



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

Case Reference : **BIR/41UB/OAF/2017/0022**

Property : **19 Oakleigh Drive, Brereton,
Rugeley, Staffordshire, WS15 1JQ**

Applicant : **Mr R Soltysik**

Representative : **Adcocks Solicitors Limited**

Respondent : **Unknown**

Representative : **N/A**

Type of Application : **Application to determine the amount
to be paid in to Court for the transfer
of the freehold interest under the
Leasehold Reform Act 1967 (as
amended)**

Tribunal Members : **Judge M K Gandham
Mr. N Wint FRICS**

**Date and venue of
determination** : **Paper Determination made on 8th
November 2017**

Date of Decision : **3 January 2018**

DECISION

Decision

1. For the purposes of section 27(5) of the Leasehold Reform Act 1967 (“the Act”), the Tribunal determines that, taking account of the evidence adduced and the Tribunal’s own general knowledge and experience, the appropriate sum to be paid into Court for the acquisition of the freehold interest in the property known as 19 Oakleigh Drive, Brereton, Rugeley, Staffordshire, WS15 1JQ (the ‘Property’) under section 27(3) is:
 - a) £4230, being the price payable in accordance with section 9 of the Act;
 - b) the amount of any pecuniary rent payable for the Property which remains unpaid is nil.

Reasons for Decision

Introduction

2. On 1st September 2017, by Order of Deputy District Judge Thomas sitting in the Walsall County Court, the Court (referring to the previous Order of District Judge Rouine dated 24th April 2017) ordered the Applicant to lodge in to Court a sum, yet to be determined, being the amount provided by section 27(5) of the Act to be the price payable for the Property.
3. By an Application, received by the Tribunal on 29th September 2017, the Applicant applied to the Tribunal to determine the price payable for the Property in accordance with section 9 of the Act.
4. As the Applicant’s Representative, Adcocks Solicitors Limited, had enclosed a copy of their valuation with the Application, the Tribunal confirmed that a directions order was not required.
5. The Applicant confirmed that it was content for the Tribunal to determine the matter in issue on the papers submitted without the need for an oral hearing.

The Law

6. Section 27 of the Leasehold Reform Act contains detailed provisions for the application to the County Court. Subsection (3) provides that, upon the payment in to Court of the ‘appropriate sum,’ a conveyance shall be executed as provided in that subsection. Subsection (5) of the Act provides as follows in relation to the determination of the ‘appropriate sum’:

(a) such amount as may be determined by (or appeal from) a leasehold valuation tribunal as to 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.

7. It is therefore the duty of the Tribunal to determine the value of the Property under section 9 of the Leasehold Reform Act 1967, as amended by the Commonhold and Leasehold Reform Act 2002, and also the amount of any pecuniary rent outstanding up to the date of the conveyance.

Inspection

8. The Tribunal inspected the Property on 8th November 2017. Unfortunately, no one was present to allow access to the Property, so the Tribunal was only able to carry out an external inspection.
9. The Property is a two storey, mid-terraced house, built circa. 1970 in brick and tile. It is located in a cul-de-sac off Lea Hall Lane in Brereton. It has the benefit of a garage, together with a tarmacked drive and pathway, with a lawn to the side of the drive.
10. There is a right of way, to the left hand side of the adjoining property, which leads to the back of the properties and the Tribunal was able to view the rear garden and the large single storey extension at the rear of the Property. The outside of the Property appeared to be in a fair condition.
11. The Property is held under a lease, (the 'Lease'), dated 6th April 1977, for a period of 99 years from that date, at an annual rent of Fifteen pounds. At the valuation date, 25th September 2017, there were approximately 48½ years unexpired.

Applicant's Submissions

12. The valuation report received from the Applicant's Representative was prepared by Mr Geoffrey Bates. In his report, he confirmed that the Property benefitted from a living room, kitchen, bathroom, separate w.c. and three bedrooms. He submitted that the valuation should be in accordance with section 9(1) of the Act.

The Tribunal's Deliberations

20. The Tribunal considered all the evidence submitted and summarised above.

Enfranchisement Price

21. The valuation exercise under section 9(1) is in three stages:

Stage (1) the valuation of the remainder of the existing term by capitalising the Ground Rent,

Stage (2) Valuing an assumed extension to the lease of 50 years and

Stage (3) Valuing the property with assumed vacant possession after the end of the existing term plus 50 years (subject to tenant's rights under Schedule 10 of the Local Government and Housing Act 1989 Act).

22. The Tribunal, having considered the evidence of Mr Bates and based on its own expert knowledge, was satisfied that the methodology adopted by Mr Bates is the proper approach to arrive at the enfranchisement price. It will be noted, however, that the extent of the Tribunal's inspection of the subject premises was somewhat limited having been unable to gain internal access. The Tribunal has therefore had to rely upon its findings from its external inspection and the comments made by Mr Bates as to the condition of the property and extent of the accommodation. Further, the Tribunal has taken the term unexpired as at the valuation date to be 48.5 years having calculated this from the valuation date.
23. The Tribunal considers the notional Entirety Value submitted by Mr Bates of £134,000 to be fair and reasonable given the circumstances and the evidence presented. In addition, based on the evidence submitted, the Tribunal accepts the deferment rate and Schedule 10 allowance submitted by Mr Bates.
24. Applying those determinations, the Tribunal's valuation is detailed in Appendix 1, which defers slightly to the valuation submitted by Mr Bates.
25. Under the provisions of sections 47 and 48 of the Landlord and Tenant Act 1987 and section 166(1) Commonhold and Leasehold Reform Act 2002, there is a requirement to notify long leaseholders that rent is due. A tenant is not liable to make payment of rent under a lease unless the Landlord has given him notice relating to the payment. The Tribunal determines that no amount is payable for rent under section 27(5)(b) of the Act as there has been no demand for rent.

Appeal

26. If the Applicants are dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

M. K. GANDHAM

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Judge M. K. Gandham

Appendix 1

Valuation

19 Oakleigh Drive, Rugeley WS15 1JG

Applying that determination, to the matters above the Tribunal's valuation is as follows:

1. Term

Ground Rent	£22.00	
YP 48.5 years @ 7%	<u>13.7489</u>	£302.48

2. Reversion – 50 year lease

Entirety Value	£134,000	
Site Apportionment @ 30%	£40,200	
S15 MGR @ 5.25%	£2,110.50	
YP 50 years @ 5.25%	17.5728	
PV 48.5 years @ 5.25%	<u>0.0836</u>	£3,100.51

3. Reversion – Standing House

Entirety Value	£134,000	
<u>Less</u> Schedule 10 @ 5%	<u>£6,700</u>	
Standing House Value	£127,300	
PV 98.5 years @ 5.25%	<u>0.0065</u>	<u>£827.45</u>
TOTAL		£4,230.44
PRICE, SAY		£4,230