

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Number: CH1/18UG/PAF/2007/0008

**Application under Section 27(5) of the Leasehold Reform Act 1967
as amended by section 149 of the Commonhold and Leasehold Reform Act 2002**

Applicant: ALVAR ROBIN WELLS & SARAH ELIZABETH WELLS

Respondent: THE HEIRS OR ASSIGNS OF THE LATE SIR WILLIAM
STRODE AND RICHARD STRODE (BEING THE
UNKNOWN FREEHOLDER)

Premises: 31 HOLTWOOD DRIVE IVYBRIDGE DEVON PL21 9TH

Date of Application: 8th December 2006

Tribunal Members: Ms. C. A. RAI LLB (Chairman)
Mr. T. N. SHOBOOK BSc FRICS
Dr. C. W. GRONOW BSc PhD FBIM

DECISION

For the reasons set out below the Tribunal has determined that the price payable by the Applicant (such amount to be paid into the Court) for the freehold reversion to the Property pursuant to the Application made by the Applicant to the Court and in accordance with the its jurisdiction under s.21of the Leasehold Reform Act 1967 (as amended) shall be Forty Five Pounds (£45.00)

REASONS

1. 31 Holtwood Drive Ivybridge ("the Premises") comprise a two storey detached house located on a residential estate on the outskirts of Ivybridge which is a rapidly growing town located on the main A38 road connecting the Cities of Plymouth and Exeter but closer to Plymouth. The traditionally constructed house occupies a corner plot and has an enclosed sloping garden to one side of the property and a small front garden on the other side. The Premises were built about 20 years ago by Clarke Homes. The accommodation comprises the following:-

Ground Floor

- Entrance Hall
- Lounge
- Dining Room
- Conservatory/Sun Lounge
- Cloakroom
- Kitchen
- Utility room/laundry

First Floor

- Landing
- No. 1 Bedroom with ensuite shower room with WC
- No. 2 Bedroom
- No. 3 Bedroom
- No. 4 Bedroom
- Bathroom with WC

Outbuildings

- Attached single garage
- Garden Shed
- Two areas of decking

2. Copies of the Registers of the title to the Premises held by HM Land Registry have been produced to the Tribunal and these indicate that the Premises were first registered in 1985. The Property Register refers to the land being held (with other land the extent of which is undisclosed) for a term of 500 years from or about 1671 at "no rent" created by a lease dated 9th November 1671 and made between Sir William Strode and Richard Strode (1) Sir Richard Chiverton (2).

Neither the original lease or examined abstract was produced on first registration and the foregoing particulars are taken from a Conveyance dated 2nd August 1963 and made between Margaret Katherine Strickland (1) Frederick Ford Northmore (2).

3. The Applicants are the current registered proprietors listed in the Proprietorship Register and were registered on the 25th October 2002. The price stated to have been paid for the Premises at that time was £194,950
4. On the 27th November 2006 the Queens Bench Division of the Bristol District Registry of the High Court made an order granting the relief sought in the Applicants application dated 26th October 2006 with a view to the Premises being vested in the Applicants "as if they had on the date of the summons given notice under the Leasehold Reform Act 1967 to acquire the freehold of the property"
5. By a letter dated 8th December 2006 the Applicants applied to the Leasehold Valuation Tribunal pursuant to section 27 (5) of the Leasehold Reform Act 1967 ("the Act") to acquire the freehold of the Premises

THE LAW

6. The appropriate sum which in accordance with section 27 (3) of the Act to be paid in to 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 of the Act
 - b. The amount or estimated amount as so determine of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid
7. 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(1) is that the valuation date is the date on which the application for an order was made to the Court and that date is in this case the 27th October 2006
8. On the day of its inspection the Tribunal was given a copy of a valuation letter written by Mr. T. M. Davies BSc FRICS of Bradleys Chartered Surveyors. Having considered this letter the Tribunal concluded:-
 - a. It was not clear how Mr. Davies had arrived at the site value which he had quoted and from which he had calculated a modern ground rent. He had not expressed an opinion as to the current value of the Premises
 - b. He had referred to the decision in the case of Cadogan v. Sportelli but did not explain how or if, this decision had impacted on his choice of deferment rates

c. He had stated that the Premises should be valued under section 1 of the Act which is the "original valuation basis"

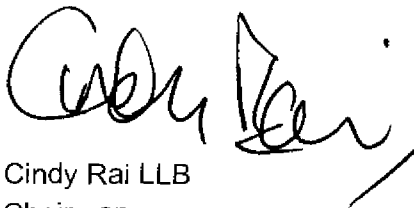
9. The Tribunal is aware that the expression "original valuation basis" is one that is referred to in a paper on the website of the Leasehold Advisory Service (LEASE) intended to explain valuations in matters such as this to the general public. The term however does not appear in the leading textbook upon the subject, Hague on Leasehold Enfranchisement. The paper referred to above adopts the "standing house" method of valuation which is the method commonly adopted for valuations under section 9(1) of the Act. The Tribunal is minded to adopt the "standing house" approach in this case
10. No evidence was produced of valuations of other vacant sites. This was not surprising given that the surrounding areas are fully developed
11. For the purpose of establishing the standing house value the Tribunal asked the Applicant what he thought was the value of the Premises. The Applicant suggested a figure in the region of £280,000.
12. The standing house value requires that the Premises:-
 - a. are freehold
 - b. have been fully modernised
 - c. are in good condition

On the basis of these assumptions an "entirety value" is estimated from upon which the modern ground rent is based

13. Although Mr. Davies suggested a site value of £75,000 he did not indicate what percentage this figure was of the value of the Premises (to which he did not refer)
14. Once the site value is established it is necessary to determine a modern ground rent by adopting an appropriate yield rate. Mr Davies referred to 5% but gave no explanation as to why he had chosen this rate. He assumed a site value of 75,000 and calculated the modern ground rent to be a 5% return which resulted in a figure of £3,750. Thereafter he capitalised this figure by applying a yield rate of 7% to calculate a reversion value. He appeared to have subsequently deferred this for the balance of the remaining term of the lease at 5%. He has not provided the Tribunal with any calculations so it is difficult to understand exactly how he reached his conclusion.
15. The Tribunal have approached the calculation thus:-
 - a. The unexpired residue of the term at the date of the valuation is 165 years
 - b. The Tribunal consider that the present day value of the Premises was £300,000 and that the site value would be 33.3% and thus £100,000

- c. By applying a yield rate of 7% a modern ground rent of £7,000 per annum is appropriate
- d. Capitalising the modern ground rent by applying a deferment rate of 5% and deferring this for the balance of the lease term (165 years) the value of the reversion was £44.65 (rounded up to £50)
- e. The value of the current ground rent is nil

16. Mr Davies had taken a deferment rate of 5% rather than the 4.75% that might be indicated by the decision of the Lands Tribunal in the case of Earl Cadogan and others v. Sportelli (LRA 50 2005) (" Sportelli"). Although Mr. Davies did not explain why he had adopted this rate, the Tribunal considered that the nature and location of this modern housing estate and the fact that no ground rent is payable militated against the use of a deferment rate as low as that used in Sportelli. Accordingly the Tribunal is minded to accept the deferment rate of 5% as being appropriate in this case



Cindy Rai LLB
Chairman
20 April 2007

Appendix
Tribunals valuation

Ground Rent reserved

Reversion

Present value of the Premises	£300,000	
Site value @ 33.3%	£100,000	
Modern ground rent	£7,000	
X Years purchase (in perpetuity) of a reversion deferred for 165 years @5%	0.006378	£44.65
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Enfranchisement Price		£44.65
	But say	£45.00