



ACQ/64/2006

LANDS TRIBUNAL ACT 1949

COMPENSATION – Acquisition of superior leasehold and freehold interests – absent or untraceable owners – valuation – Places of Worship (Enfranchisement) Act 1920 - compensation awarded £550

IN THE MATTER of NOTICE OF REFERENCE

BY

**UNION OF WELSH INDEPENDENTS
INCORPORATED**

Claimant

**Re: School Room, Eaton Road/Sydney Street,
Brynhyfryd, Swansea**

Determination without an oral hearing

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DECISION

1. The claimant is The Union of Welsh Independents (formerly The Trustees of Siloam Congregational Church, Pentre Estyll, Swansea) which occupies The School Room, corner of Eaton Road and Sydney Street, Brynhyfryd, Swansea (the subject premises) as a Sunday School. The property comprises a single-storey building of traditional masonry construction under slate roofs and is located in a predominately residential area on the outskirts of Swansea.

2. The premises are held under the terms of a sub-underlease dated 9 October 1944 made between Morfydd Davies (lessor), and Reverend Richard Evan Edwards and others, Trustees for the time being of Siloam Congregational Church (lessees), for the balance of a term of 999 years from 25 March 1882 at an annual rent of £0.125 (two shillings and sixpence). The claimant wishes to dispose of the premises, and in accordance with the provisions of the Places of Worship Enfranchisement Act 1920 seeks, by this reference, to enlarge its interest into the fee simple. Despite diligent enquiry, details of which have been provided to the Tribunal by the solicitors acting on its behalf, Peter Williams and Company of Swansea, the claimant has been unable to trace the current owners of the superior interests, including the freehold.

3. The relevant sections of the Act provide

“1 Right of trustees holding leasehold interest in place of worship to acquire freehold

(1) Where premises held under a lease to which this Act applies are held upon trust to be used for the purposes of a place of worship, [or, in connexion with a place of worship, for the purpose of a minister’s house] whether in conjunction with other premises or not, and the premises are being used in accordance with the terms of the trust, the trustees, notwithstanding any agreement to the contrary (not being an agreement against the enlargement of the leasehold interest into a freehold contained in a lease granted or made before the passing of this Act), shall have the right as incident to their leasehold interest to enlarge that interest into a fee simple, and that for that purpose to acquire the freehold and all intermediate reversions:....

2 Procedure for acquisition of reversionary interests

3 For the purpose of acquiring such reversionary interests as aforesaid [Part 1 of the Compulsory Purchase Act 1965 shall apply as if the trustees were an authority authorised to acquire the premises by virtue of a compulsory purchase order, made under the Acquisition of Land (Authorisation Procedure) Act 1946; but in relation to any acquisition under this Act the following provisions shall have effect:

(a) in Part 1 of the Compulsory Purchase Act 1965 section 4 (time limit for acquisition) shall not apply...]

(b) ...

(c) ...

(d) ...

(e) In determining the amount of compensation in any case where the rent reserved under the lease is less than the full annual value of the land, the compensation, so far as it is payable in respect of the interest of the lessor expectorant on the expiration of the term of the lease, shall not be ascertained on the basis of the rent so reserved, but, subject always to the foregoing provisions of this section, on the estimated full value of the land at the expiration of the term of the lease.”

Schedule 2 to the Compulsory Purchase Act 1965 relates to absent or untraced owners and provides:

“1. – (1) The compensation to be paid for any land subject to compulsory purchase to be purchased by an acquiring authority -

(a) ...

(b) from a person who cannot be found after diligent enquiry has been made

and the compensation to be paid for any permanent injury to any such land, shall be determined by the valuation of a surveyor selected from the members of the Lands Tribunal in accordance with section 3 of the Lands Tribunal Act 1949.”

4. In accordance with the above provisions, the claimant has obtained valuations of all the known interests in the premises from Ruth Elizabeth Thomas BSc MRICS IRRV, a director of Rowland Jones and Partners, Chartered Surveyors of Swansea, and she has provided the Tribunal with a report which complies with requirements of the Royal Institution of Chartered Surveyors, as set down in the Surveyors Acting as Expert Witnesses: Practice Statement. She said that the sub-underlease was formed out of part of a superior lease originally made between George Sydney Davies and Daniel Rees (from whom Morfydd Davies inherited) dated 30 August 1882 for 999 years from 25 March 1882 at a rent of £2.25 per annum (two pounds five shillings). The area demised in the original lease is now occupied by houses known as 76 Eaton Road, 100, 101 and 101 Sydney Street in addition to the subject premises. It also referred to an indenture dated 19 May 1882, but the extent of the demise referred to in it is unknown and no further information on it has been traced. For the purposes of her valuations, Ms Thomas assumed that the demised area was the same as in the original lease.

5. Ms Thomas explained that the compensation payable for the freehold and any intermediate reversions is that which would be payable if the claimant were an acquiring authority with powers of compulsory acquisition, and was thus to be calculated in accordance with Rule (2) of section 5 of the Land Compensation Act 1961. In valuing the leasehold interest last known to have been vested in Morfydd Davies, she said the figure would reflect a prospective purchaser’s bid for the right to receive £0.125 pa for the residue of a 999 year lease less any rent to be paid to the superior lessor. As the apportioned rent was unknown, and the amount was small, she capitalised the rent reserved without deduction at a YP of 50 which, she said, reflected comparable transactions for long unexpired freehold reversions in the Swansea area. She used the same YP in valuing all the interests, as there was virtually no value in the reversions, one was valuing only the income, and such interests were virtually unsaleable.

6. As to the value of the superior leasehold interest, there was no information as to the apportionment of the annual rent of £2.25 within the larger demise, and Ms Thomas therefore took the approach of dividing the total rent across the 5 properties. Regarding the reversionary freehold value, it was assumed that the original lease would not have been granted at less than any rent reserved under the indenture, and in her view the value of the reversion would be the same as the original long-leasehold value. To those interests had to be added, she said, marriage value on their merger and this was assessed on the basis of a freehold vacant possession value of £50,000. The valuations thus became:

Existing sub-underleasehold interest:

Rent	£0.125
Less assumed rent to superior lessor	<u>0</u>
Balance/profit rent	£0.125
Years Purchase	<u>50</u>
	£ 6.25

Superior leasehold interest:

Rent	£ 2.25
Divide by	<u>5</u>
	£ 0.45
Years Purchase	<u>50</u>
	£ 22.50

Reversionary Freehold Title:

Assumed rent	£ 2.25
Divide by	<u>5</u>
	£ 0.45
Years Purchase	<u>50</u>
	£ 22.50

Freehold with vacant possession	£50,000
Less value of trustees' existing interest	£49,000
Cost of acquiring freehold	<u>£ 23</u>
Balance	£ 977
To be divided between freeholder and leaseholder	<u>2</u>
	£ 489

7. On the basis of these figures, the value of the freehold interest, including a share of the marriage value was calculated at £511, the long leasehold interest (the indenture) at £22.50 and the sub-underleasehold interest at £6.25, giving a total value of £539.75.

8. I am satisfied that the claimant has complied with the statutory provisions and that the valuation prepared by Ms Thomas, on the basis of the information available to her, represents the appropriate compensation calculated in accordance with those provisions.

9. I therefore determine that the claimant shall pay the (rounded) sum of £550 into court to be held to the credit of the parties who currently have an interest in the subject premises. This decision determines the substantive issue in this reference, and I make no order as to costs.

DATED 3 January 2007

(Signed)

P R Francis FRICS