

370

LEASEHOLD VALUATION TRIBUNAL

of the

NORTHERN RENT ASSESSMENT PANEL

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

Applicant:	Sally Ruth Lewis
Respondent:	Fairhold Ltd (represented by N Plotnek LLB)
Property:	117 Sunny Bank Road Bury Lancashire BL9 8LL
Date of Applicant's Notice:	18-May-05
Application to the LVT:	2-Mar-05
Hearing:	4-Oct-05
Members of the LVT:	Mrs E Thornton-Firkin Mr E Burton Mr D Jones
Date of Determination:	4-Oct-05

Background

1. This is a determination of the price payable for the premises known as 117 Sunny Bank Road, Bury, Lancashire BL9 8LL (the property) in accordance with Section 9 of the Leasehold Reform Act 1967 (as amended) for the grant of the freehold interest.
2. The Applicant served a notice dated 18 May 2005 on Form 1 of the Schedule to the Leasehold Reform (Notices) (Amendment) (England) Regulations 2002 on Estates and Management Ltd.
3. Although not submitted to the Tribunal by either party, evidence was given by the Respondent's representative that by a Notice to Reply dated 5 July 2005, the Respondent admitted the Applicant's right to purchase the freehold of the property.
4. An application dated 2 March 2005 was made to the Leasehold Valuation Tribunal (LVT) to determine a price. The Tribunal was not asked to determine any other matter.

Inspection

5. The LVT inspected the exterior of the property together with a next door neighbour of the Applicant and Mr N Plotnek representing the freeholder. The property was in a good residential area situated on a busy main road. It was built of brick and tile construction with a two storey flat-roofed extension to the rear. The plot was fully developed. From the exterior the LVT assumed that the house had four bedrooms which was confirmed by the neighbour.

The Lease

6. The underlease of the property was dated 25 February 1964 granted between H Dare & Sons and Mervyn Black for a term of 99 years (less three days) paying £10 per annum by half-yearly installments. This underlease derived from the superior lease between Bury Council and Dare (Solihull) Ltd for a term of 99 years from 25 February 1964 at a rent of £363 per annum. This lease included property other than the subject property.
7. The freeholder and the present superior lessor are Fairhold Ltd.

Preliminary

8. Directions dated 10 August 2005 were issued to the parties. Neither party produced a bundle within the 14 days prior to the Hearing as directed.
9. The Applicant had gone on holiday but had arranged for the Tribunal to be admitted into the rear garden but not into the interior of the house. She had not arranged to be represented at the Hearing. The evidence

received from Ms Lewis on her application form to the Tribunal as to the value of the freehold was that she had no idea.

Hearing

10. The Hearing was attended by Mr N Plotnek of Nick Plotnek Associates on behalf of Fairhold Ltd. Mr Plotnek confirmed that Fairhold Ltd was the freeholder and the head lessee. He considered that the two interests had merged.

11. Mr Plotnek said that his client had accepted the Applicant's notice as valid but he had not been consulted at that stage. He said there were defects in the tenant's notice including the differing amounts shown as ground rent and the lack of evidence in response to question 8. He was, therefore uncertain whether the freehold should be valued under Section 9 (1) or under Section 9 (1A) of the Leasehold Reform Act 1967.

12. Mr Plotnek and the Tribunal agreed that they should proceed with the Hearing valuing the freehold interest on the Section 9 (1) basis. Mr Plotnek asked, however, that the Tribunal would delay its decision until he had confirmed that this was correct. He wrote on 17th October that the Ratable value of the property on 31st March 1990 was £445 that was under the £500 threshold and therefore accepted that the property falls to be valued under Section 9(1).

13. In his evidence Mr Plotnek, which he gave orally and in the form of a written submission, asked the Tribunal to take into account the following:-

a) Method of Valuation

He asked that the "standing house" approach was used in the absence of any evidence of sales of building plots.

b) Value of the Property

He based the value on comparable evidence of agent's particulars for 4 Cartmel Close (£250,000), 33 Cartmel Close (£285,000) and 12 Randale Drive (£268,000). These properties all had 4 bedrooms. Those in Cartmel Close were freehold and 12 Randale Drive was leasehold with a £15 per annum ground rent. Mr Plotnek said that 33 Cartmel Close had a larger site.

Mr Plotnek said that in his proof of evidence he had put forward a capital value of £250,000 for the property which he said was also the tenant's view, but having inspected the property that morning, he considered that £275,000 was a more appropriate value.

c) Site Apportionment

In his proof of evidence Mr Plotnek had submitted a figure of 38% of the value attributable to the site based on the property's location and size, but he modified this view at the Hearing following his inspection. He considered the figure should be reduced to 35% as the site was well developed.

d)Yield

Mr Plotnek said although historically the rate used had been 7%, he asked the Tribunal to consider a lower yield following the Land Tribunal's decision in James Ashley Arbib v Earl Cadogan and suggested that 6% would be appropriate following downward money market rates.

14. Mr Plotnek's pre-inspection valuations were:-

Freehold Interest

Term

Ground Rent Receivable	£10.00	
YP 57.5 years @ 6%	16.08 (13.99)	£161 (£140)

Reversion

Value of Freehold with VP	£250,000	
Site Value @38%	£95,000	
PV £1 in 57.5 years @ 6%	0.03508 (0.02045)	£3,333 (£1,943)

Value of Freehold Interest	£3,494 (£2,083)
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The figures in brackets represent a 7% rate of interest.

Decision

15. The Tribunal accepted that the amount of annual ground rent payable was £10 per annum as shown in the lease and not the £4 or £5 shown in the tenant's notice.

16. The Tribunal considered that it was more appropriate to use a term of 57.75 years. This represented the time between the service of the notice of 18 May 2005 and the expiry of the lease on 22 February 2063.

17. The Tribunal agreed with Mr Plotnek that in the absence of any other evidence it was correct to use the "standing house" approach.

18. Comparables given in evidence were accepted by the Tribunal. However they considered that the amounts shown were asking prices and in the present market many purchasers were negotiating a reduction. The comparables were situated in a quieter location and 33 Cartmel Close had a

larger plot. They also took into account the date of the notice and their own knowledge of the area. The Tribunal therefore considered that the capital value of the subject property would be £250,000.

19. The Tribunal agreed with Mr Plotnek's revised figure of 35% for the site apportionment considering the development of the plot.

20. The Tribunal took into account the Land Tribunal's decision quoted by Mr Plotnek and the general climate of interest rates and considered that the appropriate yield rate should be 6.5%.

21. The Tribunal concluded that the purchase price payable for Fairhold Ltd's freehold interest should be £2,450 based on the following valuation:-

Term				
Ground Rent		£10		
YP 57.75 years @ 6.5%	13.95725		£140	
Reversion				
Freehold with VP		£250,000		
Site Value 35%		£87,500		
PV £1 in 57.75 years @ 6.5%	0.0263465		£2,305	£2,445
				say £2,450



Mrs E Thornton-Firkin
Chairman
1 November 2005