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

BIR/OOCU/OAF/2005/0103

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

Applicant: Mr Ronald Davis & Mrs Jane Davis (leaseholder)

Respondent: None

Subject property: 215 Darlaston Road
Walsall
West Midlands WS2 9SD

**Date of claim to acquire
freehold interest:** 1st July 2004

Hearing: 30th August 2005

Appearances:

For the applicant: Mrs Jane Davis

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 Mr and Mrs Davis, the leaseholders of the house at 215 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 leaseholders 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 leaseholders held the subject property by virtue of an underlease dated 22nd May 1967 for a term of 80 years less 3 days from 25th March 1936 at a ground rent of £3.50 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. Mrs Davis 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, kitchen, lobby bathroom and WC. On the first floor, 2 double and 1 single bedrooms. 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

Hearing and Representations

7. The Applicants, through their 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 | 80000.00 | |
| Term | | |
| Ground rent | 5.00 | |
| YP 11.5 years at 7% | 7.7207 | 38.60 |
| Reversion | | |
| % of entirety relating to land 25% | 20000.00 | |
| Annual equivalent @7% | 1400.00 | |
| YP Single rate @7% for 50 years | 13.8007 | |
| Present value of £1 @7% for 11.5 years | 0.459551 | 6.34 |
| | | 8878.97 |
| Reversion to Standing Value | | |
| | 80000.00 | |
| Present value of £1 @7% in 61.5 years | 0.0156007 | 1248.06 |
| Total | | 10165.63 |

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, Mrs Davis 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 £81,500 to include curtains and carpets with the vendor reinstating the burglary damage. She confirmed that the ground rent payable should be £3.50 and not £5.00 as indicated in the valuation prepared by Mr Plant. 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 Mrs Davis 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 Mrs Davis which was all of assistance in arriving at 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 as to 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 range 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 £80,000 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.
16. The corrected ground rent payable should be adopted in the calculation.
17. The Tribunal determines that the price payable for the freehold interest is:

| | | |
|--|----------|---------------|
| Entirety Value of the freehold | 80000.00 | |
| Term | | |
| Ground rent | 3.50 | |
| YP 11.5 years at 7% | 7.7207 | 27.02 |
| Reversion | | |
| % of entirety relating to land 33% | 26400.00 | |
| Annual equivalent @7% | 1848.00 | |
| Years purchase in perpetuity @7% deferred 11.5 years | 6.57 | 12132.12 |
| Total | | 12159.14 |
| Say | | £12150 |

18. 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.
19. 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

20. The Tribunal determines that the price to be paid for the freehold interest under the provisions of section 9 of the Act shall be £12,150

Signed



Dated 03 OCT 2005