

**SOUTHERN RENT ASSESSMENT PANEL AND
LEASEHOLD VALUATION TRIBUNAL**

**In the matter of section 9 and section 27 of the
Leasehold Reform Act 1967 (as amended)**

**and in the matter of Box Cottage, 59 Oldmixon Road, Oldmixon, Weston super
Mare**

Case Number: CHI/00HC/OAF/2006/0010

Upon the application of Ms Linda Ann Moore (“the Applicant”)

Inspection 16th January 2007

Determination 22nd January 2007

The matter was considered in the light of written representations without a hearing

Decision of the Tribunal

Issued: 25th January 2007

Tribunal

Mr R P Long LLB (Chairman)
Mr M J Ayres FRICS

Decision

1. The Tribunal has determined for the reasons set out below that the price payable by the Applicant, which in this case is to be paid in to Court in accordance with the Order dated 26th September 2006 mentioned below, for the freehold reversion in this matter is £6785-00. The matter was determined by the Tribunal upon inspection of the property and consideration of the papers, but without a hearing.

Reasons

2. Box Cottage is a three-bedroom semi detached cottage on a site at the corner of Winterstoke Road and Oldmixon Road in Weston super Mare. The Tribunal inspected it in the presence of the Applicant on 16 January 2007. It was plainly built very many years ago, but the Applicant's evidence to the tribunal is that the precise building date is not known. The construction is not apparent upon superficial inspection because the external walls are covered with roughcast, but the roof is tiled, and large beams are apparent internally. Downstairs there is an entrance hall, a large kitchen, a living room and a bathroom. There are three bedrooms upstairs. The property is in no better than average condition and, as the Applicant's valuer noted in his report, might benefit from internal and external redecoration and general updating. The plot is quite large, and there are three outbuildings of good size in the rear garden.
3. The property is held by the Applicant for the residue of a term of three hundred and fifty years granted by a lease dated 10th March 1689 between Humfrey Steare and others of the one part and George Eades of the other part. That lease reserved a rent of ten shillings per annum of which the sum of five pence was informally apportioned as the rent payable in respect of the property by an assignment in 1977. The Applicant says that she has never paid any rent during her period of occupation (that is to say, since 1995). The lease now has thirty-two years left unexpired.
4. The whereabouts of the reversioner to the 1689 lease is unknown. The Applicant has given formal evidence of her entitlement to have the freehold in a statement prepared for the Bristol County Court made by her on 24 April 2006. Her claim was issued by that Court on 25 May 2006, and that date becomes the valuation date for the purpose of the present application to the tribunal by virtue of the combined effect of the provisions of section 9(1), section 27(1) and section 37(1)(d) of the Act.
5. On 26th September 2006 Bristol County Court made an Order that this claim be referred to this Tribunal for determination of the amount that the applicant should pay into Court. The amount that the tribunal is to determine is the 'appropriate sum' defined in section 27(5) of the Act as follows:

'The appropriate sum which in accordance with sub section (3) above, is to be paid into Court is the aggregate of:

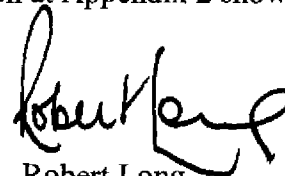
- a. such amount as may be determined by (or on appeal from) a leasehold valuation tribunal to be the price payable in accordance with section 9 above, and
- b. the amount or estimated amount as so determined of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.'

Section 9 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation.

6. The Applicant supplied a valuation made by Mr T P E Garner FRICS of Messrs Garner Lamb of Weston super Mare. After describing the property and explaining the Applicant's entitlement to have the freehold under the Act, he went on to carry out a valuation of the type required by section 9 of the Act. He said that he had taken comparable evidence from similar three-bedroom accommodation in the same area, but did not particularise it, so that the Tribunal was unable to inspect those comparables to satisfy itself of their suitability.
7. Mr Garner put the current open market value of the property at £125,000. He did not specify that that was the value on the valuation date, but the Tribunal inferred that that was what he intended. His valuation is set out in Appendix 1 to this decision, and it will be seen (leaving aside the matter of the value of the ground rent) that he determined a modern ground rent of £2625-00 based on a site value of the 30% of the open market value of the whole and a rate of return of 7%. The Tribunal saw no reason, using its collective knowledge and experience of the housing market in Weston super Mare, to take a figure other than the £125,000 proposed by Mr Garner as the open market value of the property, and it agreed with his methodology and workings to arrive at the modern ground rent of £2625-00.
8. However, it was unable to accept his methodology in determining the reversionary value insofar as it related to the deferment rate that he used. Although Mr Garner did not state the deferment rate that he had taken, it was a simple matter to determine from the published tables that the multiplier of 1.63916 that he showed related to the purchase of a reversion for 32 years at 7%. That figure has been commonly used and accepted in the Weston super Mare area (and indeed further afield) for many years, but overlooks the decision of the Lands Tribunal in the case of *Earl Cadogan and others v Sportelli [LRA 50 2005]* ("Sportelli"). That decision indicated that in the absence of special circumstances the appropriate deferment rate to be employed in enfranchisement calculations is 4.75% for houses and 5% for flats.
9. The Lands Tribunal went on to say in Sportelli that the rates laid down there should be used generally unless there was good local reason to the contrary. The Tribunal accepts that Sportelli rightly draws attention to the facts that deferment rates have for long been stationary and that evidence from the property market does not reflect the no-act world that valuations of this sort must reflect. Thus the Lands Tribunal has indicated that evidence other than

that from the property market, such as indications from the financial markets, may be used to help determine the appropriate rate. However this Tribunal considers that there is good reason in the Weston super Mare area to depart from the guidance that the Lands Tribunal has given in the case of properties like Box Cottage, although it recognises that the Sportelli decision has drawn attention to the fact that deferment rates, even in Weston where 7% has been commonly adopted in practice for some years, have perhaps remained too long at that level.

10. In this case there is no material ground rent to be paid. The sum of five pence is of no practical significance. Even allowing for the care with which one must approach open market evidence in cases like these, the market in Weston super Mare has seen a rise in value for property of this nature that has not been nearly as marked as that in other parts of the country, or indeed even in other, perhaps more favoured, parts of Weston super Mare itself. Properties of this sort in the Weston area compare very unfavourably indeed with the sort of low risk and high quality investment in Central London that the Lands Tribunal was dealing with in Sportelli.
11. It appears at present unlikely that future growth in values for this type of property will keep pace with value growth for better quality properties in better locations and this Tribunal is satisfied for that reason that a purchaser in the open market in a no-act world, would reflect this risk by requiring a higher than average rate of return on his investment. There is no doubt at all that he would do so in the real market. If this Tribunal were to apply the deferment rates recommended in Sportelli in a case like this it would produce a result that certainly would not be achieved in the open market for this sort of property in the locality, and one that in its judgement would not be achieved in the no-act world either. .
12. The Tribunal therefore determined that an appropriate deferment rate in this case is 6%, rather than either Mr Garner's 7% or the 4.75% that would be used if the guidance in Sportelli were strictly adhered to. That rate recognises that properties of this sort, at the other end of the market from property like that in Sportelli, are unlikely to evoke the same response from investors. Even so, the rate adopted by the Tribunal produces a noticeably different figure from that calculated by Mr Garner, as the Tribunal's valuation at Appendix 2 shows.



Robert Long
Chairman

RL January 2007

Appendix 1

Mr Garner's Valuation

| | |
|---|----------------|
| | £ |
| Current Value of the Ground Rent | 0-50 |
| Years Purchase for 32 years @7% | <u>12-3244</u> |
| | 6-16 |
| Say | 6-00 |
| Calculation of Value of the reversion to a freehold | |
| Present value of the house | 125,000-00 |
| Site value @ 30% | 37500-00 |
| Modern Ground Rent @ 7% | 2625-00 |
| Years purchase of a reversion deferred 32 years | 1.63916 |
| = £4302-08 | |
| Say | 4300-00 |
| Current value of lease | <u>6-00</u> |
| | 4306-00 |
| Say | <u>4300-00</u> |

Appendix 2

Tribunal's Valuation

| | |
|--|----------------|
| Current Value of the Ground Rent | 0-50 |
| Years Purchase for 32 years @7% | <u>12-3244</u> |
| | 6-16 |
| Say | 6-00 |
| Calculation of Value of the reversion to a freehold | |
| Present value of the house | 125,000-00 |
| Site value @ 30% | 37500-00 |
| Modern Ground Rent @ 7% | 2625-00 |
| Years purchase of a reversion deferred 32 years @ 6% | 2.58262 |
| | £6779-00 |
| Current value of lease | <u>6-00</u> |
| Enfranchisement Price | <u>6785-00</u> |