



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

Case Reference : CHI/00HC/OAF/2019/0011

Property : 11 Saxby Close, Weston-super -Mare BS22
7UP

Applicant : Mr R Ashdown

Representative : Berry, Redmond, Gordon & Penney, solicitors

Respondent : The successors in title of Catherine Wallop

Representative :

Type of Application : Leasehold Reform Act 1967 (Missing
Landlord)

Tribunal Member : Mr D Banfield FRICS

Date of Decision : 14 November 2019

DECISION

Summary of Decision

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 **£4,390** and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

Background

1. District Judge Field sitting at the County Court at Weston–super-Mare made an order dated 6 September 2019 directing that the First–tier Tribunal (Property Chamber) assess the appropriate sum in accordance with S27(5) of the Leasehold Reform Act 1967. (The Act)
2. Enclosed with the application to the Tribunal was a valuation report prepared by Mr M.T. Ripley FRICS dated 16 October 2019.
3. An inspection of the property has not been made.

The Lease

4. The site is identified on the HM Land Registry plan edged red under title number AV78017 and is held by way of a lease for a term of 500 years from 1 September 1557 and made between Catherine Wallop and John and Isabel Thomas. The lease is subject to a yearly rent in respect of the whole of the premises of £1 6s 9d.
5. Mr Ripley in his valuation states that no ground rent is paid, the beneficiaries being unknown.

The Law

6. Section 27(5) of the Act provides:
The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:
 - a. *Such amount as may be determined by (or on appeal from) the appropriate Tribunal 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.*
7. Section 9 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation. The effect of Section 27(1) is that the valuation date is the date on which the application was made to the Court.
8. There are various bases set out in Section 9 of the Act and the Tribunal determines that the appropriate basis is in Subsection 9(1) being that on 31 March 1990 the Rateable value of the house and premises was not above £500.
9. The Tribunal has been referred to and takes account of the following decisions: *Arbib v Cadogan* (2005), *Cadogan Estates Limited v Sportelli* (2006) and *Clarice Properties Limited Appeal* (2012).

The Premises

10. The property comprises a mid terrace two storey house constructed in about 1978.
11. The accommodation comprises an entrance porch, living room with open stairs to first floor and a kitchen on the ground floor with double and single bedrooms and a bathroom/wc above. Outside is a shallow front garden with single parking space, an enclosed rear garden partially separated by a public footpath. Gas fired central heating is installed.

Evidence and Decision

12. In a valuation report dated 16 October 2019 Mr M T Ripley FRICS determined that the value for the purposes of Section 27 of The Act as at 6 September 2019 is £2,540.
13. Mr Ripley made his determination on an open market value of the property of £155,000, a site value proportion of 25.00% (£38,750) a modern ground rent at 6% (£2,325) and a YP in perp at 7% deferred 38 years. This produced the rounded sum of £2,540.
14. Mr Ripley bases his open market value on the sale of four two and three bedroom properties at prices between £149,000 and £169,000 adjusted for position and accommodation;
 - a. 39 Longdown Drive, sold March 2019 for £169,000
 - b. 10 Gill Mews, sold May 2019 for £165,000
 - c. 44 Kelston Road, sold August 2019 for £163,000
 - d. 26 Perrymead, sold July 2018 for £149,000
15. The Tribunal accepts Mr Ripley's value of £155,000.
16. The Tribunal finds that the deferment period is 38 years
17. Mr Ripley considers the deferment rate should be 7% and the modern ground rent calculated on a 6% return. He justifies the departure from the 4.75% rate determined in Sportelli and the previously adopted 7% for calculating the modern ground rent for the reasons set out in paragraphs 1 to 5 on page 3 of his report.
18. The Tribunal accepts that there are grounds to depart from the generic deferment rate of 4.75% but considers that a rate of 6% is more appropriate to reflect the differences and therefore applies that figure to the valuation below.
19. The Tribunal accepts Mr Ripley's site value of 6% and 7% return on capital.

20. For the reasons set out in paragraph 6 of his report Mr Ripley considers that the staged approach adopted in Clarice is inappropriate and therefore adopts a single reversionary basis. The Tribunal disagrees and sees no justification for departing from the 3-stage approach.
21. The Tribunal accepts Mr Ripley's application of 25% as the site value proportion.
22. In order to reflect the assumption that Schedule 10, paragraph 4 of the Housing Act 1989 applies to the tenancy and that it will continue until the appropriate notice is served a deduction of 3.85% is made to reflect the possibility that the tenant may obtain an assured tenancy at a market rent.
23. The Tribunal's valuation is therefore;

Value of current term with no rent payable,	£00.00
Value of first reversion;	
Entirety value £155,000	
Site value @ 25%	£38,750
S.15 modern ground rent @6%	£2,325
Years purchase 50 years @7% = 13.80075	= £32,087
Present value of £1 in 38.00 years deferred @6% 0.1092388	£3,505
Value of second reversion:	
Entirety value £155,000	
Deduct 3.85%, £149,032	
Present value of £1 in 88 years deferred @ 6% = 0.0059304	
=	£884
Total sum payable:	say <u>£4,390</u>

24. The Tribunal determines that the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

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. 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.
2. 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.
3. 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.