

SOUTHERN RENT ASSESSMENT PANEL AND LEASEHOLD VALUATION
TRIBUNAL

Case No: CHI/OOHC/OAF/2008/0008

In a matter under Sections 9 and 27 of the Leasehold Reform Act 1967, as amended,
[“the Act”] and :-

In the matter of 59 Blackthorn Gardens, Worle, Weston Super Mare, BS22 6SA [“the
property”].

Upon the application of Mr and Mrs. B. Lewton [the Applicants].

Inspection and Determination - 18th. September 2008.

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

Tribunal Mr. J.S. McAllister F.R.I.C.S. [Valuer Chairman]
Mrs. M. Hodge BSc [Hons] M.R.I.C.S. [Valuer Member]

Decision issued -~~26~~ September 2008

DETERMINATION AND REASONS

SUMMARY DECISION

1. The Tribunal has determined, for the reasons set out below that the price payable by the Applicants for the freehold reversion in the property is in the sum of £2481.00 and that the amount of unpaid pecuniary rent payable for the property up to the date of the conveyance is nil.

Reasons

2. The property is a mid terrace 2 storey house. It was built during the late 1970s of brick walls under a concrete tiled roof. The accommodation is, on the ground floor, hall, lounge/dining room, kitchen and on the first floor 3 bedrooms, bathroom, separate w.c. and landing. Outside there is a rear garden, garage and car space and at the front there is an open plan garden. The property does not have direct frontage to the road, access being by shared footpath. All main services are connected, with space heating by a gas fired ducted system. The Applicants did not seek a hearing before the Tribunal.

3. The property is built upon land that was part of that demised by a 16th.Century lease, of which the Tribunal has been informed that no copy now exists. The demise was in favour of John and Isabel Thomas for a term expiring in 2057 at an annual rent of £1.6s.9d. We are informed that the applicants pay no rent and that the whereabouts of the lessors or beneficiaries are now unknown.

4. The Applicants solicitors have submitted to the Tribunal various copy documents, under cover of letters dated 22nd. and 24th. July 2008 and 13th August 2008. These include a Valuation report dated 12th. August 2008 by M.T. Ripley F.R.I.C.S. of Stephen & Co. and an Order for Enfranchisement where Landlord cannot be Found. This Order, no. 8WMOO541 is dated 11th. July 2008 and was made by the Weston Super Mare County Court. It directs that the enfranchisement price payable for the freehold interest is to be determined by the Leasehold Valuation Tribunal under Section 9[i] of the Act under the “original valuation” basis together with the estimated amount of unpaid rent payable by the Applicants.

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 is to be 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 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][2][a] is that the valuation date is the date of the application to the Court. This date is not entirely clear from the papers submitted to the Tribunal. The supporting statement to the application was dated 30th. May 2008 and Mr. Ripley’s valuation was carried out on that date. Accordingly the Tribunal has adopted 30th. May 2008 as the valuation date in this case.

7. The Tribunal accepts the “standing house” basis of valuation submitted by Mr. Ripley as being compatible with the basis ordered by the Court. The Tribunal is aware that the expression “original valuation basis” does not appear in “Hague on Leasehold Enfranchisement”, the leading textbook on the subject. The expression does appear in a paper on the website of “Lease”, [the Leasehold Advisory Service] which explains leasehold valuations and which adopts the “standing house” method of valuation. The question whether or not a Court can instruct an expert Tribunal to adopt a particular method of valuation is not settled. However the Tribunal in this case is minded as above, as to the basis of valuation, and it appears to the Tribunal that that is also the method envisaged by the Court.

8. Furthermore there is not likely to be any evidence of sales of vacant sites as the locality has been developed for some years etc. Accordingly the Tribunal took into account the comparables submitted and cases referred to in Mr. Ripley’s report.

9. The Tribunal also carefully considered Mr. Ripley’s detailed valuation report which gave a valuation date of 30th. May 2008, a valuation of £1433.00, and an opinion that the unpaid rent can be regarded as “infinitesimal”. We agreed with most of the valuation in particular the entirety value of £125,000, the site value of £37,500 and

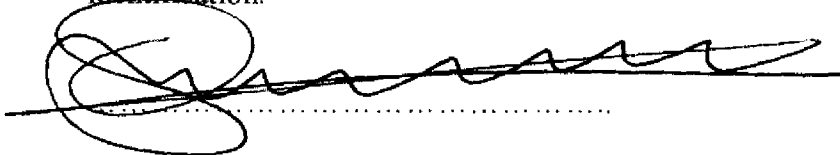
the resulting ground rent of £2,625p.a. We did not accept the deferment rate adopted of 7% and considered that the deferment or unexpired term should be 49.25 years not 48.25 years.

10. With regard to the deferment rent the Tribunal adopted 6%, having carefully considered the appeal decision in Earl Cadogan and others v Sportelli [2007] EWCA Civ. 1042]. in which, inter alia, the methodology employed by the Lands Tribunal to calculate the generic deferment rates was endorsed. The Tribunal accepted Mr. Ripley's opinion that, for the four grounds stated in his report etc. the rate should be different from the 4.75% adopted in Sportelli. However they considered that 6% was the appropriate rate in this particular case, not agreeing with Mr. Ripley's view that current market conditions justified "... a rate of 7% as applied prior to the Arbib and Sportelli cases."

11. Accordingly the Tribunal's valuation is:-

Ground rent reserved	Nil
Reversion	
Estimated site value [30% of entirety value of £125,000]	£37,500
Modern ground rent @7%	£2,625.00 p.a.
Years purchase in perpetuity @ 6% deferred 49.25 years	0.9452
Total £2,481.15 but say £2,481.00

12. The Tribunal accepts that the amount of unpaid ground rent in this case is nil and approves the copy draft transfer form TR1 sent with the application, subject to the insertion of the relevant price above. The copy form is attached and signed for identification.



J.S. McAllister F.R.I.C.S.
Chairman
Dated 26 September 2008

1. Stamp Duty

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

2. Title Number(s) of the Property (leave blank if not registered)

AV33251

3. Property

59 Blackthorn Gardens, Worle, Weston-super-Mare, North Somerset, BS22 6SA

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.

4. Date

5. Transferor

The Successors in Title to Catherine and Henry Wallop

6. Transferee for entry on the register

North Somerset Housing Limited

7. Transferee's intended address(es) for service in the U.K. (including postcode) for entry on the register

1 & 2 Yeo Bank Business Park, Kenn Road, Kenn, Clevedon, North Somerset, BS21 6TH

8. The Transferor transfers their interest in the property to the Transferee.

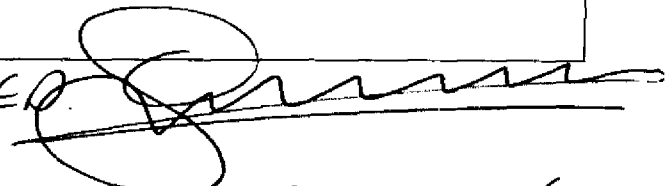
9. Consideration

The Transferor has received from the Transferee for the property the sum of _____ Pounds
(£ _____)

10. The Transferor will transfer with limited title guarantee.

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__.

12. Application is hereby made to the Chief Land Registrar to close the leasehold title number AV33251 and to cancel the entries numbers 1 and 2 of the Property Registry.

APPROVED 
J.S. McALLISTER FRICS
26-9-2008