

RESIDENTIAL PROPERTY TRIBUNAL SERVICE**LEASEHOLD VALUATION TRIBUNAL**

Property: 1 New Park Lane, Aston, Hertfordshire, SG2 7ED

Applicant Leaseholder: Alan Paul Loffler

Applicant's Solicitor: Mrs Vivienne Hamilton, Hamilton Davies, 28 High Street, Stevenage SG1 3HF

Applicant's Surveyor: Mr JEG Lowe of McNeill Lowe and Palmer, Charter House, Marlborough Park, Southdown Road, Harpenden, Herts, AL5 1NL

Respondent Freeholder: Unknown

Case number: CAM/26UD/OAF/2006/0012

An application to the Tribunal under Section 21 Leasehold Reform Act 1967 (the 1967 Act) to determine the amount to be paid in to court pursuant to Section 27(5) of the 1967 Act as amended by the Commonhold and Leasehold Reform Act 2002

Tribunal: Mr JR Morris (Chairman)
Miss M Krisko, BSc (Est Man), BA, FRICS
Mr JR Humphrys FRICS

Hearing Date: 1st September 2006

Enfranchisement price determined by Tribunal **£1,242**

DECISION

Preliminary

1. An Application to the Leasehold Valuation Tribunal was been made pursuant to an Order of the Hitchin County Court in case number 6H100352 dated 9th March 2006 (the Order). Application to the Court for the Order was made on the 17th February 2006.
2. The Order provides that the Applicant is not required to any further steps for the purpose of tracing the Landlord(s) of the Property whether by advertisement or otherwise.

3. The Order also provides for a Leasehold Valuation Tribunal to determine the price payable in accordance with section 27(5) of the Leasehold Reform Act 1967.
4. The Application to the Leasehold Valuation Tribunal was made on the 15th June 2006.

Documents received:

5. Documents received relevant to the Application are:
 - a) A Claim Form (CPR Part 8)
 - c) Official Copy of Register Entry Title Number HD230124 relating to the Leasehold title
 - d) An expert's Report and Valuation
 - f) A Court Order dated 9th March 2006
 - g) Draft Transfer

The Subject Property

6. The Tribunal was unable to gain admittance and therefore it inspected the exterior of the Subject Property only. For further details the Surveyor's report is relied upon. The Property is an end of terrace house of brick under a pitched slate roof constructed circa 1900. It has a upvc conservatory at the rear. There is no off road parking. There is a garden to the front and rear.
7. The Surveyor's Report states that the accommodation comprises a lounge, lobby, bathroom, kitchen and conservatory on the ground floor. On the first floor there are two bedrooms. All main services are connected and there is gas fired central heating to radiators.

The Lease

8. The Property Register of the Leasehold Title Number HD230124 states that the Lease under which the Property is held was dated 20th October 1564 for a term of 500 years from 1654 between (1) Sir John Butler and (2) Henry Kent. The rent reserved if any is not known.
9. The Property Register states that the Subject Property has the benefit of the rights granted but is subject to the rights reserved by an Assignment dated 10th July 1987 between (1) Paul Donald Sapsed and Henry Ernest Sapsed and (2) Safeland Plc. The Tribunal noted from the draft transfer submitted that the Subject Property has the benefit of a right of way to the rear over of neighbouring property giving access to the road from the back of the Subject Property.
10. The Proprietorship register states that Good Leasehold Title is granted to the Applicants.

The Application

11. The Applicant has applied to enfranchise the Subject Property under the provision of the Leasehold Reform Act 1967. A Court Order dated 9th March 2006 directed that the

matter is transferred to the Leasehold Valuation Tribunal to determine the valuation of the freehold reversion of the Property pursuant to section 27(5) of the Leasehold Reform Act 1967.

The Law

12. The Leasehold Reform Act 1967 as amended by the Commonhold and Leasehold Reform Act 2002 (the 1967 Act) enables tenants of houses on long leases at low rent to enfranchise (acquire the freehold) their properties.
13. Section 21 of the 1967 provides that if the parties do not agree a price an application may be made to the Leasehold Valuation tribunal to determine the price. The valuation methods are set out in section 9 of the 1967 Act.
14. Section 27 of the 1967 Act provides for an application to the court where the landlord cannot be found to dispense with notice and require a Leasehold Valuation Tribunal to determine a price under section 9 to be paid into court and terms of transfer to be filed with the court.
15. Section 9 of the 1967 Act provides for one of three methods of valuation to determine the price depending on the rateable value of the property. The relevant method in this case is that set out in section 9 (1) which requires the tribunal to assume that at the end of current term, the tenant has applied for and been granted an extended lease under section 14 of the 1967 Act for a term of 50 years from the date of the existing tenancy at an open market ground rent. The basic principle is that the enfranchisement price should compensate the landlord of the loss of rents (including any current arrears) until the extended term date and the loss of the freehold at that time.
16. The Tribunal must therefore, as at the valuation date:
 - Ascertain and determine the current open market value of the Subject Property as it stands taking into account its full development value. This is the starting point of the calculations and is assessed for the Subject Property based, as far as possible, upon the sales of comparable properties close to the valuation date.
 - Determine the site value of the Subject Property (this is assessed as a percentage of the open market value)
 - Assess the annual open market modern ground rent under section 15 of the Act which is calculated as a percentage of the site value
 - Ascertain and add the amount of any recoverable arrears
 - Calculate the current value of the lost future rents (using actuarial tables)
 - Calculate the open market value of the Subject Property at the end of the extended lease at today's prices (using actuarial tables)

This will give the enfranchisement price, which relates only to the site value. In some cases an additional calculation is made to compensate the landlord for the loss of the house on the land where it is likely that this will still be standing at the end of the extended term. This is referred to as the *Haresign* rule after the case of that name.

The Evidence

17. A Hearing was held following the Inspection on the 1st September 2006 at which the Applicant's solicitor attended.
18. The Surveyor submitted that the Subject Property was unlikely to have had a rateable value of more than £200 as at 23rd March 1965 and therefore the valuation method as set out in section 9(1) of the 1967 applied.
19. The Applicant's Surveyor referred to two comparable properties:
5 New Park Lane, which is on offer at £187,500 but is a mid terrace.
11 New Park Lane, which had been valued by a Leasehold Valuation Tribunal in December 2005 at £195,000. The Applicant's Surveyor submitted that the Subject Property was on balance most similar to 11 New Park Lane and should be valued at £195,000.
20. The Applicant's Surveyor submitted a valuation calculation as follows:

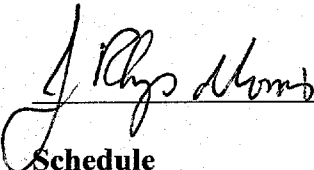
Ground rent	unknown	
Capitalisation rate	7%	
Adjusted freehold value	£195,000	
Remaining Term	58 years	
Term	nil	
Reversion		
Standing house value	£195,000	
Site Value at one third	£65,0000	
Yield at 7%-Section 15 modern ground rent	£ 4,550	per annum
YP for 50 years @ 7%	13.8007	
PV £1 57 years @ 7%value	.019579	.2702039
		£1,229
Reversion to standing house value	£195,000	
PV £1 @ 7% deferred 107 years	.001	£195
Enfranchisement price		£1,424

21. A draft Transfer was submitted to the Tribunal.

Determination

22. The Tribunal agreed that the method of valuation specified in section 9(1) of the 1967 Act applied.
23. The Tribunal considered the comparable evidence submitted by the Applicant's Surveyor and agreed the property was comparable. The Tribunal also took account of the Valuation date of 17th February 2006. The Tribunal agreed that the Subject Property should be valued at £195,000.

24. The Tribunal agreed with the Surveyor that a value of one third of the entire value was appropriate. The Tribunal adopted the figure of 7% as being one that had been recently used in this area. Although the *Haresign* rule addition had been included in the Applicant's Surveyor's calculation the Tribunal were of the opinion that it should not be applied in this case. The addition under the Rule is normally only applied where the remaining term is very short.
25. The Tribunal determined that the enfranchisement price is £1,242 and the calculations are set out in the Schedule to this Decision.
26. The Tribunal approved the Transfer which specifically recites the benefit of the rights granted and reserved by the Assignment dated 10th July 1987 between (1) Paul Donald Sapsed and Henry Ernest Sapsed and (2) Safeland Plc.
27. Generally in respect of an application under the 1967 Act the Applicant must pay the Landlord's costs however in the case of an Application under section 27 the landlord does not incur costs and therefore the Tribunal make no order as to costs.

 JR Morris (Chair)
Schedule

Leasehold Valuation Tribunal's Valuation

In accordance with The Leasehold Reform Act 1967 Section 9 (1)

Standing House Approach

Current ground rent	Nil		
Entirety Value (Open Market Value)	£195,000		
Site Value one third of OMV	£65,000		
Section 15 Rent @ 7% of Site Value	£4,550 per annum		
YP 7% in perpetuity	14.2857		
deferred 58.5 years @ 7%	0.01911	0.273	£1,242
Enfranchisement price			£1,242