

SOUTHERN RENT ASSESSMENT PANEL AND LEASEHOLD VALUATION
TRIBUNAL

Case No: CHI/OOHE/OAF/2010/0009

In a matter under Sections 9 and 27 of the Leasehold Reform Act 1967, as amended, [“the Act”] i.e. the determination of the enfranchisement price payable for:-

2 Jasmine Cottages, the Green, Pelynt, Looe, Cornwall, PL13 2LB [“the property”].

Upon the application of Gerald Anthony Whitwell & Pauline Whitwell [“the Applicants/Tenants”].

The identity and whereabouts of the “Respondents/Landlords” [Freeholders] is unknown.

Inspection -14th. May 2010.

Determination -28th. May 2010

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]
Mr. M. Woodrow M.R.I.C.S. [Valuer Member]

Decision issued – 28th. May 2010

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 £9,800.00 and that the amount of unpaid pecuniary rent payable for the property up to the date of the conveyance is nil.

REASONS

2. The Tribunal inspected the property in the presence of Mr. Whitwell. It is a mid terrace 2 storey house cottage traditionally built of natural stone walls under an asbestos cement slate covered roof. The cottage is about 150-200 years old and is situated in the centre of the village.

The accommodation is, on the ground floor, an open plan lounge/kitchen. On the first floor there are 2 bedrooms, shower room and landing. Outside there is stated to be a single car parking space. The latter is situated a few yards to the north of the cottage. The property is shown edged red on the H.M. Land Registry plan under Title number CL 54682. Unfortunately the copy of this plan which accompanied the application to

the Tribunal was not edged red, but having regard to the statements in the application form to the Tribunal dated 8th. April 2010 etc. they included the car space in their valuation below.

The site is irregularly shaped and has an average site depth of about 5 metres, the frontage is about 6.5 metres and the site area is approximately 30 square metres. The Tribunal did not measure the car space.

Apparently mains electricity, water and drainage are connected, with space heating by night storage heaters and an open fire in the lounge. There are modern double glazed windows to the cottage.

The rateable value of the property in the 1973 Valuation List was £67.

The Applicants did not seek a hearing before the Tribunal.

3. The property is built upon land that was part of that demised in a lease dated 24th. June 1842. The demise was in favour of the then landlords Reverend James Buller Kitson, John Lowe, John Roseveare, James Wherry and Thomas Hooper for a term of 199 years from the 24th. June 1842 at an annual rent of a peppercorn. The Tribunal has been informed that the Applicants pay no ground rent and that the whereabouts of the landlords or their beneficiaries are unknown.

4. The Applicants' solicitors have submitted to the Tribunal various copy documents. These include 2 valuation reports the first submitted with the application to the Tribunal dated 8th. April 2010. The second is dated 26th. April 2010 and was received by the Tribunal on the 13th. May 2010. Both reports are by Mr. G.R. Bates B.A. F.R.I.C.S. a Consultant Chartered Surveyor. Also submitted is a copy of an Order, [Case No. OBM70295, dated 29th. March 2010], made by the Birmingham County Court. This Order directs that the Tribunal determines the "...appropriate sum to be paid into Court under section 27[5] of the Act...." It also directs that the terms of the proposed transfer of the freehold interest in the property are ".....to be in a form approved by the Court....."

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 appears to be 25th. January 2010. The Tribunal has adopted this date as the valuation date in this case.

7. The Tribunal accepts the "standing house" basis of valuation Section 9[1] of the Act, submitted by Mr. Bates.

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 considered the valuations and evidence submitted in Mr. Bates' reports.

9. The Tribunal noted that Mr. Bates had not inspected the property and had provided 2 valuations of the appropriate sum or enfranchisement price for the freehold interest, firstly £7400 and then £5705. The Tribunal agreed with part of the second valuation i.e. the site value of 30% of the entirety value and the value of the term at nil. The Tribunal did not agree with Mr. Bates' opinion of the entirety value in both of his valuations, firstly £120,000 then £100,000. This figure is the standing house value of the property i.e. its open market value by a willing seller, freehold with vacant possession, deemed modernised and in good condition. The Tribunal were informed that the property was placed on the open market for sale in 2007 at an asking price of £126,500 but was later withdrawn. After careful consideration of all the evidence submitted in this regard etc. the Tribunal determined that £125,000 is the appropriate sum or value at the valuation date.

10. With regard to the yield to be adopted to calculate the modern ground rent of the site, the Tribunal noted that, Mr. Bates in his first valuation had adopted 7% with 5.5% in his second valuation. He appeared to give no reasons as to why he had adopted these yields. After careful consideration the Tribunal determined a yield of 6%.

11. With regard to the deferment rate the Tribunal adopted 5%, not 5.5% as submitted by Mr. Bates in his second valuation. They noted that Mr. Bates had adopted 4.5% in his first valuation. They also noted that he considered 5.5% to be "...consistent with recent post Sportelli LVT determinations...."

The Tribunal 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 took the view that the nature of the property and its location were such that the appropriate deferment rate should be 5%. The deferment period should also, strictly speaking, be the 31.25 years unexpired term of the lease.

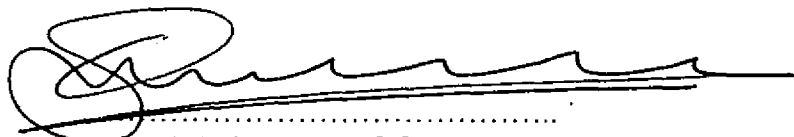
12. Accordingly the Tribunal's valuation is:-

Value of the Term	£0
Value of the Reversion :-	
Entirety Value	£125,000
Estimated site value [30 % of entirety value of £125,000]	£37500

Modern ground rent @ 6%	£2,250 p.a.
Years purchase in perpetuity @ 5% deferred 31.25 years	4.355

Total	£9,798.75

Enfranchisement Price, say, £9,800.00

A handwritten signature in black ink, appearing to be 'J.S. McAllister', written over a horizontal dotted line. The signature is stylized and extends across the width of the line.

J.S. McAllister F.R.I.C.S.
Chairman

Dated 28th. May 2010