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REF: BIR/000CN/0AF/2004/0236

**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) of the Leasehold Reform Act 1967**

Applicants: Mr B C Aston

Respondent: Bajaj Properties Limited

Property: 169 Calshot Road
Great Barr
Birmingham
B42 2BY

**Date of Notice Exercising the Right
to Acquire the Freehold:** 31 August 2004

Hearing: 24 January 2005

Appearances: Mr A Brunt FRICS for the applicant
Mr D J Coleman MRICS, FARLA, FNAEA for
the respondent

**Members of the Leasehold Valuation
Tribunal:** Miss T N Jackson BA Law (Hons) (Chair)
Mr S Berg FRICS
Mrs C Smith

Date of Determination: 06 APR 2005

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 under-lease dated the 9 October 1950 for a term of 99 years less 10 days from the 29 September 1937 at an annual ground rent of £6. The applicant served a notice of tenants claim to acquire the freehold on 31 August 2004 ("the relevant date"). By notice in reply to tenants claim dated 27 September 2004, the respondent admitted the tenants right to have the freehold. At the relevant date the under-lease had an unexpired term of 32 years.

2. Subject Property

- 2.1 The property comprises a middle terraced house with 3 bedrooms. The subject property is stated in the under-lease to cover an area of 1,257 square yards.

3. **Inspection and Hearing**

- 3.1 The Tribunal inspected the subject property on 24 January 2005 in the presence of the applicant and Mr Brunt.
- 3.2 The subsequent hearing held on the same day was attended by Mr Brunt representing the applicant and Mr Coleman representing the freeholder respondent.

4. **Evidence and Submissions on Behalf of the Applicant Leaseholder**

4.1 **Entirety Value**

Mr Brunt submitted that the entirety value of the subject property £120,000. He provided details of comparisons of 181 Calshot Road which had been sold for £123,000 and 197 Calshot Road which was on the market for £124,950. Both properties were end terrace houses.

In response to a question, Mr Brunt confirmed that number 181 Calshot Road had 2 bedrooms compared to the subject property which had 3 bedrooms. Also there could be a difference in size between the properties of approximately 2 feet as the subject property included a third bedroom built over the right of way below. Mr Brunt considered that an end terrace was worth more than a mid-terrace and a 3 bed roomed house was worth more than a 2 bed roomed house but that did not necessarily equate to a 2 bed roomed end terrace being worth more than a 3 bed roomed mid-terrace.

4.2 **Yield Rates**

Mr Brunt submitted that the appropriate percentage yield rate to be applied in decapitalising the ground rate and in decapitalising and recapitalising the site's value for the purpose of the valuation formula should be 7 %. Mr Brunt submitted that this was commensurate with negotiated settlements within his personal experience and was also in line with other Tribunal determinations.

4.3 **Site Apportionment**

Mr Brunt submitted that the appropriate site apportionment was 33 1/3 % which reflected the fact that the plot was rectangular in shape as well as being reasonably level and he submitted that percentage was fair for that type of property in that district.

5. **Evidence and Submissions on Behalf of the Respondent Freeholder**

5.1 **Entirety Value**

Mr Coleman submitted that the standing house value of the subject property was between £120 - 125,000 but that added to that, there should be a "new build" premium of approximately 10% therefore producing in his submission an entirety value of £135,000. Mr Coleman submitted that it was inappropriate in considering an entirety value to assess the 'obsolescence of 60 years' but that to assume that there was a brand new house on the site for valuation purposes. However on

questioning Mr Coleman was not aware if this argument had been accepted elsewhere.

5.2 Yield Rates

Mr Coleman submitted that traditional yield rates had been returned at approximately 7 % on the basis that freehold ground rate investments were a longer-term investment. Mr Coleman submitted that a fixed-yield rate at 7% had to be questioned especially when that rate had been established for several decades in the 1970s and 80s when higher interest rates and residential investment returns prevailed. He submitted that now there was a sustained lower level of interest rates and investment yield, valuations under the Act should not be insulated from the effects of the market. In support of his view, Mr Coleman referred to paragraph 74 to 79 of the decision of the Lands Tribunal in Cadogan Holdings Ltd vs Pockney LRA 27/2003. However Mr Coleman acknowledged that London yields, which is where the property in the case was based, would be significantly lower than those in the provinces. Mr Coleman therefore submitted that the appropriate yield rates for decapitalising the ground rent and for decapitalising and recapitalising the site's value for the purpose of the valuation formula should be 6.5% and 6% respectively.

5.3 Site Apportionment

Mr Coleman submitted that over the past 10 years, settlements at the Tribunal had indicated that site values of properties of this frontage, approximately 5 metres, had been in the order of 33 to 34%. Mr Coleman submitted that at the date of valuation, namely the 31 August 2004, this was at the peak of a rapid rise in residential values. On the basis that building costs had not matched the rate of rise in capital values, a higher residual amount would be available for a developers bid for the land which, he submitted should be reflected in a higher percentage. Mr Coleman submitted that the appropriate site apportionment was 38%.

6. Determination

- 6.1 The Tribunal gave full consideration to the evidence and submissions on behalf of the parties. Using its general knowledge and experience (but no special knowledge) of property prices in the locality of the subject property, and taking into account the positive and negative features of the subject property with all other relevant factors and considerations, the Tribunal determines the standing house value of the subject property at the relevant date was £120,000. The Tribunal was not persuaded by Mr Coleman's submission regarding a 10% premium for new build. The Land Tribunal decision of Cadogan vs Hows and Hock (1989 48 EG 167) sets out the principles upon which the entirety value ought to be considered.
- 6.2 The Tribunal determines the yield rate to be 7%. The Tribunal were not persuaded by Mr Coleman's submission that the yield rates should be 6.5 and 6% respectively. The Tribunal determines that the site apportionment figure is 33 1/3 %. The Tribunal were not persuaded by Mr Coleman's submission that the percentage ought to be changed because this figure has been used for this type of property for the last 10 years.

6.3 Adopting the figures in relation to the entirety value and the respective percentage yield rates, 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 Determination of Lease

Ground rent payable £6 per annum

Years Purchase: 32 years at 7% = 12.6466 = £75.88

ii) Modern Ground Rent

Standing house value of the subject property £120,000

Percentage attributable to site at 33.% = £40,000

Section 15 annual equivalent at 7% = £2,800

iii) Capitalisation of Modern Ground Rent

Modern ground rent (above) £2,800

Years purchase at 7% in perpetuity deferred 32 years: 1.63916

Capitalised modern ground rent: [£2,800 x 1.63916] = £4,589.65
£4,665.53
(say £4,665.00)

The addition of a capitalised existing ground rent of £75.88 and the capitalised ground modern ground rent of £4,589.65 produces a figure of £4,665 rounded down to the nearest pound.

Accordingly the Tribunal determines the price payable under Section 9 of the 1967 Act for the Freehold interest in the subject property at £4,665.

N Jackson

N Jackson (Chair)

06 APR 2005