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**Eastern Rent Assessment Panel**  
Great Eastern House Tenison Road Cambridge CB1 2TR  
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**REASONS FOR DECISION OF LEASEHOLD VALUATION TRIBUNAL**  
Leasehold Reform Act 1967 sections 21 and 27

**Premises:** St Clair's, Weston Green, Weston Colville, Cambridgeshire CB1 1NS  
**Our ref:** CAM/12UB/OAF/2005/0002

**Applicants:** Mr David Hugh TYREMAN  
**Represented by:** Hewitsons (Solicitors) – Ms Kate Church  
**Applicant's Expert:** Mr David T Ward FRICS

**Respondent:** Not Known

**Members of Tribunal:**  
Mr G M Jones - Chairman  
Mr G J Dinwiddy FRICS  
Miss Marina Krisko BSc (Est Man) FRICS

**0. BACKGROUND**

**The Property**

0.1 This property is a detached four-bedroom house with mature gardens extending to about 0.75 acres. The house was originally a pair of Victorian cottages, which have been extended on three occasions to add in the 1920's a third bedroom; in the 1950's a substantial sitting room and in about 1975 a garden room with a new bathroom and a fourth bedroom above. The total gross external floor area is 184 square metres (1980 sq. ft.). Outside there is a car port and at the rear a large shed formerly used as a garage. The grounds include a very large vegetable garden acquired separately by the Applicant in September 1975. This part of the property is registered at H M Land Registry under leasehold title number CB13497.

**The Leases**

0.2 The history of the ownership of the freehold is shrouded in mystery. The root of title of both the original plot and the vegetable garden is an indenture of 1 May 1897 which recites the original grants. On 27 May 1581 John and Sampson Lennard let certain lands to Richard Webb for a term of 500 years from 29 September 1580 at a rent not mentioned in the indenture. On 14 February 1582 Messrs Lennard let further lands to the same Richard Webb for a term of 493 years from 29 September 1582 at an annual rent of five shillings (25p).

- 0.3 The original leases have been lost for 185 years or more. The precise extent of the two parcels of land is unknown; thus the subject property might be on one or the other or both parcels. The identity of the current landlord is unknown. The Applicant and his wife became tenants by assignment in August 1974. It appears that other properties in the village have the same title. In particular, Mr & Mrs Rees of the adjoining property known as Tudor Cottage enfranchised their title in 1993. None of the tenants has a copy of either of the original leases or knows who is the current landlord.

## **1. THE APPLICATION**

- 1.1 The Applicant wishes to enfranchise under the provisions of the Leasehold Reform Act 1967. On 7 January 2005 he applied to the Cambridge County Court for the necessary orders. By order dated 18 February 2005 the Court referred to the LVT the issue of the purchase price.
- 1.2 There appears to be no doubt that the valuation method to be applied in this case is that set out in section 9(1) of the Act. The Tribunal is required to assume that, at the end of the current term, the tenant has applied for and been granted an extended lease under section 14 for a term of 50 years from the term date of the existing tenancy at an open market ground rent. The basic principle is that the enfranchisement price should compensate the landlord for the loss of rents (including any current arrears) until the extended term date and the loss of the freehold at that time.
- 1.3 The Tribunal must therefore undertake the following processes as from the valuation date:
- Ascertain and determine the current open market value of the property as it stands
  - Determine the site value (usually a percentage of OMV)
  - Assess the open market ground rent at current prices
  - Calculate the current value of the lost future rents (using actuarial tables)
  - Ascertain and add the amount of any recoverable arrears
  - Consider the likely state of the property at the end of the hypothetical extended lease
  - Assess the open market value of the property at that date at today's prices
  - Calculate the current value of that OMV (using actuarial tables).
- 1.4 There are in theory three separate parts to the assessment process; the rent under the lease; the rent during the extended term; and the OMV at the end of the extended term. In practice, the second and third parts are run together unless the unexpired term is relatively short. The usual methodology is to assess the likely ground rent yield, apply that figure to the site value and then calculate the current value of those lost rents in perpetuity.
- 1.5 This method reflects the assumption that, at the end of the extended term, the property will in most cases be worth no more than site value, to be assessed by reference to its rental yield. Whether this is a correct assumption is, perhaps, unimportant if expert valuers agree upon the methodology, because the proper method of assessing the open market price likely to be realised by a willing seller is the method adopted by expert valuers.

## **2. THE EVIDENCE**

- 2.1 The property is currently on the market at an asking price of £415,000. The members of the Tribunal inspected the property and were provided with a set of sale particulars prepared by Cheffins and three appraisals by local agents. On 7 July 2004 Bidwells suggested a range of £375-400,000. On 14 April 2005 Redmayne Arnold & Harris put forward a figure of £385,000. On 13 April 2005 Cheffins considered that the price likely to be achieved was £400,000. The Applicant told the Tribunal that Cheffins considered the prospects for residential development of the vegetable garden but took the view it would be impossible to obtain planning consent.
- 2.2 The Applicant puts forward a valuation report by Mr David T Ward FRICS. He takes the valuation date as 7 January 2005 (the date of the application to the county court). He values the freehold as it stands at £375,000 and the site at £150,000 (40%). He assumes an unexpired term of 70 years and a yield of 7%. Applying the usual methodology, he reaches a figure of £1,300.
- 2.3 Unfortunately, the copy of Mr Ward's report originally submitted to the Tribunal was missing a crucial page, which led the Chairman to query his methodology unnecessarily at the directions stage of the Application. Mr Ward kindly went through it all again in a letter of 16 March 2005, which covers the matters dealt with in the missing section 7 of his report (now in the Chairman's hands) and explains the theoretical basis of his approach.

### 3. THE LAW

- 3.1 **The Leasehold Reform Act 1967** enables tenants of long leases at low rents to enfranchise their properties – in other words to acquire the freehold on terms set out in the Act. Recent amendments introduced by Part 4 of the Commonhold & Leasehold Reform Act 2002 have expanded the scope of the 1967 Act.
- 3.2 If the price is not agreed between the parties, there is provision under section 21 for an application to the Leasehold Valuation Tribunal to determine the price. The valuation methods are set out in section 9 of the Act. The method of determination depends upon which category the property and the lease fall into.
- 3.3 **Section 27** of the 1967 Act provides for an application to the Court and sets out the procedure to be followed in cases where the landlord cannot be found. One part of this procedure requires the Leasehold Valuation Tribunal to determine the price, in accordance with the appropriate valuation method set out in the Act.
- 3.4 In the case of a very old lease at a peppercorn rent or a fairly nominal rent, the appropriate valuation method is likely to be that set out in section 9(1). Once the price is determined, the money is to be paid into Court.
- Costs**
- 3.5 The Applicant under the 1967 Act must generally pay the landlord's reasonable costs. In the case of an application under section 27 this does not arise; there will be no order as to costs.

#### 4. CONCLUSIONS

- 4.1 The Tribunal must first determine what property is to be enfranchised under the Act. The Applicant's right under section 1 is to enfranchise the "house and premises". Section 2 defines the "house and premises" as including any garage, outhouse, garden, yard and appurtenances which at the relevant time are let to [the Applicant] with the house and are occupied with and used for the purposes of the house or any part of it ...".
- 4.2 The question in this case is whether the vegetable garden falls within the definition. It was not originally part of the demise but was acquired later. However, it is held under the same title and, at the valuation date, was undoubtedly occupied with and used for the purposes of the house. The point is not free from difficulty; but the Tribunal takes the view that the leasehold title, having been severed, was reunited in 1975. Thus the vegetable garden is part of the house and premises for the purposes of the Act.
- 4.3 The Tribunal considered whether there was "hope value" attached to development prospects for the vegetable garden. There is undoubtedly sufficient access for the purposes of a single dwelling house. The remaining garden would be large enough to satisfy most prospective purchasers. However, it would be back land development, as any new property must lie directly behind Tudor Cottage. It seems unlikely that, under current planning policy, planning consent could be obtained for residential development of the plot; the Tribunal however, considers that the distant prospect of future development might influence prospective buyers to some extent.
- 4.4 The house is not large enough or grand enough to fall into the "country house" category. It might more properly be described as a large cottage. The size of the gardens undoubtedly enhances the value. Relying on the knowledge and experience of its members and informed by the above-mentioned evidence (including Mr Ward's report) the Tribunal finds that the open market value on the valuation date (7 January 2005) was £385,000. The Tribunal considers that the valuation of Mr Ward is a little conservative.
- 4.5 The site is large for a property of this size and value. In the judgment of the Tribunal it represents 45 % of the total property value. Thus the Tribunal adopts a site value of £173,250. The apportionment adopted by Mr Ward (40%) would be appropriate in many cases; but is a little too conservative in this case. Rental yields vary from time to time and from place to place; but over a long period will tend to fall close to the average figure. Valuers in a particular locality generally opt for a conventional figure. The figure most generally used in this area is 7%. On that basis, the ground rent would be £12.128 p.a.
- 4.6 In this case, there are two possible leases under which the current value of the landlord's future losses fall to be assessed. On the evidence it is impossible to say under which of those leases the subject property is held. The current term ends either on 28 September 2080 or 28 September 2075. This makes a few pounds difference to the final purchase price. It can be argued that, as the burden of proof lies on the Applicant, the earlier date should be taken. On the other hand, the landlord could not evict the tenant without obtaining an order for possession. If the landlord applied to the court for possession, the burden of proof would be on him; thus arguably the latter date should be taken.
- 4.7 Valuers representing the parties would, in the view of the Tribunal, probably adopt a

compromise figure. The nearest complete number of years to the mid-point is 73 years; that is the figure adopted by the Tribunal.

- 4.8 A similar issue arises in relation to the current rent. But here, all the arguments appear to favour the tenant. The tenant would argue that the landlord cannot show which lease covers the subject property. Under the earlier lease, the rent payable cannot be proved; it could be a peppercorn rent. A rent of 25p per annum is, in any event, not worth collecting. The Tribunal accordingly disregards the rent under the current lease as not being proved or provable.
- 4.9 In the light of the above findings, the Tribunal concludes that the price payable for enfranchisement is £1,240.00. The detailed calculation is set out below.

**Geraint M Jones MA LLM (Cantab)**  
**Chairman**




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**LEASEHOLD VALUATION TRIBUNAL'S VALUATION**  
in accordance with The Leasehold Reform Act 1967 Section 9(1)

**St Clair's, Weston Green, Weston Colville, Cambs CB1 5NS**

**Assessment of Modern Ground Rent (Section 15 Rent)**  
**Standing House Approach**

	£
Entirety Value	385,000
Site Value 45%	173,250
Section 15 Rent @ 7%	<b><u>£12,128 p.a.</u></b>

<b>Current Term</b>	£
Rent 73 years – disregard Value	NIL

<b>Extended Term and Reversion</b>	
Section 15 Rent YP in perpetuity @ 7% deferred 73 yrs	12,128
Multiplier	0.1023
	1240.69
<b>Enfranchisement Price</b>	say <u><b>£1,240</b></u>