

**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 10 Saxby Close Worle Weston super Mare BS22 7UP

Case Number: CHI/OOHC/OAF/2007/0020

Upon the application of Mrs S C Hodges ("the Applicant")

Inspection 8th August 2007

Determination 8th August 2007

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

Decision of the Tribunal

Issued: 17th September 2007

Tribunal

Mr A D McCallum Gregg (Chairman)
Mr J S McAllister FRICS

Decision

1. The Tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion in this matter is the sum of £2,050.

Reasons

2. 10 Saxby Close ("the property") is a two storey house built in about 1982 by Comben Land Holdings Limited. The property is of rendered cavity construction being the middle unit of a terrace of five with pitched tiled roofs and a single storey extension at the rear.

The accommodation comprises a small entrance hallway, a living room open to the kitchen/dining area and to the extension at the rear. The stairs from the living room lead to the first floor landing with one double bedroom and one single bedroom, a bathroom and WC combined together with an airing cupboard.

Outside there is a front garden area with a single parking space to the road separated by a shared footpath.

To the rear there is an enclosed rear garden and a further small section of garden to the east of the property separated therefrom by a public footpath. All mains services are connected but there is no central heating.

3. The property is built upon land that was part of that demised by a sixteenth century lease ("the lease") granted on 1st September 1557 by Catherine Wallop of which we understand no copy is known now to exist. The demise was in favour of John and Isabel Thomas for a term expiring in 2057 at an annual rent of £1-6-9d (£1-34). We are informed that no rent is paid by the lessees of the property under this lease. The whereabouts of the lessors or beneficiaries under this lease are now unknown. The Applicants hold the property as assignees under the lease.
4. The Applicant applied to the Weston super Mare County Court to have the property vested in her pursuant to section 27 of the Leasehold Reform Act 1967 (as amended) ("the Act"), which deals with applications where the whereabouts of the landlord are unknown, on terms to be determined by this tribunal and the Court's order is dated the 2nd May 2007. 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.'

5. 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. The effect of section 27(2)(a) is that the valuation date is the date on which the application for an Order was made to the Court.
6. There was before the tribunal a valuation report by Messrs Stephen and Co, Chartered Surveyors and dated 21st May 2007, that adopted the "standing house" method of calculation. The tribunal is satisfied that that is an appropriate approach in the present case. There is unlikely to be evidence of sales of vacant sites because the locality in which the property stands has been fully developed for some years.
7. For the purpose of establishing the standing house value of the property on the valuation date Messrs Stephen & Co had supplied details of sales of two comparable properties. 14 Elton Road sold in October 2006 at £124,950 and 27 Longdown Drive also sold in October 2006 at £127,500.
8. The standing house value requires an assumption that the property is freehold, has been fully modernised and is in good condition to arrive at the 'entirety value' on which the modern ground rent is to be based. There was no indication in Messrs Stephen & Co's valuation that those points had been taken into account, as the valuation appeared, from the information they gave, to proceed on a straightforward comparison of the indexed prices for the properties as they stood at the time of sale.
9. Messrs Stephen & Co argued that the site value should be taken as 27.5% of the entirety value which they consider to be the sum of £120,000.
10. The tribunal accepted Messrs Stephen & Co's representation that a modern ground rent in this locality might be established using a 7% rate of return on the site value.
11. For several reasons stated Messrs Stephen & Co had taken a deferment rate of 6% rather than the 4.75% that might be indicated by the decision of the Lands Tribunal in *Earl Cadogan and others v Sportelli* [LIM 50 2005] ("Sportelli").

The Tribunal recognised that there is some force in the argument that the absence of a ground rent in these cases can be regarded in this context as a particular feature that may indicate some departure from the rates mentioned by the Lands Tribunal as does the absence of a freeholder who can enforce the freehold covenants. It bore in mind that the property in Sportelli was a high value, low risk central London property, the market for which bears very little practical relationship for a property of this type in its location, and in an area where the rise of property prices generally has not been nearly as rapid as it has in central London. Those factors in its judgement produce a risk factor that may be regarded as higher than that for a reversionary investment of the sort considered in Sportelli. It therefore adopted the deferment rate used by Messrs Stephen & Co of 6% which it considers to be a more accurate estimate of the

sort of deferment rate that might be applied in the open market in the Weston super Mare area for a property like this.

12. The tribunal therefore accepted Stephen & Co's valuation which was:-

Ground rent reserved:	Nil
<u>Reversion</u>	
Estimated site value (27.5% of £120000)	33000.00
Modern Ground rent @ 7%	2310.75
YP in perpetuity @6% deferred 50.33 years	<u>0.8877</u>
Total	£2050.59

But say £2050

13. The amount payable for leasehold interest is thus £2050.00. Since no ground rent falls to be paid no addition is appropriate in that respect.
14. We approve the form of transfer that was sent with the application, a copy of which is annexed and is signed by me for identification.



Andrew Gregg
Chairman

23 August 2007

of registered title(s)

<p>1. Stamp Duty</p> <p>It is certified that the transaction effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value of the aggregate amount or value the consideration exceeds the sum of £125,000.00</p>
<p>2. Title Number(s) of the Property (leave blank if not registered)</p> <p>AV78011</p>
<p>3. Property</p> <p>10 Saxby Close, Worle, Weston-super-Mare, North Somerset, BS22 7UP</p> <p><i>If this transfer is made under section 37 of the Land Registration Act 1925 following a not-yet-registered dealing with part only of the land in a title, or is made under rule 72 of the Land Registration Rules 1925, include a reference to the last preceding document of title containing a description of the property.</i></p>
<p>4. Date</p>
<p>5. Transferor</p> <p>The Successors in Title to Catherine and Henry Wallop</p>
<p>6. Transferee for entry on the register</p> <p>Susan Carol Hodges</p>
<p>7. Transferee's intended address(es) for service in the U.K. (including postcode) for entry on the register</p> <p>10 Saxby Close, Worle, Weston-super-Mare, North Somerset, BS22 7UP</p>
<p>8. The Transferor transfers their interest in the property to the Transferee.</p>
<p>9. Consideration</p> <p>The Transferor has received from the Transferee for the property the sum of _____ Pounds (£ _____)</p>
<p>10. The Transferor will transfer with limited title guarantee.</p>
<p>11. This Transfer is made pursuant to an Order for enfranchisement within the provisions of Section 8 and Section 27 of the Leasehold Reform Act 1967 made in the Bristol District Registry by order of District Judge dated the _____ day of _____ 200.</p>
<p>12. Application is hereby made to the Chief Land Registrar to close the leasehold title number AV78011 a to cancel the entries numbers 1 and 2 of the Property Registry.</p>

CH4/004C/DAF/2007/0020

Approved draft (2 Pages)
Anita Green

SIGNED AS A DEED pursuant to the Order for Enfranchisement

by District Judge
as successor in Title to Henry Wallop and Catherine Wallop
in the presence of :-

Signature of
witness
Name (*in BLOCK CAPITALS*).....
Address
.....

SIGNED AS A DEED by
SUSAN CAROL HODGES
in the presence of:

Signature of
witness
Name (*in BLOCK CAPITALS*).....
Address