



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

Case Reference : BIR/00CN/OLR/2022/0041

Property : 18 Coronation Road, Selly Oak, Birmingham, B29 7DE

Applicant : Maie Silvia Willbern as Executor to the Estate of Emil August Millers decd.

Applicant's Solicitors : Clarke Mairs Law Limited

Applicant's Expert Witness : Robert Stewart Kaye MSc MRICS

Respondent : Merrilee (Developments) Limited

Respondent's Solicitors : Lodders Solicitors LLP

Respondent Expert Witness : Jolyon Moore

Type of Application : Application to determine the price payable for the Freehold interest under section 9(1) of the Leasehold Reform Act 1967

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
V. Ward B.Sc. FRICS – Regional Surveyor

Date and Venue of \Hearing : None. Paper determination.

Date of Decision : **01 December 2022**

DECISION

- 1 The price of the Freehold interest is determined at £54,000 (Fifty Four Thousand Pounds).

REASONS

Introduction

- 2 This is the Tribunal decision in respect of an application under section 21(1)(a) of the Leasehold Reform Act 1967 ('the Act') for determination of the price to be paid under section 9(1) for the freehold interest in 18 Coronation Road, Selly Oak, Birmingham, B29 7DE.
- 3 The Applicant is Maie Silvia Willbern as Executor to the Estate of Emil August Millers deceased, the owner of the leasehold interest. The Respondent is Merrilee (Developments) Limited, the freeholder. There are no intermediate interests.
- 4 The Applicant served Notice to acquire the freehold interest on 14th October 2021 and applied to the Tribunal on 23rd June 2022.

Issue

- 5 The only issue for the Tribunal to determine is the price of the freehold interest.

The Law

- 6 The property is held by Lease dated 16th January 1973 for a term of 70 years from 29th September 1972 at ground rent of £12.50 p.a. There is no provision for rent review. The lease expires 28th September 2042 and at the valuation date, the date of service of Notice, there were 20.96 years unexpired.
- 7 The Lease is full repairing and insuring.

Facts Found

- 8 The Tribunal inspected the property on 15th November 2022 in the presence of Mr A. Checkley representing the freeholder and a keyholder representing the leaseholder.
- 9 The property is an end-terrace two storey house in a well-established residential area, densely developed with Victorian terraced housing, just off the A38 Bristol Road close to Birmingham University's campus. Local shops and facilities including Selly Oak railway station are within a few minutes' walk and the city centre is within three miles providing a full range of facilities.
- 10 It is of traditional brick and tile construction with a rear wing. The front elevation has facing brick to the ground floor with rendering above. The left side of the property adjoins an alleyway at ground floor level with the first floor bedroom over-sailing half the alley as flying freehold.
- 11 The accommodation comprises two reception rooms and a kitchen on the ground floor with a landing, two bedrooms and bathroom on the first floor. It has small front and back gardens but there is no access to the rear for off-road parking and insufficient space to the front to create a parking space for an average car.
- 12 The property does not appear to have been occupied for months and the interior is in poor condition. There are missing floorboards, wet and dry rot, areas of plaster have fallen off exposing lath beneath and there is ivy ingress to the kitchen. The house requires complete refurbishment.

Agreed Facts

13 The parties have agreed the following elements of the valuation:

- i Basis of valuation: section 9(1) of the Act.
- ii Unexpired term: 20.96 years
- iii Ground Rent: £12.50 p.a.
- iv Deferment rate: 5.25%
- v 'Clarise' deduction: Nil
- vi Plot apportionment: 32.5%
- vii Standing House value: £300,000

14 The valuation points in issue are:

	<u>Applicant</u>	<u>Respondent</u>
viii Capitalisation rate	7.0 %	6.5 %
ix s.15 ground rent	£5,545 p.a.	£8,531 p.a.

Submissions in respect of Capitalisation Rate

15 The parties are very close and neither Expert made any particular submission on the capitalisation rate that should be applied to the ground rent for the remainder of the lease other than presenting the figures above. The Applicant's figure resulted in a term value of £135.32, the Respondent £140.93.

Tribunal Decision on Capitalisation Rate

16 This is a very small ground rent where the costs of collection would exceed the income. Nevertheless, it has a notional value and in view of the small amount, the Tribunal finds for the higher capitalisation rate of 7% and values the term at £135.32 as shown at paragraph 39 below.

Submissions in respect of s.15 'Modern Ground Rent'

17 The ground rent effective for the 50 year statutory extension from expiry of the contractual term, generally referred to as the 'modern ground rent'.

The parties approached this in different ways, both of which have merit.

18 Applicant

The Applicant's Surveyor, Mr Kaye, assessed the ground rent in two ways;

a) 'The Standing House Approach' by adopting the procedure applied in *Farr v Millerson (Investments)* 1971 218 EG 1177 of assessing the value of a hypothetical house on the plot assuming it had been built to optimise its realistic potential, applying a site apportionment to assess the plot's value and then devaluing the resultant figure by 5.25% return to calculate a rental equivalent;

b) 'The Cleared Site Approach' by researching actual land sales in the area, assessing the equivalent capital value by adjusting for plot size and applying a devaluation rate of 5.25% return to assess the ground rent.

a) Standing House Approach

Mr Kaye produced a schedule of 12 freehold house sales in the area ranging from £320,000 to £455,000 over a period from 30th June 2021 to 7th April 2022. All were in nearby streets in the same general area. Mr Kaye provided photographs where available, gave general descriptions and commentary on comparison with the subject house.

- 19 Mr Kaye said a high proportion of houses in the area had been converted to HMOs and in respect of the subject house *'the highest and best use in terms of value would most likely be as a small HMO ...'* However, he pointed out that the house did not have planning consent for conversion or a valid HMO licence and based on Birmingham City Council planning policy DM11 'Houses in Multiple Occupation' he considered consent unlikely to be granted. Converting to an HMO would be more risky for the freeholder and this needed to be reflected in the valuation. Furthermore, some of the properties cited in evidence would not have been refurbished or fully developed. In summary, he did not consider the Entirety Value should be assessed assuming the house were fully furnished and let as a student investment.
- 20 Having considered the sales evidence, he considered the Entirety Value of a hypothetical house on the subject plot to be worth £325,000 at the valuation date.
- 21 b) Cleared Site Approach
Mr Kaye referred to a land sale at Elliot Road, Selly Oak, Birmingham, B29 6LS where a cleared plot of 40.47 sq.m. with residential planning consent had sold by auction in September 2018 for £40,000. It is within 500 m of the subject property.
- 22 Respondent
Mr Moore for the Respondent based his valuation on the Standing House Approach. He had also researched house sales in the area and asked the Tribunal to consider six in particular, ranging from £437,000 to £500,000 from 15th September 2021 to 22nd October 2022.
- 23 In contrast to Mr Kaye, he said there was a high chance of planning permission being granted for conversion to an HMO and referred to 11 houses in the area where Birmingham City Council had granted consent from 5th August 2021 to 5th July 2022. In view of the high number of HMOs the conversion of one more would not harm the character of the area. He also said an owner occupier attempting to sell would be severely prejudiced against obtaining the best price if there were a prohibition against HMO use. He supported this by referring to correspondence between his client and the head of development policy at Birmingham City Council Planning Department.
- 24 Based on comparable sales, he considered the Entirety Value to be £600,000 although later reduced this to £500,000.

Tribunal Decision

- 25 Standing House Approach
The Tribunal has summarised the evidence provided by the parties in the attached table. It was impossible to inspect everything on the day due to adverse weather and the volume of traffic in the area but the Tribunal inspected the exteriors of nine houses referred to for comparison.
- 26 It is noted that the valuation date was 14th October 2021 and while post dated evidence is not dismissed and helps set a trend, it carries less weight than sales available to parties at the date.
- 27 One of the properties, No.6 Elmdon Road, is a large detached house and of little assistance.
- 28 The others are all terraced houses of similar general age but some may have been in poorer condition than others at the date of sale, the accommodation may have differed and they may not all have been developed to maximise their potential.

- 29 Bearing in mind the large number of HMOs in the area and the recent permissions granted by the City Council, the Tribunal finds there is a reasonable prospect of achieving HMO consent for the subject house which should be reflected in the valuation.
- 30 Mr Kaye rightly points out that an HMO would be more risky for a property owner but if the value of the completed freehold increased, so too would the owner's profit which is where risk is reflected. Construction costs are also likely to be higher for an HMO than house in single occupation due to occupier requirements for more cloakrooms, larger kitchens, compliance with fire regulations etc. but the increased costs would also be available to a developer if the completed value were higher.
- 31 In assessing Entirety Value, the Tribunal has regard to the highest realistic use that could be made of the subject plot and by the valuation date there had been three key sales:

No.261 Tiverton Road	£455,000	30.06.21
No.203 Dawlish Road	£450,000	15.09.21
No.50 Alton Road	£460,000	27.09.21

- 32 Having considered all the evidence, the Tribunal finds the Entirety Value of the subject house to have been £450,000 at the valuation date.
- 33 Cleared Site Approach
By way of check, the Tribunal notes Mr Kaye's evidence of the plot sold in Elliot Road for £40,000. It comprised 40.47 sq.m. compared with 120.34 sq.m. for 18 Coronation Road which would make the subject plot worth £118,900 freehold on a like for like basis.
- 34 Applying the 32.5% plot ratio agreed by the parties to the Entirety Value of £450,000 above would indicate a plot value of £146,250.
- 35 However, the Tribunal is unable to apply great weight to direct comparison with Elliot Road because it was only one plot sold four years ago in a rising market. No evidence has been adduced to demonstrate the rate of growth since 2018 but in the Tribunal's view market values have increased substantially since then.

- 36 Summary
Having considered the alternative Standing House and Cleared Site Approaches, the Tribunal prefers the Standing House approach on this occasion and finds the Entirety Value to be £450,000.

Tribunal Valuation

- 37 The Tribunal's valuation is attached. Applying the inputs above, we find the price of the freehold interest under s.21 of the Leasehold Reform Act 1967 to be £54,000 (Fifty Four Thousand Pounds).

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

38 Summary of Comparable Evidence

Road	Applicant Evidence No.	Respondent Evidence No.	Price £	Date
Tiverton	155		355,000	24.06.21
Tiverton	261		455,000	30.06.21
Dawlish	184		355,000	30.06.21
Tiverton	143		332,500	30.06.21
Heeley	144		396,000	30.06.21
Elmdon	6		880,000*	30.06.21
Selly Hill	67		330,000	19.08.21
Dawlish		203	450,000	15.09.21
Selly Hill	51		320,000	17.09.21
Holly Grove	1		270,000	17.09.21
Alton		50	460,000	27.09.21
<i>Coronation 18 Valuation Date</i>				<i>14.10.21</i>
Luton		4	500,000	22.10.21
Dawlish	124		360,000	22.11.21
Rookery		29	470,000	21.01.22
Dawlish		258	475,000	21.01.22
Exeter	12		345,000	31.03.22
Exeter	16		322,000	08.03.22
Heeley	171		401,000	07.04.22
Dawlish		194A	437,000	22.10.22

* A large detached house, completely different type of property.

39 Tribunal Valuation

For valuation purposes, the Tribunal rounds the unexpired term from 20.96 years to 21 years.

Term 1

Rent	£ 12.50		
Years Purchase 21 years 7.0%	<u>10.8355</u>		
		£	135

Term 2

Freehold Entirety Value	£ 450,000		
Site Apportionment	<u>0.325</u>		
Site Value	£ 146,250		
S.15 Modern ground rent @5.25%		7,678	
Years Purchase 50 years @ 5.25%		17.5728	
Present Value 21 years 5.25%		<u>0.3414568</u>	
		£	46,070

Reversion

Standing House value	£ 300,000		
Present Value £1 71 years @ 5.25%	<u>0.0264381</u>		
			<u>7,931</u>

£ 54,136

s.9(1) Price say £ 54,000

Appeal to Upper Tribunal

Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal and the result sought by the party making the application.