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LVT 9

Our Ref: BIR/47UB/0AF/2003/0146
BIR/47UB/0C62003/0097

MIDLAND RENT ASSESSMENT PANEL

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

ON APPLICATIONS UNDER S21 AND S21 (1) (ba) OF

THE LEASEHOLD REFORM ACT 1967

Applicant: Mr & Mrs A A Sutherland

Respondent: Churchgate Properties

Re: 62 Winds Point, Hagley, Stourbridge, West Midlands, DY9 0PN

Date of Tenants Notice: 7th May 2003

RV as at 1.4.73: Under £500

Applications dated: 23rd September 2003

Heard at: Birmingham

On: 19th November 2003

APPEARANCES:

For the Tenant: J A Moore MA of Midland Valuations Ltd

For the Landlord: None

Members of the Leasehold Valuation Tribunal:

(Chairman) N R Thompson
W J Martin
Mrs C L Smith

Date of Tribunals decision:

13 JAN 2004

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER SECTION 21 AND 21 (1) (ba) OF
THE LEASEHOLD REFORM ACT 1967**

IN THE CASE

OF

SUTHERLAND v CHURCHGATE PROPERTIES

**62 WINDS POINT
HAGLEY
STOURBRIDGE
WEST MIDLANDS
DY9 0PN**

References : BIR/47UB/0AF/2003/0146 & BIR/47UB/0C62003/0097

Background

This a determination under Section 9 of the Leasehold Reform Act 1967 (as amended) as to the price to be paid for the freehold interest in respect of an inner terraced town house, 62 Winds Point, Hagley, Stourbridge, West Midlands DY9 0PN. The lessees, Mr. & Mrs. A A Sutherland hold the property by way of a lease dated 16th January 1968 for a term of 99 years from 25th March 1964 at a fixed yearly ground rent of £25. The tenant's Notice of Claim to acquire the freehold interest was dated 7th May 2003, when approximately 59.75 years of the term remained unexpired. The Tribunal accepted that the qualifying conditions for entitlement to enfranchise under the Act had been fulfilled.

Property

The Tribunal inspected the property on 19th November 2003 in the presence of Mrs. Sutherland and found it to comprise a two storey inner terraced town house of brick and interlocking tile construction, with timber clad panels on the front elevation. It overlooks open countryside to the front and has only pedestrian access although (a single) garage and parking facilities are provided in a separate court with direct access from the rear garden. It lies on the southern outskirts of Hagley some four miles from the centre of Stourbridge.

The centrally heated and double glazed accommodation comprises a porch, hall, living room and kitchen on the ground floor, with three bedrooms and a combined bathroom/W.C. on the first floor. Externally the property has both front and rear gardens, the latter providing pedestrian access to the rear garage and parking area. The frontage is 4.877m (16 feet) and the site area 108.7 square metres (130 square yards).

Hearing

At the Hearing, the lessees were represented by Mr. J. Moore MA of Midland Valuations Ltd. The landlords were not represented.

The Hearing commenced with Mr. Moore introducing his case on behalf of the lessees by submitting details of the property and the following valuation:-

Term

Annual Ground Rent :	£25	
YP 59.75 years @ 7%	<u>14.035</u>	
		£ 350.87

Reversion

Entirety Value :	£135,000	
Site Value @ 30% :	£ 40,500	
Sec.15 Rent @ 7% :	£ 2,835	
YP deferred 59.75 years @ 7% :	<u>0.25</u>	
		£ 708.75
		£1,059.62

In support of his Entirety Value, Mr. Moore referred to the sale of a similar three bedroomed inner terraced house at 65 Winds Point in the Autumn of 2002 (some six month prior to the date of the Notice of Claim in the current case), at £115,000. In addition, Mr Moore referred to a mid terraced house in Winchester Drive (forming part of the same development) being offered for sale in July 2003 at £149,950. He pointed out that this was simply an asking price rather than evidence of a completed sale, and also submitted that it was better than 62 Winds Point by virtue of the fact that it had an integral garage and direct vehicular access from the road. He also referred to the adoption by the Tribunal of £135,000 as the Entirety Value in the case of 64 Winds Point, where the date of valuation had been within two weeks of the valuation date in the current case.

In relation to his adopted yield of 7%, Mr Moore considered that this was a generally accepted rate in cases such as this, and had been widely adopted by the Tribunal and the Lands Tribunal.

Mr Moore quoted an extensive list of cases determined by the Tribunal in support of the adoption of 30% of the Entirety Value for the Site Value and submitted a detailed case to support that stance. Apart from the recent case of 64 Winds Point, he emphasised that the Tribunal had almost universally (i.e. with only two or three exceptions) adopted between 25% and 30% of the entirety value when dealing with terraced houses and even the exceptions had been in respect of properties having a frontage of over 6.096 metres (20 feet). In this instance, it was emphasised that the frontage was only 4.877 metres (16 feet).

He emphasised that at £135,000 he had adopted a very full Entirety Value and to use a Site Value of more than 30% would (a) be contrary to the vast majority of decisions by the Tribunal in comparable cases and (b) would constitute "double counting".

Costs

On the subject of the landlords' legal costs, Mr. Moore suggested a reasonable fee for the work involved would be £225 (plus VAT if applicable) and disbursements. His justification for this was:

- the freehold title was registered;
- this was one of several cases being dealt with over a short period of time by the freeholders' solicitors and therefore there were economies of scale available to them;
- this was the figure awarded by the Tribunal in several recent cases (including that of 64 Winds Point).

In relation to the landlords' valuation fees, Mr. Moore submitted that as no valuation of the property appeared to have been carried out prior to the application to the Tribunal on 23rd September 2003, then the landlords were not entitled to recover any valuation costs from his clients.

Decision

1 – Freehold

The landlords not having submitted any written representations to the contrary, the Tribunal saw no reason to disagree with the broad thrust of Mr. Moore's valuation, which conformed in all material respects with the principles laid down by the Leasehold Reform Act (as amended). The Tribunal therefore determined the price to be paid for the freehold of the subject property to be £1,060.

2 – Costs

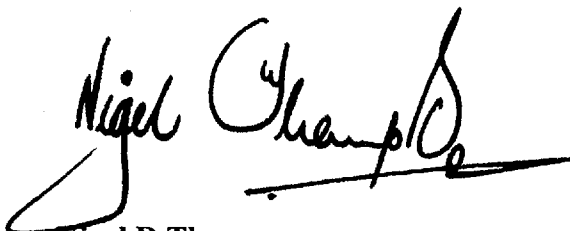
In relation to costs, the lessees' application for a determination is pursuant to Section 21 (1) (ba) of the Leasehold Reform Act 1967 as the freeholders' reasonable costs payable under Section 9 (4) of that Act and Schedule 22 Part 1 (5) of the Housing Act 1980.

Legal:

In cases of this type the conveyancing is normally of a very straightforward nature which many solicitors are prepared to undertake on a competitive basis. In this particular case, there are at least two other instances nearby of the freehold being sold recently, and some element of duplication and therefore economy is inevitably available to the freeholders' solicitors. Consequently, a reasonable charge is considered to be £225 (excluding VAT) plus any Land Registry fee for Office Copies.

Valuation:

In the absence of any evidence that a valuation has been undertaken by or on behalf of the landlords in consequence of the tenant's Notice and prior to the date of the reference to the Tribunal, no valuation costs are payable by the Lessee pursuant to Section 9 (4) (e) of the Act.



Nigel R Thompson
Chairman

13 JAN 2004