

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00MS/OCE/2010/0001

REASONS

Application : Sections 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993 as amended (“the 1993 Act”)

Applicant/Leaseholders : Mr David Robert Octon and Aubrey Patricia Octon

Respondent/Landlord : unknown

Building : 59A and 59B Deacon Road, Sholing, Southampton, Hampshire, SO19 7PX

Maisonettes : the maisonettes in the Building

Leases : the leases of the Maisonettes

Date of Court Application : 13 November 2009

Date of Court Vesting Order : 14 December 2009

Date of Tribunal application : 6 January 2010

Date of Tribunal’s Directions : 11 January 2010

Date of Tribunal Hearing : 9 March 2010

Venue : Independent Tribunal Service, The Barrack Block, Western Range, London Road, Southampton, SO15 2 AH

Appearances for Applicant/Leaseholders : Mr and Mrs Octon

Appearances for Respondent/Landlord: no attendance or representation

Members of the Tribunal : Mr P R Boardman JP MA LLB (Chairman), Mr D Lintott FRICS, and Miss R B E Bray BSc MRICS,

Date of Tribunal’s Reasons : 10 March 2010

Introduction

1. On 14 December 2009 the Southampton County Court, under claim number 9SO 04988, granted the Applicant/Leaseholders a vesting order in relation to the Building under section 26 (1)(a) of the 1993 Act, and ordered that further service on any landlord was dispensed with, on the basis that, despite reasonable efforts, none could be found

Schedule 6 of the 1993 Act

2. Paragraph 2 of schedule 6 of the 1993 Act provides that the price payable by the Applicant/Leaseholders shall be the aggregate of:
 - a. the value of the Respondent/Landlord's interest in the Building as determined in accordance with paragraph 3 of schedule 6
 - b. the Respondent/Landlord's share of the marriage value as determined in accordance with paragraph 4 of schedule 6
 - c. any compensation payable to the Respondent/Landlord under paragraph 5 of schedule 6
3. Paragraph 3 of Schedule 6 of the 1993 Act provides that, subject to the assumptions and other provisions set out, the value of the Respondent/Landlord's interest in the Building shall be the amount which that interest might be expected to realise if sold on the open market by a willing seller with the Applicant/Leaseholders not seeking to buy and on the assumption that the 1993 Act conferred no right of acquisition

Documents

4. The documents before the Tribunal are those in the Tribunal's bundle
5. References in these reasons to page numbers are, unless the context requires otherwise, to page numbers in the Tribunal's bundle

The leases

6. The lease terms are, respectively, 1,000 years (less 10 days) from 29 September 1869 (sic) (59A), and 999 years from 29 September 1869 (sic) (59B), with a ground rent of £10 in each case
7. The leases each contain provisions for decoration, repairs and insurance by the respective leaseholders and for payment of a contribution to the expense of repairing maintenance and decoration of party structures and common parts

Land Registry entries for title numbers HP292317 (59A) and HP292316 (59B)

8. The entries showed the Applicant/Leaseholders as owners with absolute title in each case

Inspection

9. The Tribunal inspected the Building on the morning of the hearing on the 9 March 2010. Also present were Mr and Mrs Octon
10. The Building is a 2-storey house divided into two so-called maisonettes, with Deacon Road at the front, and Middle Road at the rear, where there is an open gravel area, used for parking. There are helpful photographs of the exterior at pages 41 and 42
11. The Tribunal also inspected the interior of the ground-floor maisonette, 59B, which comprised a living room, a “galley” kitchen, a bedroom, and a bathroom. There was a cupboard in the hall, under the stairs leading to the first-floor maisonette. The Tribunal was unable to obtain access to the first-floor maisonette, 59A, but Mr and Mrs Octon said that the interior was materially the same as that of 59B

Valuation

12. The comments of Mr and Mrs Octon in writing and at the hearing in relation to each element of the valuation, and the findings by the Tribunal in each case, are set out in the following paragraphs of this determination

Valuation date and number of years unexpired at valuation date

13. In answer to questions from the Tribunal, Mr and Mrs Octon said that the date of their application to the court was the 13 November 2009, and agreed that that was the valuation date for the purposes of these proceedings, by virtue of sections 27(1)(a) of the 1993 Act, and that the terms unexpired at the valuation date were accordingly circa 859 years in each case

Starting point for the valuation of the Respondent/Landlord’s interest in the Buildings

14. The Tribunal indicated at the hearing that the Tribunal proposed to :
 - a. ignore any value which might be attributable to the Respondent/Landlord’s interest in the reversion, as any such value would be negligible in the light of the number of years unexpired at the valuation date
 - b. ignore any marriage value, for the same reason
 - c. find that there was no evidence of any hope value, as the only leaseholders were Mr and Mrs Octon
 - d. find that there was no evidence that any compensation should be payable
 - e. find that the price payable in this case comprised only a sum representing the capitalisation of the ground rent payable
15. Mr and Mrs Octon agreed, and submitted that :
 - a. the ground rent reserved under each lease was £10 a year, collected by instalments of £5 6-monthly
 - b. an investor would regard the sum of £5 as not covering the cost of collection, and would not make a bid for the right to collect such small sums
 - c. there would be a market for such an investment only in cases of larger parcels of flats, with shorter leases

- d. although there might be some theoretical possibility of developing the gravel area at the rear, even the erection of garages would impede the light to 59B
- e. the LVT had made similar findings in the 73-75 Foxberry Road case in 1996, copied at page 45, and had fixed the price payable in that case at £10

16. The Tribunal's findings

17. The Tribunal has taken account of all of Mr and Mrs Octon's submissions. However, having also taken account of all the circumstances, and of the statutory assumptions set out in Schedule 6 of the 1993 Act, and drawing on the Tribunal's collective knowledge and expertise in cases such as this, the Tribunal finds that a hypothetical investor would indeed make a bid for the Respondent/Landlord's interest, and that the amount which an investor would pay would be £100

Total price payable

18. The Tribunal finds that the price payable is accordingly £100

Form of Transfer

19. Mr and Mrs Octon submitted that the form of the transfer should be in accordance with the draft in the Tribunal's bundle

20. The Tribunal's findings

21. The Tribunal accepts as persuasive Mr and Mrs Octon's submissions, and finds that the form of transfer should be in accordance with the draft in the Tribunal's bundle, copied as the Appendix to these reasons, subject only to the inclusion of the enfranchisement price of £100 in clause 8

Reference back to the Southampton County Court

22. The Tribunal refers the matter back to the Southampton County Court accordingly

Dated the 10 March 2010



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P R Boardman
(Chairman)

A Member of the Tribunal
appointed by the Lord Chancellor