

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

Ref: BIR/47UD/OAF/2005/0256

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

Applicant: Mr. and Mrs. G.C. Kefford (leaseholder)

Respondent: Unknown (freeholder)

Subject property: 7 Spetchley Close
Walkwood
Redditch
Worcestershire
B97 5NB

Relevant Valuation Date: 2 November 2005

Application to the LVT: 11 November 2005

Hearing: 26 January 2006

Appearances:

For the Applicants: Mr. J. Moore of Midland Valuations Limited

For the Respondent: The Respondent is unknown

Members of the LVT: Mr. A.P. Bell MA LLB
Mr. M. Williams FRICS
Mr. D. Underhill

Date of determination: 2006

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. G.C. Kefford, the leaseholders of the house and premises at 7 Spetchley Close, Walkwood, Redditch B97 5NB ("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 relevant valuation date in respect of the Applicants' claim to acquire the freehold interest in the subject property under the terms of the 1967 Act was 2 November 2005 being the date of the order of the Worcester County Court.
3. The subject property is held under a Lease dated 30 March 1987 for a term from 30 March 1987 to 28 September 2079 at an annual rent of £38 to 28 September 2013, at an annual rent of £57 from 29 September 2013 to 28 September 2046 and finally at an annual rent of £86 from 29 September 2046 to 28 September 2079. The unexpired term at the effective date of the Applicants' claim to acquire the freehold ("the relevant date") was 74 years.
4. The Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

Subject property

5. The property comprises a semi-detached house built in about 1987 on an average sized plot in an established residential area on the outskirts of Redditch. The house is a two storey brick construction with a pitched tiled roof having been improved by the Applicants by the construction of a fourth bedroom with an ensuite bathroom over the garage, a front porch and a conservatory, the extension of the kitchen, and the installation of gas fired central heating and double glazing.
6. The accommodation, as extended by the Applicants, comprises a hall, lounge, dining area and kitchen, conservatory on the ground floor and four bedrooms (one with an ensuite bathroom) and a bathroom/ wc on the first floor.

Inspection and hearing

7. The Tribunal inspected the subject property on 26 January 2006 in the presence of Mrs. Kefford, one of the Applicants.
8. The subsequent hearing was attended by Mr. J. Moore representing the Applicants. The

Respondent is unknown as is evidenced by an order of the Worcester County Court dated 2 November 2005.

Representations of the parties

9. Mr. Moore referred to three to two bedroomed houses in Spetchley Close sold during 2004 and 2005 at prices varying between £120,000 and £134,000 and, in the light of these, he submitted that a figure of £140,000 reflected the entirety value of the subject property. He submitted that the appropriate percentage to apply in calculating the site value on the standing house basis was 33% as the subject property was built on an averaged sized plot. Finally Mr. Moore submitted that the appropriate yield rate to apply at all stages of the calculation was 7% and, in support of this, he referred to three recent cases of Midland Leasehold Valuation Tribunals where this percentage had been adopted, namely 48 Chapel Lane Lichfield (BIR/41UD/OAF/2005/0133), 9 Marlborough Road Castle Bromwich (BIR/OOCT/OAF/2005/0248) and 9 Butlers Lane, Four Oaks, Sutton Coldfield (BIR/00CN/OAF/2005/0190), while admitting that in the first two of these cases no evidence had been submitted that a different rate other than the rate of 7% proposed by the applicants should be applied.
10. Mr. Moore's valuation in accordance with section 9(1) of the 1967 Act was as follows:

Term:

Current Ground:	£38 per annum	
YP 8 years @ 7%:	5.971	£226.90
Ground rent from 29 September 2013:	£57 per annum	
YP 33 years deferred 8 years @ 7%:	7.420	£422.24
Ground rent from 29 September 2046:	£86 per annum	
YP 33 years deferred 41 years @ 7%:	0.796	£68.46

Reversion:

Entirety value;	£140,000	
Site apportionment @ 33%:	£ 46,200	
Section 15 modern ground rent @ 7%:	£ 3,234	
YP in perpetuity deferred 74 years @ 7%:	0.0956	<u>£309.17</u>
		£1,026.77

Say £1,027

Decision

11. The Tribunal agrees with Mr. Moore that the entirety value is £140,000 and that the appropriate percentage to be applied to the standing house value in calculating the value of the site should be 33%. The Tribunal, as required by section 9 of the 1967 Act, have assumed that the entirety value has not been increased by the substantial improvements made by the Applicants at their expense, but have nevertheless assessed the entirety value to take account of the development potential value that the site had prior to these improvements being carried out.
12. The Tribunal's decision in *Cadogan* does give a very clear ruling that the yield rate should not be established by convention, whether 6% in London or 7% (or any other rate) elsewhere. The Lands Tribunal in *Cadogan* (paras 115 and 116) state that, while LVT decisions on questions of fact or opinion could be given little or no weight in other LVT proceedings and in proceedings of the Lands Tribunal, a decision of the Lands Tribunal "may be referred to when general guidance has been given on valuation principles or procedure". The decision in *Cadogan* should be regarded as such general guidance. For this reason the Tribunal, in determining the yield, have given the decision in *Cadogan* careful consideration. The starting point in *Cadogan* in calculating the yield rate was by reference to index-linked gilts yielding 2%, this representing a risk-free investment to which the Lands Tribunal added 1% to allow for the comparative illiquidity of an investment in a freehold reversion reflecting as it did the combined cost of purchase and sale of the reversion and some costs for delay (para 151). In addition, the Lands Tribunal added an additional 1½% for the costs of management of the investment, the fact that the asset might be destroyed and might be expensive to realise at the end of the term (para 152) making a total of 4½% as the yield rate adopted by the Lands Tribunal in the four cases where houses were the subject of the decision in *Cadogan*.
13. The decision in *Cadogan* (para 148) recognises that it may be necessary to make further adjustments to have "regard to factors which make the investment particularly attractive or more risky than some notional norm". The Tribunal have carefully considered what these factors might be in the light of *Cadogan*, and conclude that these include the location of the property (para 154)), the condition (para 156)), the age of the property with the greater risk of obsolescence (para 185), the length of the unexpired term (paras 167 and 168), and the size of the property (para 171).
14. The subject property is a semi-detached house in a good residential area in Redditch. It is not, however, in any significant way, whether in its location, value or attractiveness, comparable to the properties in the prime central London residential area which were the subject of the decisions in *Cadogan*. Having regard to the various factors referred to in paragraph 12 above the Tribunal consider that the appropriate adjustment to make in this case is to increase the yield rate of 4½% (adopted in four of the five cases in *Cadogan*) to 6½% to achieve a just and fair result reflecting as it does the difference between not only the value and quality but also the risk attaching to an investment in the subject property in Redditch compared with an investment in the exceptionally expensive and desirable high class properties in prime central London residential locations, which were the subject of the decisions in *Cadogan*. Accordingly the Tribunal determine that the

appropriate yield rate in this case is 6½%.

15. Adopting the yield rate of 6½% and applying figures of Years Purchase from Parry's Valuation Tables the Tribunal calculates the price payable as follows:

Term:

Current Ground rent:	£38 per annum	
YP 8 years @ 6½ :	6.0888	£231.37
Ground rent from 29 September 2013:	£57 per annum	
YP 33 years deferred 8 years @ 6½%:	8.132	£463.52
Ground rent from 29 September 2046:	£86 per annum	
YP 33 years deferred 41 years@ 6½:	1.018	£ 87.55

Reversion:

Entirety value:	£140,000	
Site apportionment @ 33%:	£ 46,200	
Section 15 modern ground rent @ 6½%:	£ 3,234	
YP in perpetuity deferred 74 years @ 6½%:	0.14562	£437.30
		£1,219.74

Say £1,220

16. Accordingly the Tribunal determines the price payable by the Applicants under section 9 of the 1967 Act for the freehold interest in the subject property at £1,220. In reaching its determination the Tribunal has had regard to the relevant law, their inspection of the subject property and the relevant comparables, the representations of the parties and the Tribunals' own knowledge and experience as an expert tribunal, but not any special or secret knowledge.

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A P Bell
Chairman
Dated

2006