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RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL FOR THE EASTERN RENT ASSESSMENT
PANEL

Case Number: CAM/38UE/OAF/2005/0008

Leasehold Reform Act 1967 ("the Act")

**In the matter of: Woodruff Orchard, Woolstone Lane, Uffington, Faringdon,
Oxfordshire, SN7 7QL.**

Parties: Hubert Malcolm Cameron Smith (Deceased) Applicant

Missing Freeholder Respondent

Representatives:

Mr J Clargo	Counsel for the Applicant
Mr J G Evans	Expert Witness for the Applicant
Mr Mayes	Expert Witness for the Applicant

Hearing Date: 27th March 2006.

Tribunal members:

**Mrs H Bowers MRICS
Mr J J Sims LLM
Mr R V N Auger FRICS**

Decision Date: 25th April 2006

Decision: Premium to be paid for the enfranchisement £2,368.

1. Introduction

- 1.1 This matter relates to Woodruff Orchard, Woolstone Lane, Faringdon, Oxford (the subject property) and an application pursuant to Section 27 of the Leasehold Reform Act 1967 ("the Act"). An application dated 24th August 2005 was made to the Tribunal for the determination of the premium to be paid for the purchase of the freehold interest in the subject property. Mr Cameron-Smith has since died and probate was granted to Mr D J Rich on 3rd February 2006. Under Section 6A Mr Rich has the right as Executor to exercise the deceased's claim to the freehold interest.

2. The Law

- 2.1 Section 1 of the Act provides tenants of leasehold houses the right to enfranchise, if the tenancy is a long tenancy and at a low rent. Section 9 sets out the provisions to be considered for the calculation of the premium to be paid. Section 27 of the Act sets out the procedure to be followed in the circumstances when a landlord cannot be found. In most cases an application is made to the Court and the matter is usually referred to the Leasehold Valuation Tribunal for a determination as to the appropriate sum to be paid for the freehold interest. The valuation date is usually fixed as the date of the original application to the Court. In this case the application was first made to the Leasehold Valuation Tribunal and the parties will be required to make an application to the Court in order that this matter can be concluded.
- 2.2 In these current circumstances it was agreed that the valuation date for the purpose of this LVT case should be 27th March 2006, the date of the hearing. This valuation should remain valid for three months from the valuation date and gives the parties ample time to make their appropriate application to the Court.

3. Inspection

- 3.1 Prior to the hearing the Tribunal had the opportunity to carry out an inspection of the interior and exterior of the subject property. There was also an

opportunity to make an external inspection of one of the comparables that was to be referred to at the hearing.

3.2 The subject house is a grade II listed building. It is a detached house dating from approximately the sixteenth or seventeenth century and is essentially a timber framed house with solid walls under a thatched roof. There have been subsequent alterations and additions to the house. The house is two storey and the layout is quite jumbled. However, the ground floor accommodation provides kitchen, two living rooms, a small sun room and a storage area, there are stairs from one of the living room and that provides access to a ground floor bathroom. On the first floor there are three large bedrooms and a large landing. The property has oil fired central heating, we understand that whilst it has mains water, drainage is by a septic tank. The cottage is charming and has numerous attractive features. However, the property is un-modernised and the electrics and the plumbing, amongst other aspects, would require some attention.

3.3 There are good sized gardens around the property and the western side to the plot is bounded by a small stream. Approximately 50% of the gardens are owned freehold and therefore these areas are not considered in this calculation. Current access to the leasehold plot is over the freehold gardens. Originally the access for the subject plot would have been from a lane on the southern boundary. It is noted that the leasehold plot in isolation, presents a far different property that would appear from an initial inspection with the freehold land. Access to the plot and the garage at the rear would be far more restrictive and the alignment of the house would be displeasing.

3.4 The house is in a very rural position with views of the white horse at Uffington. However, there appears to be a lack of local amenities, although it was noted there was a bus stop close to the property, but we were informed that the service was very infrequent.

4. The Lease

- 4.1 Although many papers were submitted to the Tribunal, there was no copy of the lease for the subject property. However, it is understood that the lease is for a period of five hundred years dating from the fourth day of February in the tenth year of the reign of Queen Elizabeth I, 1569. The original parties to the lease were William Weldon of Cookham, the landlord and Edward Lovelock, tenant. There are no details as to the rent and it is assumed to be a peppercorn.

5. Hearing

- 5.1 Mr Clargo produced Land Registry copies of the freehold garden land that is adjacent to the leasehold land. These documents illustrated that there were no rights of access over the freehold land and that access to the subject land is limited to the lane on the southern boundary.

- 5.2 In respect of which valuation assumptions are to be made, Mr Evans had carried out some research into the rateable value of the property. There are no records indicating the rateable value of the house in 1967. However the rateable value in March 1963 was £98 and in December 1969 the rateable value was £102. It seems logical that the rateable value of the property at March 1965 was less than £200. In March 1990 the rateable value was £276. Accordingly, the property is to be valued under Section 9(1) of the Act.

- 5.3 Mr Mayes advised that the entirety value of the house is £400,000 and this was based under open market sales in the close proximity. However on being questioned by the Tribunal Mr Mayes indicated that the valuation date had been assumed to be 24th August 2005. As we were using 27th March 2006 as the valuation date it was stated that there had been an increase in house values in the period of between 7 to 8%. Accordingly, the entirety value would now be in the range of £420,000 to £430,000.

- 5.4 Mr Evans has adopted a yield of 7%. No market evidence was produced to support the yield. Mention was made of three other missing landlord cases in

the Eastern Leasehold Valuation Tribunal area where yields of 7% had been adopted.

5.5 Regarding the percentage to be adopted to determine the site value, Mr Evans had used 30% in his original valuation, but had increased this to 40% after considering three other missing landlord cases in the area.

5.6 It was felt that no Haresign addition was appropriate in this case. Although the property is listed, the lease expiry is some time hence, in 63 years. Listing of a building does not necessarily ensure that a building is handed back at the end of a lease in repair. In fact the building could be quite a liability for the landlord at that stage.


6. Determination

6.1 We are satisfied that the investigations carried out by Mr Evans showed that the criteria for a valuation under Section 9(1) had been met and the property was to be valued in accordance with the assumptions of Section 9(1).

6.2 The Tribunal next considered the entirety value of the subject property. Given Mr Mayes evidence as to the current level of capital values in the area and to our own knowledge of the market, we are satisfied that a figure of £420,000 would be appropriate value to place on the subject property as its entirety value. This value takes account of the physical constraints of the site when considered in isolation to the adjoining freehold land.

6.3 The Tribunal's preference is to have evidence before it of market yields. We acknowledge that such evidence is difficult to produce in a form that is free from other influencing factors. However, it is possible to produce market evidence from other property transactions and to make adjustments to reflect any differences from the market evidence, in order to contrast it with the property we are currently considering. No market evidence was produced, only reliance upon past LVT decisions. However, given our knowledge of the market we do not consider that a yield of 7% would be unreasonable in this case. Accordingly a yield of 7% has been adopted in this case.

- 6.4 Turning to the issue of the site value in contrast to the entirety value, no evidence was produced to support the figures applied by Mr Evans. The percentage used was increased from 30% to 40% and this was taken from previous LVT decisions for missing landlords. The adoption of 40% is not unreasonable and again this figure is adopted in the Tribunal's valuation.
- 6.5 Finally, the Tribunal considered the question of the Haresign addition. The subject property is a listed building and therefore it is highly likely that the building will continue to stand for some time in the future. Yet it is noted that the current lease has 63 years unexpired. At the end of the current lease and the extended lease, provided for by the valuation assumptions, the building will be another 113 years old. The process of listing does not guarantee the condition of the building and we acknowledge the point made by Mr Evans that the repairing liability for the property may well exceed the value of the house after 113 years. The future of the house is far from certain given the length of time involved. Therefore the Tribunal agreed with Mr Evans that a Haresign addition would be inappropriate in this case.
- 6.6 The Tribunal has taken the above factors into account and determines that the premium to be paid for the freehold interest is £2,368 and the valuation is attached to these reasons in Appendix 1. The Tribunal notes that the Applicant will now need to make an application to the court in order to proceed with this matter. The Tribunal confirm that the valuation in this decision would be valid for three months from the 27th March 2006.



Chairman

Helen C Bowers

Date 25/4/06 .

Appendix 1

Valuation of Woodruff Orchard, Woolstone Lane, Farringdon.

Valuation Date: 27th March 2006.

Existing Ground Rent	Peppercorn	
YP 63 years @ 7%	<u>14.0845</u>	£1
Reversion to Modern Ground Rent		
Site Value @ 40% of £420,000 is £168,000		
Decapitalized @7%	£11,760	
YP in Perp after 63 years @ 7%	<u>0.20124</u>	£2,367
Total Premium		£2,368
		Say £2,368