice meeting/discussion the Applicants shall provide the Respondent and the Tribunal with a copy of the completed Statement of Agreed Facts and Issues, signed by the Applicants and Respondent, identifying those facts and issues which are agreed and those which remain in dispute.

Section 21(1)(BA) application:

9. Evidence relating to the Section 21(1)(BA) application shall include a Scott Schedule, completed by the Applicants and the Respondent, in the form attached; with liberty to apply, within 5 working days from receipt of these directions, for an amended form.
10. Not later than 5 working days after the without prejudice meeting the Respondent shall have prepared and the Respondent and the Applicants shall complete a Scott Schedule. The Scott Schedule shall be available to the parties and the Tribunal in electronic form in Microsoft Excel 1997 or earlier format. The columns in the Schedule shall set out the costs incidental to the matters set out under section 4(a)-(e) Leasehold Reform Act 1967 and shall be completed as follows:

By the Respondent:

'Item' - shall state the nature of the charge to be made in respect of that item.

'Why reasonable' - shall briefly state why the Respondent contends that the amount in column 'Amount £' is reasonable or admit that the amount is unreasonable.

'If wrong what would be reasonable £' - shall state the Respondent's opinion of the amount that it considers would be reasonable if it is found that the amount in column 'Amount £' is unreasonable.

By the Applicants:

'Item no.' - each item under consideration shall be numbered sequentially.

'Subject matter' - shall describe the item under consideration.

'Amount £' - shall state the amount which the Applicants contend is unreasonable.

'Why unreasonable' - shall briefly state why the Applicants contend the amount is unreasonable.

'What would be reasonable £' - shall state the amount that the Applicants contend is reasonable.

The columns 'Reasonable/unreasonable' and 'If unreasonable, £ reasonable' - shall be left blank for determination by the Tribunal.

11. The Respondent shall, within 10 working days from the without prejudice meeting provide to the Applicants and the Tribunal the completed Scott Schedule together with a written Statement in support of its contentions in it to include detail of the reason(s) why each item is considered to be reasonable and the evidence on which the Respondent intends to rely to substantiate the reason(s).
12. Not later than 5 working days from the Applicants' receipt of the Respondent's Statement the Applicants shall provide to the Respondent and the Tribunal a written Reply to the Respondent's Statement in support of the Applicants' contentions in the Scott Schedule to include detail of the reason(s) why each item is considered to be unreasonable and the evidence on which the Applicants intend to rely to substantiate the reason(s) and commenting on the Respondent's evidence intended to substantiate its reasons.

General

13. Statements of witnesses of fact (if any), setting out the substance of the evidence, shall be exchanged (with simultaneous delivery to the Tribunal) not later than 15 working days before the hearing. Statements shall contain a statement of truth, and signed to that effect, as follows:

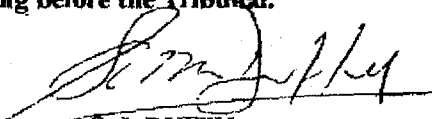
'I believe that the facts stated in this witness statement are true.'
14. Expert witnesses, if any, shall be limited to 1 for each party and experts shall be of like discipline.
15. Expert witnesses statements setting out the substance of the evidence, shall be exchanged (with simultaneous delivery to the Tribunal) not later than 15 working days before the hearing. Statements shall contain a statement of truth, signed to that effect, as follows:

'I confirm that insofar as the facts stated in my report are within my own knowledge I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion'.

In addition, statements should comply with the requirements of any approved expert's protocol of his/her professional body.
16. If either party seeks to rely on any issues of law those issues shall be reduced to writing to be incorporated in the Tribunal's determination and the other party and the Tribunal shall be given notice of such issues of law not later than 10 working days prior to the hearing.
17. If either party intends to rely on a legal authority a copy of a full recognised report of that authority shall be provided to the Tribunal and to the opposing party not later than 7 working days prior to the hearing.
18. If either party intends to be represented and/or call a witness that party shall inform the other party and the Tribunal stating the name and status of that person(s) not later than 7 working days prior to the hearing.

19. If there is a significant number of documents intended to be relied upon the parties shall agree and put together a single paginated bundle of documents (with all pages numbered sequentially) limited to those intended to be relied upon at the hearing. Failing a single bundle, a bundle shall be provided by each party (with all pages numbered sequentially). The bundle(s) shall be delivered to the Tribunal (and the other party if not a single bundle) not later than 5 working days prior to the hearing. Four copies shall be delivered to the Tribunal, two copies to the opposing party.
20. The parties shall prepare a list of all issues within their case upon which they place significant reliance, such list(s) to be delivered to the Tribunal (and the other party if each party has prepared a list) not later than 5 working days prior to the hearing.
21. If required by the Tribunal or requested by a party(ies) inspection of the subject property shall be allowed at a convenient date prior to the hearing.
22. The parties shall notify the Tribunal, on or before 4 April 2003 of the time estimate for the hearing of the Applications.
23. The hearing will be held at on the first convenient date after 28 April 2003 at the Tribunal's hearing room, Ladywood House, Birmingham, commencing at 10.00 am and continuing to 4.00 pm with an appropriate break for lunch.
24. All communications to the Tribunal shall be in writing with confirmation that a copy has been sent simultaneously to the opposing party.
25. Parties shall acknowledge receipt of this Order.
26. The Tribunal reserves its power to direct a pre-trial review if it so decides.
27. Liberty to apply.

Failure to comply with these directions may result in prejudice to a party's case. In particular, failure to provide evidence as directed may preclude the defaulter from relying on such evidence at the hearing before the Tribunal.



S. J. DUFFY

President of the Midland Rent Assessment Panel

DATE: **28 FEB 2003**

MIDLAND RENT ASSESSMENT PANEL
2ND Floor, East Wing, Ladywood House,
45-46 Stephenson Street, Birmingham, B2 4DH
Tel No: 0121 643 8336 Fax No: 0121 643 7605



**Residential
Property
TRIBUNAL SERVICE**

Mr A Brunt
Anthony Brunt & Co
45 Wynds Point
Northfield
Birmingham
B31 2EF

Our Ref: BIR/00CN/OAF/2003/0019
BIR/OOCN/OC6/2003/0012

Your Ref: LVT77Wilmington

Date: 8 May 2003

Dear Sir

RE: 77 Wilmington Road, Birmingham, B32 1DZ

The President has considered the correspondence passing between the parties and notes that the parties are endeavoring to agree a Statement of Agreed Facts but are in danger of defaulting from timetable set out in the current directions. In the circumstances, and by his own motion, the President has directed that the time for serving and lodging the Agreed statement of Facts and Issues be extended until Thursday 15 May 2003.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C. L. Jones'.

Mrs C L Jones

MIDLAND RENT ASSESSMENT PANEL
2ND Floor, East Wing, Ladywood House,
45-46 Stephenson Street, Birmingham, B2 4DH
Tel No: 0121 643 8336 Fax No: 0121 643 7605



**Residential
Property
TRIBUNAL SERVICE**

Fell Estates Ltd
P O Box 9603
Bromsgrove
Worcestershire
B60 4LP

Our Ref: BIR/00CN/OAF/2003/0019
BIR/OOCN/OC6/2003/0012

Your Ref: LVT77Wilmington

Date: 8 May 2003

Dear Sirs

RE: 77 Wilmington Road, Birmingham, B32 1DZ

The President has considered the correspondence passing between the parties and notes that the parties are endeavoring to agree a Statement of Agreed Facts but are in danger of defaulting from timetable set out in the current directions. In the circumstances, and by his own motion, the President has directed that the time for serving and lodging the Agreed statement of Facts and Issues be extended until Thursday 15 May 2003.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C L Jones', written in a cursive style.

Mrs C L Jones

FELL ESTATES LTD

P.O. BOX 9603, BROMSGROVE, WORCS. B60 4LP
TELEPHONE 01527 821141 FACSIMILE 01527 821103
E-MAIL: ENQUIRIES@FELLESTATES.CO.UK

FAX

Date: 15 May 2003 **No. of Sheets:** 3
To: Midland Rent Assessment Panel
Your ref: BIR/00CN/OAF/2003/0019
BIR/00CN/OC6/2003/0012
From: Martin Fell
Re: 77 Wilmington Road, Quinton

We enclose for your attention copy fax of today's date received from Anthony Brunt & Co., the agent for the application together with a copy of our faxed response.

This is yet another case where the applicant's agent has not complied with the directions and we have not yet been provided with the applicants bundle of documents and therefore are not in a position to respond.

Will you please confirm by return that the proposed hearing for Monday will be adjourned until such time as the applicants agent has complied with the directions and we are given property opportunity to respond and prepare our case accordingly.

Yours faithfully



Mr M A Fell
Managing Director

FAX

ANTHONY BRUNT & CO
45 WYNDS POINT
NORTHFIELD
BIRMINGHAM
B31 2EF

| | | | |
|--------------------------------|------------------|----------------------|---------------|
| SEND TO Company name | Fell Estates Ltd | From | A W Brunt |
| Attention | Mr M Fell | Date | 15/05/2003 |
| Your ref | MAF | Our ref | AWB |
| Your Fax number | 01527 821103 | My Fax number | 0121 824 8645 |

Urgent Reply ASAP Please comment Please review For your information

Total pages, including cover: 1

Re: 77 Wilmington Rd, Quinton.

Further to the above case will you please confirm you have or will today

forward the statement of agreed facts to the residential property tribunal service?

FELL ESTATES LTD

P.O. BOX 9603, BROMSGROVE, WORCS, B60 4LP
TELEPHONE 01527 821141 FACSIMILE 01527 821103
E-MAIL: ENQUIRIES@FELLESTATES.CO.UK

FAX

Date: 15 May 2003

No. of Sheets: 1

To: Mr A W Brunt

From: Martin Fell

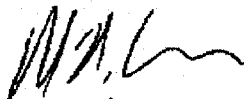
Re: 77 Wilmington Road, Quinton

I acknowledge receipt of your fax but as you are fully aware no facts have yet been agreed in this matter as I have been awaiting a response from you putting forward an offer to settle. I note three separate offers have been put forward to you in an effort to reach settlement at your request but it appears this has merely been a delaying tactic.

I note that again you have not complied with the directions and I would have thought that as you are acting on behalf of the applicant the onus was upon you to comply with the directions and provide the bundle of documents to enable me to respond on behalf of my client. There is now only one working day until the proposed hearing date and in these circumstances I will formally be requesting an adjournment to enable this case to be properly dealt with.

Can you please confirm by return whether or not your clients are proposing to put forward terms for settlement.

Yours sincerely



Mr M A Fell
Managing Director

c.c. Midland Rent Assessment Panel

P.1

| Location | Mode | Start | Time | Page | Result | Note |
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| 01527821103 | NORMAL | 16/ 5.09:32 | 0'30" | 1 | * OK | |

Part of the Residential Property Tribunal Service

Miss P Morris
Tribunal Service

There are two hearings on Monday
at 11:30am

The chairman stated that if you still wish for an
adjudgment to be granted, this must be addressed

The hearing scheduled for Monday 19th May 2008
will continue as arranged.

Further regarding the Birmingham, Mrs Jones has asked me to
advise you that the chairman has decided that

Mr Bell

| | |
|---------|-----------------------|
| To | Mr Bell |
| From | Paula Morris |
| Subject | Quinton Birmingham Rd |
| Date | 16/5/08 |
| Pages | 1 |
| Time | 9:30 |
| | 01527 821108 |

1

FELL ESTATES LTD

P.O. BOX 9603, BROMSGROVE, WORCS. B60 4LP
TELEPHONE: 01527 821141 FACSIMILE 01527 821103
E-MAIL: ENQUIRIES@FELL.ESTATES.CO.UK

Our ref: MAF1/DPR

Your ref:

16 May 2003

For the attention of The Chairman

Midland Rent Assessment Panel
2nd Floor
East Wing
Ladywood House
45-46 Stephenson Street
Birmingham B2 4DH

Dear Sir

Re: 77 Wilmington Road, Quinton

I received a fax at 9.30am this morning from Miss P Morris in reply to my fax of yesterday afternoon and I note the hearing scheduled for Monday is to be proceeded with.

I am extremely surprised and disappointed at this decision bearing in mind that the applicant's agent only submitted his statement by way of fax after 3pm yesterday afternoon in flagrant disregard of the directions set down. As respondent, it is simply not possible to have proper conduct of a case when the applicant simply ignores the directions and the respondent has nothing to respond to.

My clients position has been severely prejudiced in this matter both by the applicants agent failing to comply with directions and your decision not to adjourn the hearing until such time as the directions that you have given have been complied with. In the circumstance I shall be advising my client to submit a formal complaint to the Senior President of the Residential Property Tribunal Service.

I again formally request that an adjournment of the hearing is given as is provided for in the Leasehold Valuation Tribunal rules.

Yours faithfully


Mr M A Fell
Managing Director

F



**Residential
Property**
TRIBUNAL SERVICE

Midland Rent Assessment Panel
2nd Floor East Wing Ladywood House
45-46 Stephenson Street Birmingham B2 4DH
Telephone: 0845 1002615 Facsimile: 0121 643 7605

| | | | |
|---------|--|-------|----------------|
| To | <u>Mr feu</u> | Date | <u>16/5/03</u> |
| From | <u>M/S Hickin</u> | Pages | <u>6</u> |
| Subject | <u>77 Wilmington Rd</u> <u>01527 821103</u> | Time | <u>16.05</u> |

Mr feu
I enclose for your attention correspondence
from the Panel office.
A hard copy is being sent in one post.

Yours sincerely
~~PP PHOENIX~~
M/S Hickin

MIDLAND RENT ASSESSMENT PANEL
Incorporating
MIDLAND LEASEHOLD VALUATION TRIBUNAL
2ND Floor, East Wing, Ladywood House,
45-46 Stephenson Street, Birmingham, B2 4DH
Tel No: 0121 643 8336 Fax No: 0121 643 7605

Fell Estates Ltd
PO Box 9603
Bromsgrove
Worcestershire
B60 4LP

Our Ref: BIR/00CN/OAF/2003/0019
BIR/00CN/OC6/2003/0012

Date: 16 May 2003

Dear Mr Fell

LEASEHOLD REFORM ACT 1967 – SECTION 21 (1) (ba)

RE: 77 Wilmington Road, Quinton, Birmingham, B32 1DZ

I am writing in reply to your fax dated 16 May 2003 at 11:35 am. The contents of which have been noted and forwarded to the Chairman of the Leasehold Valuation Tribunal on Monday 19 May 2003, and the President of the Midland Rent Assessment Panel.

The Chairman has asked that his decision to hold the hearing on Monday be confirmed and that he has not made a decision to not adjourn. The issue concerning an adjournment will be considered on Monday and it would therefore be helpful for you to attend to make such an application.

The President of the Midlands Rent Assessment Panel has stated that the decision concerning an adjournment is for the chairman of the Leasehold Valuation Tribunal to make and not for any member of the presidential panel to be involved with.

If you wish to make a complaint, the procedure is laid out in the enclosed booklet, but should in the first instance be directed to Mr Simon Duffy, President of MRAP.

Yours sincerely

Mrs Jane Hickin
Case Officer

cc. Mr A Brunt

④

FELL ESTATES LTD

P.O. BOX 9603, BRUMSGROVE, WORCS. B60 4LP
TELEPHONE 01527 821141 FACSIMILE 01527 821103
E-MAIL: ENQUIRIES@FELLESTATES.CO.UK

FAX

Date: 19 May 2003

No. of Sheets: 1

To: The Chairman, Midlands LVT From: Martin Fell

Re: 77 Wilmington Road, Quinton
BIR/00CN/OAF/2003/0019
BIR/00CN/OC6/2003/0012

Dear Sir,

I am in receipt of a letter of the 16th inst. from Mrs Jane Hickin, Case Officer, in reply to my faxed request for an adjournment also of the 16th inst..

I again formally request, in accordance with the rules and regulations governing LVT hearings, that the above matter is adjourned until such time as the applicant has complied with the directions and the LVT rules and regulations are also complied with.

I set out in my earlier faxes the detailed reasons why an adjournment is required, I understand in these circumstances the granting of an adjournment mandatory. To deny such a request would be in breach of the rules and regulations and my clients case would be very severely prejudiced.

I do not propose to attend at the panel office as this would incur further unnecessary costs that my clients would be unable to recover.

I await confirmation of a fresh hearing date when both the directions and rules and regulations have been complied with by the applicant.

Yours faithfully,



M A Fell

MIDLAND RENT ASSESSMENT PANEL
2ND Floor, East Wing, Ladywood House,
45-46 Stephenson Street, Birmingham, B2 4DH
Tel No: 0121 643 8336 Fax No: 0121 643 7605



(H)

**Residential
Property
TRIBUNAL SERVICE**

Fell Estates Ltd
P O Box 9603
Bromsgrove
Worcs
B60 4LP

Our Ref: BIR/00CN/0AF/2003/0019
BIR/00CN/0C6/2003/0012

Date: 19 May 2003

Dear Sirs

RE: 77 WILMINGTON ROAD, QUINTON, B32 1DZ

I am in receipt of your facsimile dated 19 May 2003. The Chairman has asked me to inform you that the Tribunal is going to inspect the property and the hearing will take place at 11.30 at the Panel Office when your application for an adjournment will be considered.

The preliminary review of the Committee is that we have been provided with the information required for a decision to be made today. If this is incorrect please explain why; also please quote your authority for stating that the granting of an adjournment is mandatory.

The Committee would be assisted if you were able to attend the hearing at 11.30 am. If this is not possible the Committee is willing to adjourn until 2 pm this afternoon if that would be more convenient to you.

Yours faithfully

Mrs C L Jones
Case Officer

SENT BY FAX AT
10.17
on 19/5/03

1

Anthony Brunt & Co. Valuers

45 Wynds Point Northfield Birmingham B31 2EF

Tel: 0121 478 2525 Fax: 0121 624 8545

A .W. Brunt FRICS & D .P. Brunt

May 13, 2003

Mr M. Fell
Fell Estates Ltd
P O BOX 9603
Bromsgrove B60 4LP

Your ref: MAF1/DPR
Our ref: Fell77Wilmington

Dear Mr Fell,

Re: 77 Wilmington Road, Quinton, Birmingham B32 1DZ

I refer to your faxed letter of today.

I have to advise you that the leaseholders do not find your proposals acceptable and that therefore we need to have a statement of agreed facts.

Please see attached list and if you agree kindly fax this to the LVT.

Yours sincerely,


A.W. BRUNT

Statement of agreed facts

Re: 77 Wilmington Road, Quinton, Birmingham B32 1DZ

1. Date of Notice of Claim 04 November 2002.
2. Unexpired term at the relevant date for valuation purposes was 31 years.
3. The yield rate for the term and reversion should be the same.
4. The Leaseholder is entitled to enfranchise.



A.W. BRUNT

J

P.1

| Location | Mode | Start | Time | Page | Result | Note |
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MIDLAND RENT ASSESSMENT PANEL
 2ND Floor, East Wing, Ladywood House,
 45-46 Stephenson Street, Birmingham, B2 4DH
 Tel No: 0121 643 8336 Fax No: 0121 643 7605



**Residential
 Property
 TRIBUNAL SERVICE**

Fell Estates Ltd
 P O Box 9603
 Bromsgrove
 Worcs
 B60 4LP

Our Ref: BIR/00CN/0AF/2003/0019
 BIR/00CN/DC6/2003/0012

Date: 19 May 2003

Dear Sirs

RE: 77 WILMINGTON ROAD, QUINTON, B32 1DZ

Mr Fell's application to adjourn the hearing to another day is refused. The hearing will take place at 2.00 pm this afternoon (19/05/03). If Mr Fell informs this office prior to 2.00 pm today that he will attend at this office at 3.00 pm today the hearing will commence at 3.00 pm today.

Yours faithfully

C. L. Jones

Mrs C L Jones
 Case Officer

Also left message with
 Mr. Matthew Kell (son)
 He said his father was
 They had out
 rec'd taxes. cy
 mltm

FELL ESTATES LTD

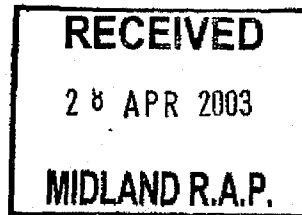
P.O. BOX 9603, BROMSGROVE, WORCS. B60 4LP
TELEPHONE 01527 821141 FACSIMILE 01527 821103
E-MAIL: ENQUIRIES@FELLESTATES.CO.UK

Our ref: MAF1/DPR

Your ref: BIR/00CN/OAF/2003/0019

24 April 2003

Residential Property Tribunal Service
Midland Rent Assessment Panel
2nd Floor East Wing
Ladywood House
45-46 Stephenson Street
Birmingham
B2 4DH



Dear Sirs

Re: 77 Wilmington Road, Birmingham

Further to your letter of the 17th inst., we enclose the copy of the freeholders costing schedule confirming the breakdown of the Section 9(4) costs payable.

Whilst writing we confirm without prejudice discussions have taken place with the applicants' agent and we understand further instructions are being taken by the agents in this regard. We also advise you that we are still waiting upon the applicants' agent in connection with the detailed directions enclosed with your letter of 28th February 2003.

Yours faithfully

A handwritten signature in black ink, appearing to be "M.A. Fell".

Mr M A Fell
Managing Director

TIME AND COSTING SHEET FOR LEASEHOLD REFORM ACT 1967

FREEHOLD PURCHASE APPLICATIONS

(Only costs in accordance with Section 9)

FREEHOLD OWNING COMPANY MARTINVALE DEVELOPMENTS LIMITED

RE: 77 WILMINGTON ROAD, QUINTON, BIRMINGHAM, B17 9NG

DATE FILE OPENED 20.06.02

DATE OF NOTICE 04.11.02

DATE OF SERVICE 07.11.02

| | |
|---|----------|
| TO: RECEIVING AND INSPECTING LRA NOTICE | £ 30.00 |
| PREPARING AND SERVING LANDLORD'S NOTICE UNDER CONDITION 1 REQUIRING DEPOSIT | £ 30.00 |
| PREPARING AND SERVING LANDLORD'S NOTICE UNDER CONDITION 2 REQUIRING TITLE AND STATUTORY DECLARATION | £ 30.00 |
| RECEIVING AND VERIFYING TITLE | £ 30.00 |
| RECEIVING INVESTIGATING AND VERIFYING STATUTORY DECLARATION | £ 30.00 |
| FREEHOLD VALUATION FEE paid to Fell Estates | £300.00 |
| | ----- |
| | £ 450.00 |
| Less deposit paid | £ 25.00 |
| | ----- |
| | £ 425.00 |
| | ----- |

DATE: 11th April 2003

OUR REF: WIL77AC10403

Anthony Brunt & Co. Valuers

45 Wynds Point Northfield Birmingham B31 2EF
Tel: 0121 478 2525 Fax: 0121 624 8545
A.W. Brunt FRICS & D.P. Brunt

M

April 28, 2003

Fell Estates Ltd
P O BOX 9603
Bromsgrove B60 4LP

Your ref: MAF1/DPR
Our ref: Fell77Wilmington

Dear Sirs,

Re: 77 Wilmington Road, Quinton, Birmingham B32 1DZ

We refer to the above.

Please find attached copy sales particulars relating to 79 Clydesdale Rd and 89 Wilmington Rd.

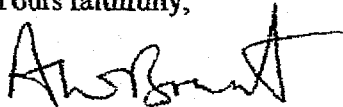
It is felt that these are relevant to the matter.

Following recent discussion and your valuation we hope that you will be able to agree certain facts, namely,

1. The appropriate yield to be applied to the term rent is 7%.
2. The unexpired term for valuation purposes is 30 years.
3. The site apportionment factor is 35%.

Kindly confirm.

Yours faithfully,



A.W. BRUNT
cc LVT