

878



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

**Case Reference** : **CHI/OOHC/OAF/2013/0010**

**Property** : **16 Saxby Close, Worle, Weston Super Mare, Somerset BS22 7UP**

**Applicant** : **Miss Jackie Ash**

**Representative** : **Berry Redmond Gordon and Penney**

**Respondent** : **The Successors in Title to Catherine Wallop**

**Representative** : **Absent**

**Type of Application** : **Determination of the price payable by the Applicant for the freehold reversion in the property**

**Tribunal Members** : **Judge A D McC Gregg (Chairman)  
Mr M J Ayres (Valuer Member)**

**Date and venue of Hearing** : **6 December 2013  
There was no Hearing**

**Date of Decision** : **10 January 2014**

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**DECISION**

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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 £2,545 and that the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

### **Reasons**

2. The Tribunal inspected the property on 6 December 2013 in the presence of the Applicant Miss Jackie Ash. It is a corner terraced 2 storey house at the end of a terrace of two built in about 1982. The Tribunal had received a valuation report from the Applicant's valuer, Mr M T Ripley FRICS of Stephen & Co dated 16 October 2013 in which he valued the enfranchisement price of the property in the sum of £1,146. He described the property as having been built in the early 1980's and of being of brick cavity construction with a pitched tiled roof.
3. The accommodation comprises an entrance hall/lobby with a cupboard leading into a living room with a kitchen off. There is a metal spiral staircase leading to the first floor landing which has a bathroom/WC off and a double bedroom. In the double bedroom there is a walk in cupboard containing the gas boiler for the central heating.

The property has double glazed UPVC windows throughout and central heating throughout. Outside there is a front garden area which adjoins a lock up garage for one car. Apparently all main services are connected to the property.

4. The Applicant did not seek a hearing before the Tribunal.

### **Lease**

5. The property is built upon land that was part of a demise by a lease dated 1<sup>st</sup> September 1557 described originally under Land Registry Title No: AV148044.

The benefit of this lease being vested in John and Isabel Thomas at an annual rent of £1 6s 9d. The Tribunal has been told that the Applicant pays no ground rent and that the whereabouts of the lessors or beneficiaries are unknown.

6. The Applicant's solicitors, Berry Redmond Gordon and Penney have submitted to the Tribunal various copy documents. These include the above valuation report, Office Copy Entries and a general form of judgment or order dated 16 September 2013 (claim no: 3WMO0441). It was issued by the Weston Super Mare County Court and directs that "the estimated amount of pecuniary rent payable for the said property by the Applicant as tenant thereof under the lease out of which the Applicant's current interest arises as provided by Section 3 of the

Landlord & Tenant Act 1954 (as amended) which remains unpaid and which will remain unpaid up to the date of this order is the sum to be determined by the Leasehold Valuation Tribunal (now as of 1 July 2013 the First-Tier Tribunal Property Chamber) under Section 9(i) of the Leasehold Reform Act 1967 under the original valuation basis ...". It also states "... that the Applicant be at liberty on or before the date of the final order or such later date as the Court may direct, to lodge in the Court such sum as is directed by the Leasehold Valuation Tribunal (now the First-Tier Tribunal Property Chamber) at a price payable for the said property and the said estimated amount of rent which will remain an unpaid as aforesaid.

Upon such lodgement being made the District Judge to execute or nominate someone to execute in favour of the Applicant the said conveyance and the Applicant be at liberty to apply."

7. Following the inspection, the Tribunal considered the recent important decision by the Upper Tribunal Lands Chamber Re Clarise Properties Ltd's appeal [2012] UKUT 4[LC] concerning 167 Kingshurst Road, Northfield Birmingham, B31 2LL. ["Kingshurst Road case]. This decision is dated 17<sup>th</sup> January 2012. Briefly, this decision is partly concerned with the valuation approach concerning Section 9[1] of the Act and the effect of the tenant's right to remain in occupation at the end of the 50 year extension. The Tribunal noted that Mr Ripley considered that this approach is inappropriate here.
8. The amount that the Tribunal is to determine is the "appropriate sum" defined in Section 27[5] of the 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 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."
9. Section 9 of the 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. This date is not known to the Tribunal. Mr Ripley inspected the property on 1 October 2013 and his valuation is dated 16 October 2013. The Tribunal has adopted the latter date as the valuation date in this case. It is also of the opinion that there has been no material change in the value of the property between this date and the date of the Tribunal's determination.
10. 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 i.e. that it is appropriate to adopt the three stage approach, rather than the two stage approach to 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.

11. There is not likely to be any evidence of sales of vacant sites as this locality has 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 £90,000. After careful consideration the Tribunal disagreed with the entirety value here of £90,000 and, using its own knowledge and experience, decided that the figure should be £93,000.
12. 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 disagreed with the site value put forward by Mr Ripley i.e. £22,500 (this being 25% of the entirety value) and using its own knowledge and experience decided that the figure should be £25,575 that being 27.5% of the entirety value. The Tribunal agreed that the modern ground rent was correctly calculated at 7% of the site value.
13. With regard 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.
14. With regard to the value of the freehold reversion after 44 years, the Tribunal adopted a figure of £89,400 (an approximate 3.85% reduction from the entirety value of £93,000). 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.

15. Accordingly, the Tribunal's valuation is:-

Term

Ground rent reserved nil, therefore:-

1. Value of term		£0
2. Value of First Reversion		
Entirety value	£93,000.00	
Gross site apportionment at 27.5%	£25,575.00	
Section 15 modern ground rent @ 7%	£1,790.00	
Years purchase 50 years @ 6% <u>15.762</u>		£28,214.00
Present value of £1 in 44 years @ 6% .077		
Value of First Reversion		£2,172.00
3. Value of Second Reversion		
Standing house value	£89,400.00	
P.V. of £1 in 94 years @6% .00418		
Value of Second Reversion		£373.00
	Total value	<u>£2,545.00</u>

16. 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.

### APPEALS

1. A person wishing to appeal against this decision 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 the time or not to admit the application for permission to appeal.

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 which the person is seeking.

Dated: 10 January 2014

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Judge A D McC Gregg  
Tribunal Chairman