



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : CHI/00HC/OAF/2014/0009

Property : 14 Saxby Close, Weston-super-mare, Somerset
BS22 7UP

Applicant : Mr R P Churchley

Representative : ---

Respondent : Catherine Wallop and her successors

Representative : ---

Type of Application: Enfranchisement under the Leasehold Reform Act
1967 ("the 1967 Act")

Tribunal Members : Judge P.J. Barber
Mr P D Turner-Powell FRICS Valuer Member

Date of Decision : 9th July 2014

DECISION

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DECISION

1. The Tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion of the Property is to be the sum of £1,511.00 and that the amount of unpaid pecuniary rent payable for the Property up to the date of the proposed conveyance is nil

BACKGROUND

2. By an order dated 24th February made by District Judge Cope in proceedings in Weston-super-mare County Court numbered A00WM012, it was ordered that the Applicant is entitled to apply to purchase the freehold interest in the land and premises known as 14 Saxby Close Weston-super-mare, Somerset BS22 7UP (“the Property”) but that the Applicant shall not be required to serve notice of the proceedings on the Respondent or otherwise give notice of the proceedings, because the identity of the person to be served cannot be ascertained. It was further ordered that the vesting of the freehold interest in the Property in the Applicant as nominee purchaser, shall be on such terms as determined by the Leasehold Valuation Tribunal (now the First-Tier Tribunal Property Chamber).
3. The Applicant has filed a copy of written valuation report for the Property from Mr M T Ripley FRICS of Stephen & Co Chartered Surveyors, dated 12th March 2014.
4. The Property is described in the valuation report, as being a corner terraced two storey house approached over a shared footpath, being one of a block of four and forming part of a development undertaken in the early 1980s. The accommodation at the Property comprises a living room with kitchen off, and a spiral staircase leading to a small landing, double bedroom and bathroom, with no heating and in need of redecoration.
5. No inspection of the Property was carried out and the Applicant did not seek an oral hearing before the Tribunal.

THE LEASE

6. According to the Land Registry entries provided by the Applicant for the Property it is held on a lease for a term of 500 years from 1st September 1557 (“the Lease”) originally at a rent of £1 6s 9d; however Mr Ripley indicated in his valuation report that no ground rent is currently payable, since the beneficiaries are unknown.
7. The Property is built upon land that was part of a demise by the Lease and is registered under Title Number AV81135.
8. The Applicant`s solicitors, Walker Morris LLP have submitted to the Tribunal various copy documents. These include the above valuation report, register entries for AV81135 and a copy of the Order of Weston–super-mare County Court dated 24th February 2014 in Claim Number A00WM012 directing that the vesting of the freehold interest in the Property be on such terms as shall be determined by the Leasehold Valuation Tribunal (now the First-tier Tribunal Property Chamber) to be appropriate.
9. The amount that the Tribunal is to determine is the “appropriate sum” as defined in Section 27(5) of the 1967 Act as follows :-

“The appropriate sum ... is the aggregate of :

- (a) Such amount as may be determined by (or on appeal from) a Leasehold Valuation Tribunal (now the First-tier Tribunal Property Chamber) 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.*

10. Section 9 of the 1967 Act sets out in detail the assumption to be made and the procedure to be followed in carrying out the valuation. The effect of Section 27(2)(a) is that the valuation date is the date of the application to the court; in this case the claim in court was issued on 28th January 2014. Mr Ripley inspected the Property on 10th March 2014 and his valuation is dated 12th March 2014. The Tribunal is of the opinion that there has been no material change in the value of the Property between the date of the application to court and the date of the Tribunal`s determination.
11. The Tribunal accepts the “standing house” method of valuation submitted by Mr Ripley as being compatible with the basis ordered by the court. However the Tribunal disagrees with Mr Ripley and accepts that the valuation principles of the *Kingshurst Road* case also apply here ie that it is appropriate to adopt the three stage approach, rather than the two stage approach in the valuation. It did not agree with the reasons why Mr Ripley felt that the two stage approach applied here. These were that there is no value in the reversion as no ground rent is payable, the effect on the owner/occupier of the fact that the Property is leasehold not freehold and in particular, that the Lease has less than 60 years unexpired, severely limiting the possibility of obtaining a mortgage on the Property. The Tribunal considered that these reasons or opinions were not sufficiently compelling for it to depart from the guidance laid down by the Upper Tribunal Lands Chamber in the *Kingshurst Road* case.
12. There is not likely to be any evidence of sales of vacant sites as this locality is understood to have been developed for some years. Accordingly the Tribunal took into account the 4 comparables submitted and, where appropriate, the cases referred to in Mr Ripley`s report. It also noted his opinion of the entirety value of the Property in the sum of £80,000. After careful consideration, the Tribunal agreed with the entirety value here of £80,000.
13. The Tribunal also carefully considered Mr Ripley`s valuation and agreed with him that the unpaid rent can be regarded as “infinitesimal”. As a result the value of the term, being the first of the three stages is nil. It agreed with the site value put forward by Mr Ripley ie £20,000 (this being 25% of the entirety value). It also agreed that the modern ground rent was correctly calculated at 7% of the site value.
14. With regards to the deferment rate in both the first and second reversions, the Tribunal adopted 6% as opposed to Mr Ripley`s 7% (one reversion only). The figure of 6% has been adopted in the past and justified in previous decisions affecting Numbers 1 and 16 Saxby Close. In addition, Mr Ripley had in his report

referred to the decision in *Sportelli*, but set out reasons for discounting. The Tribunal has given careful consideration to the matter and in the circumstances considers that the evidence on the matter as set out in Mr Ripley's report is sufficiently compelling such as to justify departure from *Sportelli* in this particular instance.

15. With regard to the value of the freehold reversion after 93.5 years, the Tribunal adopted a figure of £76,920. (an approximate 3.85% reduction from the entirety value of £80,000). As in previous decisions, it decided that a deduction should be made to reflect the assumption that Schedule 10 of the Local Government and Housing Act 1989 applies to the tenancy. This means that the tenancy automatically continues until a notice is served under Schedule 10, paragraph 4, when the tenant is entitled to an assured tenancy under the Housing Act 1988 at a market rent. This would mean that there could be no certainty of obtaining vacant possession after the 50 year lease extension and this would depress the value of the freehold reversion.
16. Accordingly, the Tribunal's valuation is as set out in the attached schedule.
17. The Tribunal accepts that the amount of unpaid ground rent in this case is nil. The Tribunal notes that the Court Order states that the terms of the conveyance are to be executed by the Court or someone nominated by the Court.

Judge P J Barber

Appeals :

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

