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LEASEHOLD VALUATION TRIBUNAL  
OF THE  
MIDLAND RENT ASSESSMENT PANEL

Ref: BIR/41UD/OAF/2005/0068

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

**Applicants:** Mr & Mrs F. Kenny (leaseholders)

**Respondent:** Parkinson Estates PLC (freeholder)

**Subject property:** 18 Oakhurst  
Lichfield  
Staffordshire  
WS 14 9AJ

**Date of tenant's notice:** 20 April 2004

**Application to the LVT:** 28 February 2005

**Hearing:** 4 May 2005

**Appearances:**

*For the applicants:* Mr A.W.Brunt

*For the respondent:* Mr. D.J.Coleman

**Members of the LVT:** Mr. A. P. Bell MA LLB  
Mr. S. Berg FRICS FSVA  
Mrs. N. Jukes

**Date of determination:** 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 & Mrs F. Kenny, the leaseholders of the house and premises at 18 Oakhurst Lichfield Staffordshire ("the subject property"). The application is under section 21(1)(a) of the 1967 Act for the determination of the price payable under section 9 of the 1967 Act for the freehold interest in the subject property.
2. The subject property is held under a Lease dated 1 November 1962 for a term of 99 years from 25 March 1960 at a ground rent of £35.00 per year. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was 55 years.
3. The applicants served on the respondent a tenant's notice dated 20 April 2004 claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act, and they subsequently made the present application.
4. The Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

## Subject property

5. The property comprises a detached house built in about 1961 on an average sized plot in a cul de sac and surrounded by similar houses as the subject property. The area of the site is approximately 280 square metres and has a frontage of approximately 9 metres to the road. The house is a two storey brick construction with a pitched tiled roof and a single integral garage. The accommodation comprises a porch, hall, living room/dining room, kitchen and conservatory on the ground floor and three bedrooms, a combined bathroom/ wc and also a separate wc on the first floor. The subject property has gas fired central heating and partial double glazing.

## Inspection and hearing

6. The Tribunal inspected the subject property on 4 May 2005 in the presence of Mr. Kenny, one of the leaseholders, and their representative, Mr. A.W. Brunt.
7. The subsequent hearing was attended by Mr. A.W. Brunt (representing the applicants) and Mr. D.J.Coleman (representing the respondent).

## Representations of the parties

8. Mr. Brunt on behalf of the applicants adopted as the basis of valuation under the 1967 Act the generally recognised three-stage approach normally attributed to *Farr v Millerson Investments Ltd* [1971] 22 P & CR 1055; [1971] 218 EG 1177. That approach involves (i) the capitalisation of the ground rent payable under the existing lease for the remainder of the unexpired term; (ii) the identification of a modern

ground rent (by decapitalising the site value); and (iii) the capitalisation of the modern ground rent as if in perpetuity deferred for the remainder of the unexpired term. The price payable on this basis is the sum of the capitalisations at stages (i) and (iii).

9. Mr. Brunt referred the Tribunal to five comparable properties in the relatively near vicinity to the subject property which are either on the market for sale or have been sold at prices ranging from £165,000 for a semi-detached house at 9 Oakhurst sold in October 2004 to £187,500 for a detached house at 55 Cherry Orchard currently on the market for sale at an asking price of £239,950. Mr. Brunt's view was that the two houses in Cherry Orchard, namely 55 and 57, were the best comparables as these appeared to be of the same size and design (with an integral garage) as the subject property, 57 Oakhurst having been sold in January 2004 (four months before the relevant date) for £172,450 while 55 Oakhurst is still on the market at an asking price of £239,950. On the basis of this evidence Mr. Brunt submitted that the standing house value of the subject property at the relevant date was £195,000. Mr. Brunt also submitted that the Tribunal should apply a 35 per cent figure in calculating the site value on the standing house basis, which was consistent with other decisions of Leasehold Valuation Tribunals of the Midland Rent Assessment Panel. Finally he submitted that the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) and decapitalising and recapitalising the site value at stages (ii) and (iii) should be 7 per cent which again was consistent with other decisions of Leasehold Valuation Tribunals of the Midland Rent Assessment Panel.

10. On the basis of those figures Mr. Brunt submitted the following valuation:

<u>Term:</u>		
Ground Rent	£35.00	
YP 55 years @7%	13.93994	£487.90
 <u>Reversion</u>		
Entirety Value	£195,000.00	
Site apportionment @35%	£68,250.00	
Section 15 Rent @ 7%	£4,777.50	
YP in perpetuity deferred 55 years @ 7%	0.34578	<u>£652.94</u>
		£2,139.84
		 say £2,140

11. Mr. Coleman on behalf of the respondent agreed with Mr. Brunt the Tribunal should apply a 35% figure in calculating the site value and that the appropriate yield rate to apply at all stages of the valuation was 7%.

12. Mr. Coleman submitted that the large circulatory space and poor design of the subject property provided what he termed as a "lazy build" on the site, and he cited in this respect the layout of the hall, staircase, landing and garage. He submitted that Tribunal should value the subject property on the basis that was a modern designed and built house had been constructed on the site of the subject property and not a 1960's house as the subject property is. As an example of a modern house in close proximity to the