

**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) (“the Act”)**

**and in the matter of 2 Elton Road Worle Weston super Mare**

**Case Number: CHI/00HC/OAF/2007/0028**

**Upon the application of Mr M Stanton (“the Applicant”)**

**Inspection and determination 10<sup>th</sup> January 2008**

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

**Decision of the Tribunal**

Issued: January 2008

**Tribunal**

Mr R P Long LLB (Chairman)  
Mrs M Hodge BSc MRICS

## **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 £2445-00.

## **Reasons**

2. 2 Elton Road (“the property”) is a two bedroom mid-terrace house on a development at Worle that was built in or about 1983. It is of brick and reconstituted block cavity construction under a pitched concrete tiled roof, and has a small, enclosed, rear garden. The windows are replacement upvc double glazed units. There is no garage, but there is good parking space within the open plan garden at the front of the house. It has the benefit of gas-fired central heating. There appeared from our inspection to be no material improvement or modernisation that we should disregard for the purposes of valuation. The Applicant did not seek a hearing before the tribunal. The members of the tribunal inspected the property on 10<sup>th</sup> January 2008.
3. The property is built upon land that was part of that demised by a sixteenth century lease, of which the tribunal understands no copy now is known 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 the lessees of the property under this lease pay no rent. The whereabouts of the lessors or beneficiaries under this lease are now unknown. The rateable value is £119.
4. The Weston Super Mare County Court made an Order under section 27(5) of the Act that the freehold of the property be vested in the Applicants. The date of the Order is not clear from the copy before the Tribunal, save that “2007” clearly appears upon it, and the application to the Tribunal with which it was sent was made on 23<sup>rd</sup> November 2007 so that the Order, for which application was made on 6<sup>th</sup> November 2007, seems to have been made shortly before 23<sup>rd</sup> November. The Order contains a paragraph in the following terms:

“AND THIS COURT determines and declares pursuant to the provisions of section 27(5) of the Leasehold reform Act 1967 that the estimated amount of pecuniary rent payable for the said property by the Applicants as tenants thereof under the lease out of which the Applicants current interest arises as provided by section 3 of the Landlord & Tenant Act 1954 as amended and which remains unpaid and which will remain unpaid up to the date of this order is the sum to be determined by the Leasehold Valuation Tribunal (under section 9(i) of the Leasehold reform Act 1967 under the “original valuation” basis).”
5. 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.’
6. 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. The Tribunal is informed that in this case the application was made on 6 November 2007.
7. 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 of this nature to the general public, although the term does not appear in the leading textbook upon the matter, Hague on Leasehold Enfranchisement. However, the paper in question adopts the “standing house” method of valuation as does the valuation from Messrs Stephen & Co, the applicants’ valuers. This is the method commonly adopted for valuations under section 9(1) of the Act. The question whether or not a Court in these circumstances is entitled to instruct an expert tribunal upon the valuation method it is to adopt is not settled, but since the Tribunal would be minded in any event to adopt the standing house approach in the present case, and it appears that that is the approach that the Court may have had in mind, no issue arises upon the point.
8. The Tribunal had some difficulty in appreciating the relevance of the reference in the Order to section 3 of the Landlord & Tenant Act 1954, and concluded that it was intended to amount to a direction that no account should be taken in the valuation of the passing ground rent. If that is so, previous tribunals dealing with these cases have treated that rent as being de minimis for the purpose of the valuation they must undertake, and this Tribunal accepts that that is a reasonable approach in the circumstances of the present case, so that again no issue arises upon the point.
9. 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. Finally, the tribunal bore in mind the cases to which the Applicant’s valuers stated that they had considered.
10. For the purpose of establishing what amounted to the standing house value of the property on the valuation date Messrs Stephen & Co had supplied details of sales of two comparable properties. 3 Elton Road, which adjoins the property but is semi detached, sold in June 2007 for £144,000. It was said to have garage space and parking adjacent to the property so that there was possibly potential to extend. 14 Elton Road was sold in October 2006 for £124,950 and 27 Longdown Drive sold in October 2006 for £127,500. They said that both of those properties are effectively semi detached. From those

figures they had concluded that the entirety value of the subject property on the valuation date was fairly represented by a sum of £125000.

11. The Tribunal considered that, bearing in mind the price paid for 3 Elton Road and the fact that the other two transactions were over a year before the valuation date, that figure was probably a little low. They bore in mind too that the subject property also has parking space adjacent to the property, albeit in front of it. Doing the best they could with the figures before them, and taking into account the fact that they had been able also to see nos 3 and 14 Elton Road to form a view of comparability the Tribunal concluded that the sum of £127500 more nearly represented the entirety value of the property on the valuation date.
12. Messrs Stephen & Co argued that the site value should be taken as 27.5% of the entirety value, rather than the 30% that might more ordinarily be expected, to take into account the nature of the property and the footpaths in the area. The Tribunal did not consider that such a lower figure was justified in the case of the present property
13. 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. That figure is not in any way related to the rate used for deferment purposes. That produces a modern ground rent of £2677.50 on the Tribunal's entirety value figure. It added no amount for unpaid ground rent as any apportionment of the rent of one shilling and sixpence originally reserved produces an entirely insignificant sum for an individual property.
14. Messrs Stephen & Co make several points in respect of the deferment rate to be adopted by reference to the decision in *Cadogan Estates v Sportelli and others* (now decided upon appeal - [2007] EWCA Civ 1042) ("Sportelli"). First they say that Sportelli relates to London and not to the provinces. Thus one must take care in applying the decision to the property 2 Elton Road where there is no ground rent passing and there may be many changes in interest rate before the reversionary date that is fifty-one years hence.
15. The Tribunal considered those points carefully. It could find nothing in Sportelli to indicate that it was intended only to apply to London, although it recognises that the property concerned in it was part of the Cadogan estate in central London, and as such in very many ways different from the estate of which the property forms a part. There is however nothing in the Lands Tribunal's decision or that of the Court of Appeal to suggest that Sportelli is only to have application in London cases.
16. The Tribunal is of the view that it is required to value the property in accordance with the requirements of the Act. It does however recognise 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 bears in