

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

**Decision on an application for a determination of the price payable under
Section 21 (1)(a) Leasehold Reform Act 1967**

Applicants: Focus Housing Association Ltd

Respondent: Missing Landlord

Property: 92 Oval Road,
Erdington,
Birmingham
B24 8PP

**Date of Notice exercising the right to
acquire the freehold:** 25 March 2004

Hearing: 18 January 2005

Appearances: Ms Sarah Abel
Respondent did not appear and was not
represented

**Members of the Leasehold Valuation
Tribunal:** Miss T N Jackson BA Law (Hons) (Chair)
Mr M Williams FRICS
Mr D Underhill

Date of Determination:

1. Background

- 1.1 This is a decision on an application under Section 21(1)(a) of the Leasehold Reform Act 1967 for the determination of the price payable under Section 9 of the 1967 Act for the freehold interest in the subject property.
- 1.2 The subject property is held under an underlease dated 29 September 1920 for a term of 99 years less 3 days from 25 March 1907 and also under part of a lease dated 30 July 1907 for a term of 99 years from 25 March 1907 at annual ground rents of £4 and £14.05 per annum respectively. The total ground rent is therefore £18.05 per annum.
- 1.3 The applicant applied to the court under section 27 of the Leasehold Reform Act 1967 as amended by section 149 of the Commonhold and Leasehold Reform Act 2002 to initiate the missing landlords procedure contained within those statutory provisions. On 9 September 2004, Birmingham County Court ordered, inter alia, that:

properties, end, mid terraced and semi-detached properties and properties ranging from three to five bedrooms and two to three reception rooms.

4.2 On questioning by the Tribunal, Ms Abel stated that in her view 26 Minstead Road which had sold at £108,000, was situated in a poorer location than the subject property. 3 Wheelwright Road, a three storey mid terrace with four bedrooms and three reception rooms, which had sold at £140,000 was in a better location than the subject property and also the whole of the land on that plot could be used, unlike the subject property which had a steep slope towards the rear boundary. Further, 3 Wheelwright Road had been built as a three storey property unlike the subject property which had been converted.

4.3 The subject property was located in a poor location, immediately on the corner of a roundabout and had no security to the left side of the property as there was no property adjacent to it. Ms Abel stated that it was not comparable to other semi-detached or terraced properties on that road.

4.4 Yield Rates

Ms Abel submitted that the appropriate percentage yield rate to be applied in decapitalising the ground rent and in decapitalising and recapitalising the site value for the purpose of the valuation formula should be 6.5% as had been the case in other Tribunal decisions in similar cases.

4.5 Site Apportionment

Ms Abel submitted that the appropriate site apportionment was 30% to reflect the relatively restricted road frontage of under 20ft and the fact that a significant element of the rear garden slopes steeply down to the south eastern (rear) boundary. A site value of 30% was normally attributed to mid terraced properties but Ms Abel submitted that due to the characteristics of the subject property, 30% was appropriate.

4.6 Outstanding pecuniary rent

Section 27(5) of the 1967 Act states:

"(5) The appropriate sum which, in accordance with sub section (3) above, is to be paid into court is the aggregate of:

(a) such amount as may be determined by (or on appeal from) a leasehold valuation tribunal to be the price payable in accordance with section 9 above; and

(b) the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid"

4.7 Ms Abel acknowledged that no rent had been paid since the date of acquisition namely 1973 but submitted that in accordance with the principle established in Re: Howell's application (1972), arrears were limited to 6 years.

- 5.6 The addition of the capitalised existing ground rent of £32.86 and the capitalised modern ground rent of £42,253.53 produces a figure of £42,286 rounded down to the nearest pound.
- 5.7 Accordingly, the Tribunal determines the price payable under section 9 of the 1967 Act for the freehold interest in the subject property at £42,286.
- 5.8 In relation to the payment into court in accordance with section 27 (5) (b) in respect of the pecuniary rent, the Tribunal determines that this should be $(£18.05 \times 6) = £108.30$.

N. Jackson

N Jackson (Chair)