

497

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

BIR/00CN/OAF/2004/0251c

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

Applicant: Mr A B Tranter (leaseholder)

Respondent: Marden Limited (freeholder)

Subject property: 102 Westminster Road
Selly Park
Birmingham
B29 7RS

Date of tenant's notice: 15 March 2004

Applications to the LVT: 31 August 2004

Hearing: 23 November 2004

Appearances:

For the applicant: Mr S J M Laing

For the respondent: Mr J Moore

Members of the LVT: Professor N P Gravells MA
Mr M Williams FRICS
Mr M H Ryder

Date of determination: 07 DEC 2004

Introduction

- 1 This is a decision on two applications under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Mr Tranter, leaseholder of the house and premises at 102 Westminster Road, Selly Park, Birmingham, B29 7RS ("the subject property"). The two applications are, first, under section 21(1)(a) for the determination of the price payable under section 9(1) for the freehold interest in the subject property; and, secondly, under section 21(1)(ba) for the determination of the reasonable costs payable under section 9(4).
- 2 The applicant leaseholder holds the subject property under an underlease for a term of 99 years less three days from 29 September 1905 at a ground rent of £5.50 per year. The underlease was assigned to the applicant on 21 November 1991. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was approximately six months. (It appears that the freehold interest and the head leasehold interest have merged.)
- 3 The applicant served on the respondent freeholder a tenant's notice dated 15 March 2004, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and he subsequently made the present application.
- 4 The parties do 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 a mid-terraced house located on Westminster Road in a residential area of Selly Park. The accommodation comprises, on the ground floor, two reception rooms, kitchen and bathroom/wc; and, on the first floor, three bedrooms. The property has neither central heating nor double-glazing. Outside there is a small paved area to the front of the property and a garden to the rear of the property. There is no garage or off-street parking.

Inspection and hearing

- 6 The Tribunal inspected the subject property on 23 November 2004 in the presence of Mr Tranter, the applicant leaseholder.
- 7 The subsequent hearing was attended by Mr Laing of Laing & Co, representing the applicant leaseholder, and by Mr Moore of Midland Valuations Ltd, representing the respondent freeholder.

Representations of the parties

The price payable for the freehold interest in the subject property

- 8 Both Mr Laing and Mr Moore adopted as the basis of valuation under the 1967 Act the standard 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).

- 9 The following matters relevant to the valuation calculation were agreed by the parties:
- The valuation date for the purposes of determining the price payable for the freehold interest in the subject property is 15 March 2004 and the unexpired term of the underlease at the relevant date was six months.
 - The ground rent payable under the underlease was £5.50 per year.
- 10 Since both parties apply the same established formula to determine the price payable for the freehold interest, the matters that remain in dispute between the parties are the four factors in that formula that are not agreed, namely:
- the value of the ground rent for the remainder of the unexpired term;
 - the freehold entirety value of the subject property at the relevant date;
 - the percentage figure to be applied to the entirety value to calculate the site value of the subject property on the standing house basis;
 - the appropriate yield rate to be applied in capitalising the existing ground rent and in calculating and capitalising the modern ground rent.

Evidence and submissions on behalf of the applicant leaseholder

- 11 Mr Laing included a nil value in respect of the capitalisation of the existing ground rent for the remainder of the unexpired term.
- 12 Mr Laing put in evidence agreed sale prices and asking prices for a number of properties in the vicinity of the subject property. The agreed sale prices ranged from £110,100 to £129,000; and the current asking prices ranged from £115,000 to £129,950. On the basis of those figures, Mr Laing submitted that the freehold entirety value of the subject property on the relevant date was £120,000.
- 13 In relation to the percentage figure to be applied to the entirety value to calculate the site value of the subject property on the standing house basis, Mr Laing accepted that the normal figure was in the range of 33%-35%. However, he argued that, where the property has a particularly narrow frontage (and the subject property has a frontage of less than four metres), a lower percentage figure was normally adopted. In the present case, he submitted that 30 per cent was the appropriate figure.
- 14 In relation to the appropriate yield rate to be applied in capitalising the existing ground rent and in calculating and capitalising the modern ground rent, Mr Laing adopted the "standard" yield rate of 7 per cent. Notwithstanding the very short unexpired term in the present case, he was not persuaded that a lower yield rate should be applied.
- 15 Applying those figures (and the agreed figures referred to in paragraph 9 above), Mr Laing submitted the following valuation:

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

Capitalised ground rent: (say) Nil

(ii) Modern ground rent

Standing house value of subject property: £120,000
Percentage attributable to site: 30%: £36,000
Annual equivalent @ 7% = (say) £2,500

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £2,500
Years Purchase at 7% in perpetuity deferred 0.5 years: 13.82
Capitalised modern ground rent: £2,500 x 13.82 = £34,546

The addition of the capitalised existing ground rent and the capitalised modern ground rent produced a figure of (say) £34,500.

Evidence and submissions on behalf of the respondent freeholder

- 16 Mr Moore calculated the capitalised value of the existing ground rent for the remainder of the unexpired term; and, although the resultant figure is small, he included it in his valuation.
- 17 Mr Moore put in evidence agreed sale prices for a number of properties in the vicinity of the subject property. The prices ranged from £123,000 to £129,950. He submitted that the lower-priced properties were located on less desirable roads than Westminster Road. He also submitted (i) that there were a consideration number of properties to let in the vicinity of the subject property; (ii) that those properties were aimed at the student market; and (iii) that in such a market three-bedroomed properties (even with a bathroom on the ground floor) represented a substantially better investment (and would therefore command a higher purchase price) than two-bedroomed properties (with a bathroom on the first floor). On the basis of those figures and submissions, Mr Moore adopted for the purposes of his valuation a freehold entirety value for the subject property on the relevant date of £140,000. However, in the course of the hearing he acknowledged that that figure might be marginally high and that the value might have been nearer to £135,000.
- 18 In relation to the percentage figure to be applied to the entirety value to calculate the site value of the subject property on the standing house basis, Mr Moore argued that, in order to reflect the fact that property prices had increased at a greater rate than building costs, it was appropriate to apply higher figures than had previously been applied. He also referred to a number of recent decisions of Leasehold Valuation Tribunals involving mid-terraced houses, in which the Tribunal had applied a figure of 32 per cent. He submitted that that was therefore the appropriate figure in the present case.
- 19 In relation to the appropriate yield rate to be applied in capitalising the existing ground rent and in calculating and capitalising the modern ground rent, Mr Moore referred to a number of recent decisions of Leasehold Valuation Tribunals involving unexpired terms between two years and eleven years, in which the Tribunal had applied a figure of 6.5 per cent. He submitted that that was therefore the appropriate figure to apply in the present case.
- 20 Applying those figures (and the agreed figures referred to in paragraph 9 above), Mr Moore submitted the following valuation:
- (i) Capitalisation of existing ground rent to termination of lease*
- Ground rent payable: £5.50 per year
Years Purchase: 0.5 years @ 6.5%: 0.47
Capitalised ground rent: £5.50 x 0.47 = £2.59