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

BIR/OOCU/OAF/2005/0101

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT
1967*

Applicant: Powerdeck Ltd (leaseholder)

Respondent: None

Subject property: 217 Darlaston Road
Walsall
West Midlands WS2 9SD

**Date of claim to acquire
freehold interest:** 3rd July 2004

Hearing: 30th August 2005

Appearances:

For the applicant: Miss Bromwich

Members of the LVT: Mr. D.B. Power FRICS
Mr. W M S Tildesley
Mrs N Jukes

Date of determination: 30th August 2005

Introduction

1. This is a decision on an application under the Leasehold Reform Act 1967 (the "1967 Act") made to the Leasehold Valuation Tribunal by Powerdeck Ltd, the leaseholder of the house at 217 Darlaston Road Walsall ("the subject property") as the result of an order from the Birmingham County Court dated 5th April 2005 directing that an application should be made for the determination of the amount of the price payable for the purchase of the freehold interest in the subject property. This is to be assessed in accordance with section 9 of the 1967 Act.
2. The Order directs that the intermediate leaseholder D G Lewis Estates Ltd be joined as a party.
3. Application was made to the County Court for an order vesting the freehold interest in the leaseholder under the provisions of section 27 of the Act as the freehold owner cannot be found. The amount assessed will advise the court of the appropriate sum to be paid into court under section 27(5) of the 1967 Act.
4. At the date of the original application to the court, the leaseholder held the subject property by virtue of an underlease dated 16th April 1973 for a term of 80 years less 3 days from 25th March 1936 at a ground rent of £5.00 per annum. However, since then, the Applicants have purchased the head leasehold interest.

Inspection

5. The Tribunal inspected the subject property on the morning of the hearing. Miss Bromwich was in attendance. The Tribunal noted that the property is a centre-terraced house of traditional construction, probably dating from the end of the 19th century. It comprises on the ground floor a front living room, a rear dining room and kitchen. On the first floor, 2 double bedrooms, a bathroom and WC. There is an open forecourt to the front, and a small rear garden, part of which is on the far side of a communal rear access path.
6. The house has been modernised to some extent and is in reasonable condition. Following a burglary, the central heating boiler has been stolen and the system was therefore inoperable. There has also been damage to the windows and doors in connection with that incident

Hearing and Representations

7. The Applicant, through its solicitor, had provided an expert's report and valuation, prepared by Nicholas J Plant BSc(Hons) MRICS of Silk Rowson Plant Ltd, Chartered Surveyors for the purpose of the hearing before the County Court. This provided an opinion of the market value utilising the accepted formula for a valuation under section 9(1) of the 1967 Act but without reference to the valuation criteria under the Act.
8. The submitted valuation was as follows:

Entirety Value of the freehold		75000.00	
Term			
Ground rent		5.00	
YP 11.5 years at 7%		7.7207	38.60
Reversion			
% of entirety relating to land 25%		18750.00	
Annual equivalent @7%		1312.50	
YP Single rate @7% for 50 years	13.8007		
Present value of £1 @7% for 11.5 years	0.459551	6.34	8324.04
Reversion to Standing Value		75000.00	
Present value of £1 @7% in 61.5 years		0.0156007	1170.05
Total			9532.70

9. Mr Plant did not attend the hearing and could not therefore be examined on the basis upon which he had arrived at his opinion.
10. At the hearing, Miss Bromwich gave evidence that agreement had been reached for the sale of her freehold interest (once the leasehold interest had been enfranchised) at a sale price of £67,500 with the purchaser reinstating the burglary damage. Based upon advice she had received from several selling agents, she did not believe there had been a material change in values for this type of property in this area since July 2004.
11. The Tribunal was advised by Miss Bromwich that, since the Court Order had been made, the intermediate interest has been purchased and D G Lewis Estates Ltd now have no further involvement in the matter.

Determination

12. The Tribunal carefully considered the valuation submitted by Mr Plant and the evidence from Miss Bromwich which was all of assistance in coming to a decision.
13. The valuation falls to be assessed under section 9(1) of the Act and the approach adopted by Mr Plant, assessing the value of the term followed by the deferred capitalisation of the modern ground rent calculated by reference a percentage of the standing house value, is agreed by the Tribunal in principle. The rates of return of 7% are also agreed. However, the separate capitalisation of the reversion to the standing value after the expiration of the current lease plus the 50-year extension is not agreed. This is not usually valued separately by virtue of the decision in *Haresign v St John the Baptist's College, Oxford* [1980] 255 EG 711 but included by valuing the modern ground rent in perpetuity deferred for the term of the current lease.
14. The Tribunal has been given no guidance why Mr Plant has adopted 25% as the percentage of the standing house value attributable to the site. Using their general experience of valuations of this nature, the usual

percentage is between 30% and 35%, depending on the nature of the property concerned, and no reason can be seen for deviating from this.

15. The agreed freehold sale price at £67,500 is strong evidence of that value at the valuation date which is the date of the original notice, 1st July 2004. This is supported by the general level of prices for properties of this type on offer in the near vicinity. Adjustment must however be made for the condition of the property as the standing house approach assumes that the property is in a reasonable condition in accordance with the repairing covenants of the lease. Accordingly the Tribunal, having weighed up all the facts, determines that the value should be £72,500

16. The Tribunal determines that the price payable for the freehold interest is:

Entirety Value of the freehold	72500.00	
Term		
Ground rent	5.00	
YP 11.5 years at 7%	7.7207	38.60
Reversion		
% of entirety relating to land 33%	23925.	
	00	
Annual equivalent @7%	1674.7	
	5	
Years purchase in perpetuity @7% deferred 11.5 years	6.57	
		10994
		.73
Total		11033
		.34
Say		11050

17. The valuation prepared by Mr Plant makes reference to the assessment of freeholder's reasonable legal fees. The County Court Order makes no reference to costs and costs are not part of the price payable. If the assessment of costs were to be in the jurisdiction of the Tribunal in this matter, it would determine that there were none because section 9(4) of the Act requires that costs must have been incurred and this is not the case here.

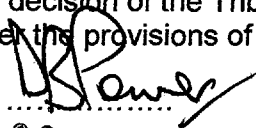
18. Whilst, at the date of valuation, the intermediate interest was still extant, since then it has been acquired by the Applicant and no apportionment of the price to be paid is therefore now required.

Decision

19. The decision of the Tribunal that the price to be paid for the freehold interest under the provisions of section 9 of the Act shall be £11050

Signed

Dated


 03 OCT. 2005