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MIDLAND RENT ASSESSMENT PANEL

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATIONS UNDER S21(1)(a) AND 21(1)(ba) OF THE
LEASEHOLD REFORM ACT 1967**

Premises: 24 Brookwillow Road, Halesowen, Birmingham B63 1BU

Applicants: Mr and Mrs I Southall (tenants)

Respondent: Mr Dinesh Chatwani (landlord)

Date of tenant's notice: 26 August 2004

RV on the appropriate day: Under £500

Applications dated: 26 October 2004

Heard at: Birmingham

On: 14 December 2004

Appearances:

Mr Anthony Brunt FRICS of Anthony Brunt & Co, valuers, for the tenants

Mr I Lloyd FRICS of Fallowell and partners, chartered surveyors, for the landlord

Members of the leasehold valuation tribunal:

Lady Wilson
Mr S Berg FRICS
Mrs C L Smith

Date of the tribunal's decision: 1 January 2005

Background

1. These are applications to determine the price to be paid for the freehold of 24 Brookwillow Road, Halesowen, and the landlord's recoverable costs. The property is held by the tenants, Mr and Mrs Southall, on a lease dated 29 September 1956 for a term of 99 years from 25 December 1955 at a ground rent of £14 per annum, fixed throughout the term. Approximately 50 years remained unexpired on the valuation date, which is 26 August 2004, the date of the tenants' notice of claim. The rateable value of the property is such that the valuation falls to be made in accordance with section 9(1) of the Leasehold Reform Act 1967.

2. The tribunal inspected the property on 14 December 2004, before the hearing, in the presence of Mr and Mrs Southall. It is a two storey semi-detached house built in the 1950s, of brick and interlocking tile construction, on a development of similar houses. The house is centrally heated and double glazed and has a living room, three bedrooms, a bathroom/ wc, a utility room and cloakroom and an integral single garage. There are small gardens to the front and rear.

The hearing

3. At the hearing the tenants were represented by Mr Anthony Brunt FRICS of Anthony Brunt & Co, valuers, and the landlord by Mr I Lloyd FRICS of Fallowell & Partners, chartered surveyors.

4. It was agreed that the standing house approach should be adopted to arrive at the value of the site, that the entirety value was £180,000 and that the site proportion was one third. The only issues were the yield to be applied to capitalise the existing ground rent and to decapitalise the site value in order to arrive at the section 15 rent, and costs.

i. Yield

5. Mr Brunt had adopted a yield rate of 7% to capitalise the ground rent payable under the lease and to decapitalise the site for the purpose of arriving at the section 15 rent. He said that he considered this to be the appropriate yield for two main reasons. The first was that valuations under the 1967 Act were artificial, in that the assumption had to be made that neither the tenant nor any member of his family were seeking to purchase the freehold, and that what was being valued was thus an income stream for a fixed period of 50 years and a hypothetical section 15 rent for a further 50 years. The second reason was, he said, that in virtually all the many similar cases in which he had acted, including between 200 and 250 in the year to August 2004, 7% was the yield almost invariably applied for the purpose of settlement. Moreover, he said, it was the yield almost universally applied in similar cases by the leasehold valuation tribunal and by the Lands Tribunal. Asked by the tribunal, Mr Brunt said that he did not consider auction results to be a reliable guide to yield because buyers at auction were frequently neither prudent nor well-advised, and the results were difficult to analyse and inconsistent.

6. Mr Lloyd had not in his written valuation lodged before the hearing indicated the yield he had adopted, but had merely said that the price should be "in the region of £5000 - £10,000". At the hearing he said that he proposed a yield of 4%. He said that this yield was based on the results of ground rent auctions, which showed widely varying yields ranging from 1% to 7%. He was unable to provide specific details of any auction results. He also referred to a settlement currently being finalised in respect of a property in Willenhall, where the agreed price for the freehold was £6200 based, he said, on a freehold vacant possession value of £100,000. He said that he had not analysed the transaction for the purpose of establishing the yield which had been applied, nor had the yield been specifically agreed.

7. The great majority of settlements and determinations of the leasehold valuation tribunal and

of the Lands Tribunal support 7% as the established yield for investments of this type. It could indeed be argued that that yield is low by comparison with yields for high value properties in Central London. We agree with Mr Brunt that auction results are generally an unreliable guide to yield rates in the artificial world in which these valuations must be made. Nor were we provided with any evidence, either of auction results or other market evidence, or settlement evidence, from which the yield rate for the present investment could be derived. We are satisfied that 7% is the appropriate yield rate for this investment.

8. Accordingly, we determine that the price to be paid for the freehold is £2230, based on the following valuation:

Term:

Annual ground rent:	£14	
YP 50 years @ 7%	13.8007	£193

Reversion:

Entirety value	£180,000	
Site value @ 33.33%	£60,000	
Section 15 rent @ 7%	£4200	
YP deferred 50 yrs @ 7%	0.48497	<u>£2036.81</u>
		£2229.81
		<u>say £2230</u>

ii. Costs

9. Mr Lloyd agreed that no valuation fee was payable by virtue of section 9(4A) of the 1967 Act because he had been instructed after the date of the application to the tribunal. He had no

instructions on the question of his client's legal costs. Mr Brunt submitted that between £275 and £300 would be reasonable for the conveyancing costs.

9. We determine the landlord's recoverable legal costs at £300 plus VAT if applicable and reasonable disbursements.

CHAIRMAN

DATE