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Leasehold Valuation Tribunal

On an application under section 21(1)(a) of the Leasehold Reform Act 1967 ('The Act') to determine the price payable under section 9(1), in respect of the tenant's acquisition of the freehold.

Reference: BIR/41UK/OAF/2012/0067c

Property: 3 Lotus, Lakeside, Tamworth B77 2RZ.

Applicant: Mr D W Williscroft (Leaseholder).

Respondent: Mayfly (Corib) Ltd (Freeholder).

Date application received: 26th September 2012.

Date of tenant's notice: 17th July 2012.

Considered at Midland Rent Assessment Panel, Birmingham on 30th November 2012

Representations:

For the Applicant: Mr A W Brunt of Anthony Brunt and Co Chartered Surveyors.

For the Respondent: Mr G Dixon of Jack Dixon and Co Auctioneers and Estate Agents

Members of the Tribunal: Mr R T Brown FRICS
Mr J H Dove solicitor

Determination

1. The Tribunal determines that, taking account of the evidence adduced, our evaluation of it, using our general knowledge and experience, but not any special knowledge, the price payable by the lessee for the acquisition of the freehold interest in the property in accordance with section 9(1) of the Leasehold Reform Act 1967 as amended is **£3,284.00**.
2. The reasonable legal costs Respondent (Freeholder) payable by the Applicant (Leaseholder) in respect of the matters set out in section 9(4) of the Act are: legal costs of **£450.00** plus VAT if applicable.
3. The Tribunal determines on the evidence presented that no valuation fees are payable no evidence of an inspection or valuation having been produced to the Tribunal.

Reasons for Decision

Introduction

4. The application was received from the Applicant, on 26th September 2012 together with various documents relating to the title, a copy of the notice of claim and a copy of the lease dated 20th July 1976.
5. The lease is for a term of 99 years from the 29th September 1972 at an initial ground rent of £70.00 per annum payable until the 29th September 2038 and thereafter £140.00 per annum for the remainder of the term.
6. At the date of the notice there were approximately 59.2 years remaining on the lease.

Inspection

7. The members of the Tribunal inspected the subject property on 30th November 2012 in the presence of the leaseholder Mr Williscroft and Mr Brunt.

The Property

8. The property, originally constructed in the 1970's, comprises a semi detached house. The property is constructed in brick with tile roof and original single glazed timber windows. The centrally heated accommodation comprises: Hall, living room, kitchen, 3 bedrooms and bathroom. It has front and rear gardens with an 8 foot wide side access.
9. The Tribunal noted in particular:
 - Poor timber window frames.
 - Dated kitchen and generally in need of internal decoration and modernisation.
 - The possibility of extension at the side although probably too narrow for a garage could provide a Utility Room or similar.
 - The site is level.

Hearing

10. Following the inspection a public hearing was held at the Tribunal's hearing room in Birmingham.
11. The Hearing was attended by Mr Brunt. No one attended from the Freeholder or Jack Dixon and Co.

The Applicant's Case

Capitalisation Rate

12. Mr Brunt adopted 6% to reflect the size of the initial ground rent and the review.

Entirety Value

13. Mr Brunt put forward an Entirety Value of £130,000.00 based on an analysis of local evidence.

Site Apportionment

14. Mr Brunt adopted 33% in line with recent decisions of the Tribunal.

Deferment Rate

15. Mr Brunt adopted 5.5% a rate he said adopted by the Tribunal in recent cases following the decisions in *'Sportelli' (Earl Cadogan and Another v Sportelli and Another (2006) LRA/50/2005* and other decisions), *Zuckerman and Others v Trustees of the Calthorpe Estate LRA/97/2008 (Kelton Court)* of 0.5% (lower real growth outside PCL) and *Re Mansal Securities Limited and Others (2009) LRA/185/2007*.

16. As to Standing House Value Mr Brunt had considered the condition of the property as it now stands and concluded that a lower figure than the Entirety Value should be adopted. He justified this by explaining to the Tribunal that the property was for sale at an asking price of £112,000.00 and that an offer (on a Freehold basis) had been received in the sum of £106,000.00 from a prospective purchaser who is in a position to proceed.

3 Stage Valuation and Schedule 10 Rights

17. Mr Brunt had adopted the three stage approach and 80% of the Standing House value to reflect the tenant's rights under Schedule 10.

Legal Costs

18. As to the legal costs Mr Brunt proposed the sum of £450.00 (plus VAT if applicable) to cover the items mentioned in section 9(1)(4)(a) to (d).

Valuation Fees

19. As to the valuation fee Mr Brunt initially proposed the sum of £300.00 (plus VAT if applicable). However after consulting with his client, whilst the Tribunal were at the property, he reported that an inspection by the Freeholder's agent had been made sometime in mid June. Since then the property had been empty and the keys held by the selling agent Mark Evans. Enquiry at Mr Evans's office revealed that no-one by the name of Dixon or representing Jack Dixon and Co had enquired about access for inspection. He concluded that no inspection had been carried out *'pursuant to the notice'* as required by section 9(1)(4)(e) and therefore no valuation fee was payable.

The Respondents Case

20. The Respondent had failed to comply with the Directions issued on 27th September 2012.

21. The Respondent's agent Mr G Dixon had written to the Tribunal on the 2nd October 2012 saying *'we do not intend "splitting hairs" with Mr Brunt'* and on the 26th November he wrote again *'Quite frankly we see no point in participating and confirm we raise no objection to: - 1. Valuation £3284. 2. Solicitors Costs £450. 3. Valuation fee £300.00.'*

The Tribunal's Deliberations

22. The Tribunal considered all the written and oral evidence submitted.

23. The Tribunal was somewhat surprised to find on enquiry of Mr Brunt that Mr Dixon had not at least copied the letters to the Tribunal to Mr Brunt. As result there was no agreement in place giving the Tribunal jurisdiction to determine the matter under section 21 of the Act.
24. After considering Mr Brunt's valuation the Tribunal concluded that the figure proposed was a proper figure for the Tribunal to adopt and accordingly the Tribunal adopt and determine Mr Brunt's valuation which is in Appendix 1.
25. As to legal costs. It appears that Mr Dixon agrees with the figure proposed which is in line with recent decisions of this Tribunal and accordingly the Tribunal determines the sum of £450.00 plus VAT if applicable. VAT is only payable by the Applicant if the Respondent is not registered for VAT.
26. As to valuation fees the Tribunal find that, on the evidence presented, no inspection or valuation was carried out *'so far as they are incurred in pursuance of the notice'* in accordance with section 9(1)(4)(e) of the Act and therefore no valuation fee is payable under that section.

Robert T Brown
Chairman

Dated.....

Appendix 1
The Tribunal's Valuation (adopting Mr Brunt's valuation)