

**EASTERN LEASEHOLD
VALUATION TRIBUNAL**

Decision and Statement of Reasons for Tribunal which met on 5th January 2006 in respect of 5 Eagle Lane, Bocking, Braintree, Essex CM7 5SW

Applicant: Harold Gordon Hunt
Respondent: Unknown
Members of the Tribunal: Mr D.T. Robertson (Chair)
Mr J.R. Humphrys FRICS
Mr F.W.J. James FRICS

Appearances

For the Applicant: Mr S.C. Hopkins of Holmes & Hills the Applicant's Solicitor

1. The Application

The Application relates to the Leasehold Reform Act 1967 Section 27. The Application is made as the result of an amended order of the Colchester County Court of the 8th November 2005 requiring the Leasehold Valuation Tribunal to determine:-

- (a) The price payable and
- (b) The amount or estimated amount of pecuniary rent payable for the property up to the date of the Conveyance which remains unpaid and is to be paid into Court in accordance with Section 27(5) of the Leasehold Reform Act 1967 in the event of the Application succeeding.

The Tribunal considered the valuation date to be determined in relation to this Application and decided that the 23rd September 2005 being the Court issue date for the claim is the appropriate date.

2. The Property

The Tribunal inspected the Property 5 Eagle Lane, Bocking, Braintree, Essex CM7 5SW in the presence of the Applicant's solicitor Mr Hopkins.

The Property is at the end of a terrace and is mainly two storeys high with a single storey extension. It is of timber frame construction with some walls weatherboarded and some walls rendered. The roof is tiled. The age of the Property is uncertain but it was probably built sometime in the 19th century.

The Property fronts immediately onto a unmade road and has no front garden. It has all mains services except for gas which is apparently available in the road. It has a

reasonable sized garden at the rear. It has no parking space. There is a right of way to the remainder of the terrace of properties across the garden.

On the ground floor there is a reception room, a kitchen, a bathroom, WC and lobby area. There are steep stairs to the first floor. These stairs lead into one bedroom and that in turn leads into a second bedroom.

The Property is in a reasonable residential area. The plot is fairly narrow. Repair and decoration of the property both internally and externally are poor except for the roof which is fair.

3. The Lease

The application to the Court refers to the Lease being for a term of 500 years from the 25th September 1557. In the bundle of documents annexed to the Court Application there is an assignment of the 18th May 1943 which refers to the Lease being created in the second and third years of the reign of King Philip and Queen Mary. History records that Queen Mary reigned between 1553 and 1558. This would indicate that the Lease may have been created one or two years earlier than 1557. Mr Hopkins the Applicant's solicitor states that the date of the 25th September 1557 is recorded by the Land Registry as the date of the Lease on adjoining properties. The Tribunal accepts that the Lease has 52 years to run from the valuation date. It is clear from the papers and also from the statements made by Mr Hopkins, the Applicant's solicitor that the Lease related not only to this property but also others. There is no evidence of rent payable and the Tribunal decided from their knowledge and experience that the proportion of the rent that would have been payable in respect of this property annually is a small fraction of £1.00.

4. The Hearing

Evidence was given by the Applicant's solicitor, Mr Hopkins, and is summarised as follows:-

- A. The length of the Lease was discussed and the decision of the Tribunal is dealt with in paragraph 3 concerning the Lease.
- B. The issue of when the claim for arrears of rent would become statute barred was discussed. The Committee considered whether a six year or twelve year period would be appropriate. Guidance is given in the text book Hague on Leasehold Enfranchisement that the appropriate period should be six years. The Tribunal decided that this would be the appropriate period for this case. This point is academic and does not have a material impact on the calculation of the Tribunal.
- C. Mr James raised the issue that a draft Transfer had not been submitted to the Tribunal for approval. This is common practice with applications to the London Leasehold Valuation Tribunal Panel. The Applicant's solicitor, Mr Hopkins, considered that preparation of the Transfer was an issue to be dealt

with by the Court. The Tribunal agreed that the approval of the transfer could be referred back to it if a further Order of the Court was given in this respect.

- D. Mr Hopkins, the Applicant's solicitor, submitted that the main evidence to be considered is the Report by Mr C.C. Woodhouse FRICS of Joscelyne Chase dated the 12th December 2005. He was questioned on that Report in particular as to whether there was any evidence of cleared site values. He was not able to add to the evidence provided by Mr C.C. Woodhouse.

5. Evidence by Applicant's Surveyor Mr C.C. Woodhouse

His report did not contain any signed statement in accordance with RICS Practice Guidance. His report can be summarised as follows:-

- A. A standing house approach to the valuation should be used.
- B. A yield of 7% should be used. He refers to a comparable where the yield was a little over 6 ½%.
- C. The last assessment of rateable value in 1974 was £87.00 and the Property is currently assessed for Band B for Council Tax.
- D. He describes the Property. He purports that it may be un-mortgageable and provides a comparable in Panfield Lane, Braintree which is currently under offer for £110,000.00.
- E. He calculates the present ground rent value is nil. He states that the freehold value of the house is £100,000.00 and the land apportionment percentage should be 40%. His calculations came to a total of £1,184.00 and he says the value is therefore is £1,175.00.

6. Decision

- A.. The decision of the Tribunal is made largely from their knowledge and experience there being a lack of comparable evidence as requested in the directions. The lack of evidence as to the amount of rent appropriate for this property has already been dealt with in paragraph 3 concerning the Lease and the Committee decided it is a small fraction of £1.00 payable annually.
- B. The Committee accepted the evidence on the rateable value and this case is determined under Section 9(1) and not 9(1)(A). There is no element of marriage value to be included in the calculation.
- C. The Committee considered that Mr C.C. Woodhouse's calculation of the value of the present ground rent for the unexpired term at nil was wrong. They decided on a figure of £1.00 which includes the pecuniary ground rent payable for the Property up to the date of the Conveyance subject to the Conveyance being completed within one year from today's date.

- D. The Tribunal then considered the value of the modern ground rent for the site only. This should include the cost of site works that may involve the connection or re-connection of mains services and the possibility of road charges being payable. As there was no helpful evidence of cleared site transactions the Tribunal accepts the contention of Mr C.C. Woodhouse, the Applicant's Surveyor that the "Standing House Method" of valuation should be used to derive the modern ground rent for the value of the site on a freehold with vacant possession basis.
- E. The Tribunal considered that Mr C.C. Woodhouse was wrong in valuing the freehold in its current condition. It is not relevant for this valuation as to whether the Property is at present un-mortgageable. The correct valuation should be made of the Property in good condition developing the potential of the site. The Tribunal accepts that the site is narrow and on an unmade road and would be difficult to develop. Having said this they decided the freehold value in good condition developing the potential of the site should be £150,000.00 not £100,000.00.
- F. The Tribunal accepts that the correct land apportionment percentage is 40%. This gives £60,000.00 for the site.
- G. The Tribunal accepts the argument that the yield should be 7%. The comparable given is slightly less and yields in London are lower. 7% is the appropriate percentage for Braintree and the calculation of a modern ground rent after 52 years is £4,200.00.
- H. Taking the YP in perpetuity deferred for 52 years @ 7% .42375 gives a total of £1,779.00.
- I. The price payable including the amount of pecuniary rent payable up to the date of the Conveyance subject to completion within one year is therefore £1,780.00.
- J. For assistance the Tribunal now sets out a summary of its valuation:

Ground Rent		£	1.00
Freehold Value of Property	150,000.00		
Site Apportionment @ 40%	60,000.00		
S.15 Modern Ground Rent @ 7%	4,200.00		
YP in perpetuity deferred for 52 years @ 7%	x .42375		<u>1,779.00</u>
			£1,780.00


 DUNCAN T ROBERTSON (Chairman)