

MIDLAND RENT ASSESSMENT PANEL
Leasehold Reform Act 1967 Housing Act 1980

**DECISION OF LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Applicants: **Farrukh Javed Aziz**

Respondent: **The Henry Dumolo Trust**

Head Leaseholder: **John Augustine Smith**

Re: **167 Bromyard Road, Sparkhill, Birmingham, B11 3AY**

Date of Tenants Notice: **15th February 2005**

RV as at 1.4.73: **Less than £500**

Applications dated: **20th June 2005**

Heard at: **The Tribunal's Offices in Birmingham**

On: **11th August 2005**

APPEARANCES:

For the Tenant: **Mr A Brunt (of Anthony Brunt and Co. Valuers)**

For the Landlord: **No appearance**

For the Head Leaseholder **No appearance**

MEMBERS OF THE LEASEHOLD VALUATION Tribunal:

Mr W. J. MARTIN (Chairman)
Mr R. A. KINGTON F.R.I.C.S.
Mr D. UNDERHILL

Date of Tribunals decision: **11th August 2005**

DETERMINATION

That the price payable by the Applicants to the Head Leaseholder under Schedule 1 Paragraph 7A of the Leasehold Reform Act 1967 ('the Act') is £21.63

REASONS FOR THE TRIBUNAL'S DECISION

BACKGROUND

1. On 15th February 2005 Anthony Brunt and Co for the Applicants served a Notice of the Applicants claim to acquire the freehold of the subject property upon the Respondent under Part 1 of the Act. A copy of the Notice was also served on the Head Leaseholder at 171 Bromyard Road, Sparkhill, Birmingham B11 3AY, this being the address shown on the Property Register of the Head Leaseholder's title at H.M. Land Registry under Title Number WK93346.
2. On 20th June 2005 Anthony Brunt and Co submitted an application to the Leasehold Valuation Tribunal for a determination as to the price payable for the freehold and the head leasehold interest under Section 9 of the Act and as to the amount of the freeholder's costs under Section 21(1) (ba) of the Act.
3. The Applicant and the Respondent have agreed the price for the freehold and the costs prior to the hearing, but despite considerable effort have been unable to locate the whereabouts of the Head Leaseholder. The Applicant has therefore requested the Tribunal to determine the value of the head leasehold interest, which it is suggested by the Applicant, is a Minor Superior Tenancy Lease falling to be valued under Schedule 6 Paragraph 7A of the Act.
4. The Headlease is for a term of 99 years from 24th June 1914 at an apportioned ground rent of £3 per annum. The Underlease is for a term of 99 years less three days from 24th June 1914 at a ground rent of £6 per annum.

WRITTEN SUBMISSIONS

1. Mr. Brunt had submitted a valuation of the Minor Superior Tenancy prior to the hearing showing a valuation of £21.49.

HEARING

1. Mr. Brunt attended the hearing on behalf of the Applicant. He explained that he considered the Headlease to be a Minor Superior Tenancy because there is an expectation of possession of less than one month and a profit rent of less than £5 per annum. The Underlease under which the Applicant holds the property is for the term of the Headlease less 3 days, and the ground rent is £6 per annum. The apportioned rent under the Headlease (which comprises six properties at a rent of £18 per annum) is £3 per annum and therefore the profit rent is £3 per annum. The term remaining under the Headlease at the valuation date is approximately 8 years and five months and therefore, for the purposes of the calculation in Schedule 1 paragraph 7A of the Act is taken as nine years.

2. Mr. Brunt submitted copies of the Land Registry entries for the Head Leasehold title and the Applicant's in confirmation of the above. The calculation of the sum payable requires the yield of 2 ½ % Consolidated Stock at the date of the Applicant's Notice, which is 12th February 2005 but unfortunately the Mr. Brunt's figures have been calculated at the date a copy of that Notice was served upon the company believed to be the agent of the Head Leaseholder, on 18th March 2005 and therefore an incorrect yield rate had been applied.

DECISION OF THE TRIBUNAL

The Tribunal agree that the Head Leasehold interest is a 'minor superior tenancy' as defined by Schedule 1 paragraph 7 of the Act. The calculation to determine the value of the minor superior tenancy is by the following formula:

$$P = \frac{\pounds R}{Y} - \frac{R}{Y(1+Y)^n}$$

Where-

P = the price payable

R = the profit rent

Y = the yield (expressed as a decimal fraction) from 2 ½ % Consolidated Stock

ⁿ = the period, expressed in years (taking any part of a year as a whole year) which the minor superior tenancy would have to run if it were not extinguished by enfranchisement

In calculating the yield from 2 1 /2% Consolidated Stock the price of that stock shall be taken to be the middle market price at the close of business on the last trading day in the week before the tenant gives notice in accordance with the Act of his desire to have the freehold.

In the present case:

$$R = 3$$

The mid market price of 2 ½ % Consolidated Stock on Friday 11th February was £55.9033

$$Y = \frac{\pounds 2.50}{\pounds 55.9033} \times 100 = 4.47201 \text{ or } 0.0447201 \text{ expressed as a fraction}$$

$$n = 9$$

$$P = \frac{3}{0.0447201} - \frac{3}{0.0447201 (1 + 0.0447201)^n} = 21.63 \text{ to two decimal places}$$

The Price for the Minor Superior Tenancy is therefore £21.63

Signed _____

(W. J. Martin – Chairman)

Dated 2005