



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

Case Reference : **MAN/00CX/0AF/2022/0006**

Property : **6 Grove Terrace, Bradford BD7 1AU**

Applicant : **Roy Residences Ltd**

Respondent : **Mohammed Zaman Khan**

Type of Application : **Leasehold Reform Act 1967, Section 21(1) (a) and section 21(2)**

Tribunal Members : **Judge T N Jackson
Mr A Davis FAAV/MRICS
Mr P Mountain**

Date and venue of Hearing : **Paper determination**

Date of Decision : **15 November 2022**

Date of Determination : **14 December 2022**

DECISION

© Copyright 2022

Decision

We determine that the price payable by the Applicant for the acquisition of the freehold interest in the Property is £nil.

We determine that the transfer shall be in standard HM Land Registry form without additional exceptions, covenants or reservations save for implied indemnities in respect of existing covenants.

Reasons for decision

Introduction

1. By a Leeds County Court Order of 14 December 2021, the case was transferred to the Tribunal for the determination of price payable for the Property and the provisions which ought to be contained in the conveyance under the provisions of the Leasehold Reform Act 1967 ('the 1967 Act').

Background

2. The Applicant is the registered leasehold owner of the Property, which is registered at HM Land Registry under Title No. YY12030 pursuant to a 999 year Lease dated 28 September 2012. The Respondent is the registered freeholder under HM Land Registry under Title No. WYK689514.
3. By Notice of Claim dated 19 February 2021, the Applicant gave the Respondent Notice of its' right to acquire the freehold of the Property under the provisions of Part 1 the 1967 Act'. The Notice of Claim was protected by registration of a unilateral notice against the freehold title WYK689514.
4. The Respondent did not serve a Notice in Reply to the claim within the 2 month stipulated period but acknowledged receipt of the Notice and advised that he had sold the Property 'last year' but that his name remained on the Proprietorship Register 'due to delays at the Land Registry'.
5. County Court proceedings were commenced to enforce the Applicant's right to have the freehold. On 14 December 2021, Leeds County Court ordered that the Applicant was entitled to acquire the freehold of the Property pursuant to Part 1 of the 1967 Act and transferred the proceedings to the Tribunal for the determination of price payable for the Property and, so far as is necessary, the provisions which ought to be contained in the conveyance under the provisions of the 1967 Act.
6. The Tribunal issued Directions dated 10 June 2022.

Inspection and Hearing

7. The Tribunal did not consider it necessary to inspect the Property. Neither party requested an oral hearing and the matter was therefore determined on the papers. From the papers, which include photographs, we understand that the Property is a mid terraced two storey plus basement and attic level property of stone construction

situated on a site extending to 0.02 hectares. It is in a strategic location adjacent to Bradford University Campus and is within walking distance of Bradford city centre.

8. It has ten ensuite single bedrooms set over ground floor, first floor and attic level. The basement comprises communal facilities include a utility room, WC and washbasin, shared dining kitchen with fitted wall and base units, a storage room and a communal living room. There are 8 parking spaces to the rear. The Property interlinks with the adjoining property No.4 Grove Terrace via the yard area with the two yards being effectively shared. Access is from a driveway extending along the rear of the terrace and there is an entrance doorway from ground floor. It was licenced as a House in Multiple Occupation.

Lease

9. By Lease dated 28 September 2012 between Aqeel Ahmed Khan and CRD Residential Lettings Limited, the property was demised for a term of 999 years beginning on 28 September 2012 at a peppercorn rent. Therefore, the unexpired term at the date of the Notice was 989 years and 6 months.

The Law

10. Section 9(1) of the 1967 Act provides for how the premium is to be calculated.

Submissions

11. The Applicant and, (following an extension), the Respondent submitted Statements of Case received by the Tribunal on 8 July 2022 and 9 August 2022 respectively. The Applicant and Respondent submitted a Statement in Response received by the Tribunal on 26 August 2022 and 7 August 2022 respectively.

The Applicant

12. The Applicant's submission included an expert's report dated 8 July 2022 in which the valuer valued the Property under section 9(1) of the 1967 Act. The valuer set out the basis of his valuation.
13. The tenancy is at a low rent pursuant to section 4(1)(ii) as the yearly rent is a peppercorn and does not exceed £250.
14. The value of the house does not exceed the applicable financial limit specified in section 1(1)(a)(i) or (ii), (5) or (6) of the 1967 Act, as on the date the tenancy was entered into, applying the formula, R did not exceed £25,000.
15. The Property did not have a rateable value on 31 March 1990 and R did not exceed £16,333 and the right to acquire the freehold arises under section 9(1) of the 1967 Act.
16. He considered the valuation under section 9(1) of the 1967 Act as follows:

- (i) *Capitalised value of the existing lease ground rent*

The Property is held on the remainder of a 999 year Lease with a peppercorn rent. It is commonplace in such cases to adopt a term and reversion calculation.

(ii) *Capitalised value of the modern ground rent*

As there was a nil/peppercorn rent, there was no value to the capitalized value of the existing lease ground rent.

(iii) *The value of the Freeholder's reversion at the expiry of the extended lease*

As the value of the reversion was so far in the future, his opinion was that there is a nil value to the Freeholder's reversion at the expiry of the extended Lease.

17. His valuation was that there should be a nil premium.
18. In its' Statement in Response to the Respondent's submission, the Applicant set out the complex history of the matter which ultimately required it to seek a declaration in the County Court of their right to acquire the freehold.
19. In response to the Respondent's allegation regarding breach of the Lease regarding use as an HMO, the Applicant says that the Property was a well -established licensed HMO when bought by the Applicant in 2015/6. An HMO Licence was granted on 28 November 2012, when the Landlord, (Mr Aqeel Khan) and the then leaseholder, (CRD Residential lettings Ltd), were one and the same, (as established in court proceedings), and therefore by 28 November 2012, the Landlord had consented to the use of the Property as an HMO (Class C4) and the Landlord was not then able to withdraw that consent. A subsequent HMO Licence was granted on 8 October 2015.

The Respondent

20. The Respondent has provided a valuation report dated July 2012, (prepared for a bank for the basis of a loan), in which the Property was valued at £400,000.
21. He alleges that the Applicant is in breach of the Lease as it has operated the Property as a 10 bedroomed HMO in breach of Part 2 of the Lease which restricts use of the Property to A1, A2, A3, A4, A5, C3, and D1 of the Town and Country Planning Use Classes Order and has not sought consent from the Freeholder for consent to use the Property as an HMO.
22. Based on the 2012 report, and having regard to the alleged breach of the Lease, the Respondent considers that the current market would dictate a premium of £200,000.
23. In response to the Applicant's valuation, the Respondent says that the valuer has not had regard of the breach of the Lease regarding the permitted use and the risk to life arising from the Property not being insured due to the breach and accuses the valuer of bad intentions in picking and choosing the information provided to the Tribunal.

Deliberations

24. We find the Respondent's submission regarding valuation to be misconceived as it is based on the value of the Lease as opposed to the value of the freehold reversion, as is demonstrated by the 2012 valuation report he has provided. Allegations regarding breach of the permitted use clause of the Lease relate to valuation of the Lease not the freehold reversion and are not relevant to the matter before us. In any event, on the basis of the evidence provided, it does not appear to us that there was such a breach, as the Respondent's predecessor consented to the use of the Property as an HMO no later than 2012.
25. We prefer the valuation report submitted by the Applicant as it follows the correct valuation approach required under section 9(1) of the 1967 Act. The valuation takes account of the fact that the ground rent is a peppercorn and also that 989 years and 6 months remain on the Lease. It is standard valuation practice to regard the value of any reversion which is 250 or more years distant, as nil. We determine that the valuation of the freehold, at the valuation date, is nil.
26. Neither party has submitted a draft transfer for consideration. We determine that the transfer shall be in standard HM Land Registry form without additional exceptions, covenants or reservations save for implied indemnities in respect of existing covenants.

Costs

27. No application for costs was made and we make no such order.

Appeal

28. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

Tribunal Judge T N Jackson
15 November 2022