

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

**SOUTHERN RENT ASSESSMENT PANEL AND LEASEHOLD TRIBUNAL VALUATION  
TRIBUNAL**

**Case Number: CH1/18UG/OAF/2010/0003**

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

**Re: 3 Holtwood Drive, Woodlands, Ivybridge, Devon, PL21 9TH  
("the Premises")**

**Between: MR PAUL WHITNEY BINYON AND MRS MARGARET BINYON  
("Applicants")**

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

**("Respondent")**

**Tribunal Members: Mr T E Dickinson BSc FRICS IRRV (Chair)  
Mr M C Woodrow MRICS**

**Date of Application (to County Court): 25 June 2009**

**Date of Application (to RPTS): 11 February 2010**

**Decision:**

For the reasons set out below the Tribunal has determined that the Applicants, as present leaseholders, have not held the lease for at least two years and are therefore not qualifying tenants under the provisions of the Act (as amended) and this Tribunal is therefore unable to exercise its Jurisdiction in this matter. Were the Applicants to be considered 'qualifying leaseholders' then the price payable would have been £26.00 (Twenty six pounds)

**Reasons:**

1. 3 Holtwood Drive, Ivybridge (“the Premises”) comprise a two storey detached house located on a modern residential estate on the outskirts of Ivybridge, close to the A38 Devon Expressway connecting the cities of Plymouth and Exeter, but closer to Plymouth.
2. The property lies in a cul-de-sac leading off Cornwood Road towards the western outskirts of the town and lies amongst similar sized detached houses of varying styles, all built around 20 years ago by Clarke Homes.
3. The property is of traditional construction, probably of brick and blockwork cavity walling, under a pitched concrete tiled roof. The windows are mainly softwood framed although the front and side doors and rear patio doors are PVC double glazed units which are tenants’ improvements. Other tenants’ improvements include replacement of the fascias in PVC, replacement of the garage door, replacement of the fittings to the en-suite shower room to the main bedroom and replacement of the sanitary fittings to the Bathroom.

4. The accommodation comprises:

Ground Floor: Entrance hall, cloakroom/wc, lounge with opening to dining area, kitchen with utility room off.

First Floor: Landing, bedroom 1 with en-suite shower/wc, bedroom 2, bedroom 3, bedroom 4, bathroom/wc.

Outside: There is an integral single garage with up and over door. There are gardens to the front and rear.

The average site depth is about 27 metres and the site frontage is approximately 11 metres. The total site area extends to less than 290 square metres.

5. Copies of the Registers of Title to the Premises held by HM Land Registry have been produced to the Tribunal and indicate that the front section of the site is held on a freehold basis under title number DN255391. The Tribunal have scaled measurements from the HM Land Registry Plan which had been enlarged and was not to a precise scale of 1/1250. The Tribunal have however determined that the freehold land comprises the front garden and driveway up to the front elevation of the building. This land became Freehold absolute by a deed dated the 1st May 1972.
6. The remaining part of the site is Leasehold shown edged red on the plan under title number DN256789. This land comprises approximately two thirds of the site where the house is built and includes the back garden. The land is held for a term of 500 years from on or about 9 November 1671 at no rent created by a lease dated 9 November 1671 made between (1. Sir William Strode and Richard Strode and 2. Sir Richard Chiverton)
7. The Applicants are the current registered proprietors listed in the Proprietorship Register where it is stated that the price paid on 19 February 2009 for the land in the subject title and also title number DN255391 was £250,000. On 23 October 2009 District Judge Walker, sitting at Plymouth County Court, gave an order that the property known as “3 Holtwood Drive, Woodlands, Ivybridge” be vested in the Applicants Paul Whitney Binyon and Margaret Binyon 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.
8. By a letter dated 11 February 2010 the Applicants’ Solicitors Howard & Over applied to the Leasehold Valuation Tribunal pursuant to Section 27(5) of the Leasehold Reform Act 1967 as amended by Section 149 of the Commonhold and Leasehold Reform Act 2002.

**The Law:**

1. 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 determined of any pecuniary rent payable for the house and premises up to the date of the Conveyance which remains unpaid
2. 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 25<sup>th</sup> June 2009
3. In the bundle provided by the Applicants was a Valuation made by T Davies FRICS of Bradleys of Exeter, stating that in his opinion the value which should be placed on the freehold reversion was £53. He was of the opinion that the market value of the premises was £260,000 with the site value calculated at 30% to be £78,000. Mr Davies calculated a modern ground rent as representing 6% of site value and thus arrived at a figure of £4,680 per annum. Mr Davies capitalised the modern ground rent in perpetuity at a rate of 4.75% to provide a capital figure of £98,514. Finally, Mr Davies deferred the capital value for 162 years at a rate of 4.75% to arrive at a figure of £53.52, but say £53.
4. The Tribunal noted that Mr Davies has assessed the value of the entire site although the leasehold title under title number DN 256789 only relates to the Northern section of the site with the land edged red on the HM Land Registry Plan comprising approximately two thirds of the overall land area.
5. As the Leaseholders have not owned the property for the required period of 2 years, there is therefore no right at the present time for the Applicants to acquire the Freehold reversion, and the matter is therefore handed back to the County Court.
6. Had, however, the Applicants been qualifying leaseholders the Tribunal's calculations would have been as follows:

Entirety value (Excluding Tenant's Improvements)		£250,000
Site Value at 30%		£75,000
BUT - Site Value of Leasehold Land only assessed at 50% of the value of the entire site		£37,500
Modern Ground Rent at 6% of Site Value	£37,500 x 6%	£2250 p.a
Modern Ground Rent £2250		
x Years purchase in perpetuity at 4.75%	x 21.05	£47,362
x Present value £1 deferred 162 years at 4.75%	x 0.0005433	£25.73
	<b>Say</b>	<b>£26.00</b>

Signed \_\_\_\_\_

Mr T E Dickinson BSc FRICS IRRV (Chairman)  
A Member of the Leasehold Valuation Tribunal appointed by the Lord Chancellor

Dated 20<sup>th</sup> April 2010

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