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**LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL**

BIR/CCCN/OAF/2004/0089

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION
UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967*

Applicant: Mr S Jones (leaseholder)

Respondent: Japperon Builders Limited (freeholder)

Subject property: 12 Dormy Drive, West Heath, Birmingham, B31 3RP

Date of tenant's notice: 21 December 2003

Application to the LVT: 26 April 2004

Hearing: 24 June 2004

Appearances:

For the applicant: Mr E. J. Rutledge FRICS

For the respondent: Not represented

Members of the LVT:

Mr S J Duffy Chairman

Mr V Chadha

Mr M Ryder

Date of determination:

Introduction

1. This is a decision on an application dated 26 April 2004 under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Mr Jones, leaseholder of the house and premises at 12 Dormy Drive, West Heath, Birmingham, B32 3RP ("the subject property"). The application is under section 21(1)(a) for the determination of the price payable under section 9 for the freehold interest in the subject property.

2. The applicant leaseholder holds the subject property under a lease, dated 13 January 1975, for a term of 99 years from 25 December 1973 at a ground rent of £45.00 per year. The lease was assigned to Mr D Turvey, the then tenant, on 9 June 1995. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was approximately sixty nine years.

3. Mr D Turvey who was at that time the tenant served on the respondent landlord a tenant's notice dated 21 December 2003, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and having purchased the property on 10 March 2004 Mr S Jones ("the applicant leaseholder") subsequently made the application presently before the Leasehold Valuation Tribunal.

4. The parties did not dispute and the Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

Subject property

5. The subject property is an end town house of brick and tile construction, located in Dormy Drive in West Heath, Birmingham which is a private road running off Crofton Road. The accommodation comprises, on the ground floor, porch, entrance hall, cloak/cupboard, sitting room/dining room and kitchen; and, on the first floor, three bedrooms and bathroom/wc. The property is double-glazed. Space heating is by gas-fired central heating. There is an integral garage. Outside there is a gravelled area to the front of the property with a tarmac ramp to the garage which is accessed by an up and over door. There is a patio and garden to the rear of the property. To the side of the property there is a footpath which leads around the rear of the garden and which provides access to the adjoining properties. The frontage of the property is approximately 5.25 metres and the total site area is approximately 147 square metres.

Inspection and hearing

6. The Tribunal inspected the subject property on the morning of 24 June 2004 in the presence of the applicant leaseholder.
7. The subsequent hearing was attended by Mr Rutledge (representing the applicant leaseholder). The respondent freeholder did not attend and was not represented at the hearing. Although the Tribunal was advised by Mr Rutledge that Messrs Hollier Brown had been instructed by the respondent leaseholder but that they had not received instructions to attend the hearing itself.

Representations of the parties

8. Mr Rutledge, on behalf of the applicant leaseholder, lodged a comprehensive submission with the Tribunal including a bundle, a statement of facts, and his report and skeleton argument. The respondent leaseholder provided none of these documents, failed to comply with any of the Tribunal's directions and its representatives, Messrs Hollier Brown, did not have instructions to appear at the hearing. However, on the day of the hearing Messrs Hollier Brown informed the Panel Office that they would make representations by fax. Approximately one hour after the hearing, and after several requests by Panel Office, these representations arrived and they amounted to hand written bullet point submissions one side of A4 paper.
9. Mr Rutledge adopted as the basis of valuation under the 1967 Act the generally recognised three-stage approach normally attributed to *Farr v Millerson Investments Ltd* (1971) 22 P & CR 1055. That approach involves (i) the capitalisation of the ground rent payable under the existing lease for the remainder of the unexpired term; (ii) the identification of a modern ground rent (by decapitalising the site value); and (iii) the capitalisation of the modern ground rent as if in perpetuity, deferred for the remainder of the unexpired term. The price payable on this basis is the sum of the capitalisations at stages (i) and (iii).
10. Mr Rutledge in his submissions placed particular weight on the evidence of the sale price of £92,000 recently achieved in relation to the subject property itself. On the basis of this evidence, Mr Rutledge submitted that the standing house value of the subject property at the relevant date was £93,000. He further submitted that, applying a 30 per cent figure in calculating the site value on the standing house basis, the site value was £27,900; and that the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) and decapitalising and recapitalising the site value at stages (ii) and (iii) is 7 per cent.

11. Mr Rutledge submitted to the Tribunal that the open market value of the property was the best evidence, although an adjustment should be made to bring the freehold value back to the date of the notice to. Mr Rutledge submitted that while the open market value in April 2004 was £92,000 the value in December 2003 would be only nominally greater and amount to £93,000 because the leaseholder had the benefit of a valid notice of claim for the freehold.
12. Mr Rutledge submitted that the site value should be 30% and he referred to cases in the past 6 to 9 months where detached properties with similar frontages had been the subject of settlements, namely: -
- (i) Copper Beech Close, Harborne, frontage 7.789 metres site value 35%;
 - (ii) 5 Salford Close, Redditch, frontage 8.89 metres, site value 32%;
 - (iii) 8 Keele Close, Redditch, frontage 9.04 metres, site value 32%
 - (iv) 33 Culver Drive, Berkley Green, frontage 10.12 metres, site value 33%
 - (v) 188 Stoney Lane, Walsall Heath, frontage 4.2 metres, site value 28%
13. On the basis of those figures, Mr Rutledge submitted the following valuation (which was amended at the hearing to take into account a typographical error):

(i) *Capitalisation of existing ground rent to termination of lease*

Ground rent payable: £45.00 per year

Years Purchase: 69years @ 7%: 14.15

Capitalised ground rent: £45.00 x 14.15 = £637

(ii) *Modern ground rent*

Standing house value of subject property: £93,000

Percentage attributable to site: 30%: £27,900

Annual equivalent @ 7%: £1,953

(iii) *Capitalisation of modern ground rent*

Modern ground rent (above): £1,953

Years Purchase at 7% in perpetuity deferred 69 years: 0.1341

Capitalised modern ground rent: £1,953 x 0.1341= £262

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say) £899.

14. As indicated, Messrs Hollier Brown did not attend the hearing but made late submissions. These were that the entirety value sought by the applicant was conservative and that sales at Alverchurch Road, Sir Hiltons Road had taken place in late 2003 and that the sale prices were in the range of £100,000 - £125,000 and that they were older properties. Messrs Hollier Brown submitted that the entirety value was too low and that no account had been taken of price increases and that 20% was applicable to narrow fronted terraces and that an entirety value of 34 % would be more appropriate. None of these submissions were supported by documentary evidence.
15. The Tribunal gave Mr Rutledge an opportunity to respond to these submissions and he responded by a letter dated 8th July 2004. Mr Rutledge submitted that his estimate the entirety value was realistic, accurate and based upon an arms length transaction and that the site value he had suggested was realistic for what he considered to be a relatively small frontage. Mr Rutledge also submitted that 34% would normally be appropriate for a detached property and/or a site of much greater width and in a better quality residential area.

Determination of the Tribunal

16. The Tribunal holds that the method of valuation adopted by Mr Rutledge properly reflects the principles of the 1967 Act applicable in the present case. The Tribunal finds that Mr Rutledge had produced very helpful written and oral evidence as to the standing house value of the subject property. The Tribunal examined the figures submitted by Mr Rutledge in respect of the standing house value of the subject property, the percentage to be applied to the standing house value in calculating the site value and the percentage yield rate to be applied at all stages of the valuation calculation.
17. Messrs Hollier Brown's submission was also considered by the Tribunal although it placed little or no weight on these submissions as they were unsupported by documentary evidence.
18. Using its general knowledge and experience (but no special knowledge) the Tribunal finds that the evidence of the sale price of the property submitted by Mr Rutledge reflected did not represent the general level of property values in

the area of the subject property. In particular the purchase price of the subject £92,000 appeared remarkably low for the type of property in question. Bearing in mind the similarities and differences between the asking prices for properties in the area and the subject property and the market conditions appertaining at date of the notice of claim, the Tribunal finds that the standing house value of the subject property at the relevant date was £105,000.

19. Bearing in mind previous practice of Leasehold Valuation Tribunals in the Midland Rent Assessment Panel area, and in the absence of any circumstances suggesting a departure from that practice, the Tribunal accepts the submissions of Mr Rutledge in relation to the other factors in his valuation and holds that the appropriate percentage to be applied to the standing house value in calculating the site value is 33 per cent; and that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7 per cent.
20. Adopting those figures, and applying figures of Years Purchase from Parry's Valuation Tables, the Tribunal calculates the price payable as follows:

(i) Capitalisation of existing ground rent to termination of lease

Ground rent payable: £45.00 per year

Years Purchase: 69 years @ 7%: 14.15

Capitalised ground rent: £45.00 x 14.15 = £637

(ii) Modern ground rent

Standing house value of subject property: £105,000

Percentage attributable to site: 33%: £34,650

Annual equivalent @ 7%: £2,425.5

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £2,425.5

Years Purchase at 7% in perpetuity deferred 69 years: 0.1341

Capitalised modern ground rent: £2,425.5 x 0.1341 = £325

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of £962.