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THE NORTHERN RENT ASSESSMENT PANEL

LEASEHOLD VALUATION TRIBUNAL

REF: LVT/77

RE: 4 BROUGHTON RISE, MALTON, NORTH YORKSHIRE

The landlords, Milton (Peterborough) Estates Company made application to the Leasehold Valuation Tribunal on 31st May 2001 for the determination of the price payable under Section 9 of the Leasehold Reform Act 1967 in respect of 4 Broughton Rise, Malton, North Yorkshire YO17 7BW, of which Mrs. Audrey May Shaw is the tenant.

The original Lease is dated 12th September 1902 and grants a term of 99 years from 6th April 1902. Accordingly the Lease expired by effluxion of time on 5th April 2001.

On 11th February 1999 the tenant gave Notice of her claim to acquire the freehold.

On 8th May 2001 the landlord gave Notice in reply admitting the tenant's right to acquire the freehold.

The terms of the Conveyance were not in issue. A draft document had been sent by the parties' solicitors.

The issue between the parties was the price to be paid and in particular:-

- (a) the freehold vacant possession value;

- (b) the plot value;
- (c) a discount rate

The Inspection

The Tribunal (comprising J. Hall JP, R. Wormald FRICS and M.J. Simpson LL.B) inspected the property at 10.30am on Tuesday 20th November 2001. It is an inner terrace of good proportions comprising a lounge, sitting room, dining kitchen and outbuildings on the ground floor with 3 bedrooms, a combined bathroom/w.c. on the first floor and 2 attic rooms (1 with dormer windows). To the rear is a good sized garden with vehicular access to the garage and a garden lawned area to the front (effectively a communal area having regard to the pedestrian access shared with adjoining owners).

The Tribunal also viewed, externally, the cited potentially comparable properties at Greystones, Broughton Road, Ormsburn, Broughton Road, 78 New Biggin, and 53A New Biggin. The Committee, in the presence of the representatives of the parties, also noted 72 New Biggin which appeared to have been recently sold and about which enquiries were instituted.

The Hearing

Mr. Lawrence, solicitor, and Mr. Bushell, valuer, represented the landlord. Mr. Thorn, solicitor, and Mr. Rawling, valuer, represented the tenant.

The landlord contended for a 1999 vacant possession value of £110,000 based on the market evidence of 78 New Biggin (sold for £102,500 in May 1999) and Ormsburn (sold for £129,000 in November of 1999). In both cases adjusted to take account of the difference between those 2 properties and the subject dwelling.

The tenant's representatives contended for a vacant possession value in 1999 of £80,000 based on market evidence of Greystones (advertised at £69,950) and 53A New Biggin sold in 2001 for £98,500. Additionally, the tenant's representatives adduced opinion evidence in the form of a report by way of letter from local Chartered Surveyors, Paul Beanland & Associates.

Both parties agreed that the relevant date for vacant possession valuation was February of 1999 (the date of the tenant's Notice).

At the conclusion of the hearing, and with the assistance of the parties' representatives and their joint consent, the Tribunal obtained evidence that 72 New Biggin had recently been on offer, with a guide price of around £145,000. It was said now to be sold, subject to contract, but the agreed price was not revealed. The detailed sales particulars indicated that its fixtures and fittings, facilities and layout might be regarded as superior to the subject property but that its location was marginally less attractive.

The Tribunal were assisted by all the valuation evidence but felt that the properties at 72 and 78 New Biggin were of most assistance, even though those valuations

required significant adjustment as to location, standing, condition, layout, size and the passage of time so as to adduce a likely value for the subject dwelling as at February 1999. In regard to all those matters the Tribunal were assisted by the representations and expertise made by both valuers giving evidence to the Tribunal as to how and to what extent those adjustments were proper and appropriate.

Taking all those factors into account the Tribunal valued the subject dwelling with vacant possession as at February 1999 at £100,000.

Neither party could produce any direct evidence as to the cleared site value. Both made calculations derived from the vacant possession value, re-building costs and the respective parties' valuers' own general knowledge and expertise.

The landlord's representatives contended for a plot value of 40% of vacant possession value and a discount rate of 6%. They adduced a schedule of sales where those percentages had been accepted by purchasers over a period of 8 years. They were all, however, utilised in calculations which produced, in most cases, very modest purchase prices, often less than £1,000. The highest being £5,000. It was apparent to the Tribunal that the impact of choosing a particular percentage was much reduced in respect of those calculations as opposed to the impact of a particular percentage in the instant case where the Lease had but 2 years or thereabouts to run at the time of the tenant's Notice.

Additionally, the landlord's agent produced an opinion by way of letter from A & D Sturdy Developers and Contractors indicating that in the writer's 20 years experience as a developer and contractor, the plot value in relation to final selling price of property "has risen dramatically due to the scarcity of good plots and to as much as 35% within the last 2 years or so".

The tenant's representatives contended for a cleared site value of 25% of vacant possession value and a discount rate of 7%. In support of those contentions the tenant's representatives drew the Tribunal's attention to the case of *Newcombe -v- Trustees of Charles Scarisbrook* being a decision of the Lands Tribunal in June of 1995 where 30% and 70% had been utilised. The Tribunal accepted that was one example of the not uncommon use of such percentages and that in that case supported by evidence. The case did not set any immutable principles to be applied in every case.

The parties' representatives fully aired all relevant aspects relating to the appropriate percentage that cleared site value would bear to vacant possession value, including the nature and extent of re-development (assuming the absence of the subject dwelling on the site after the 50 years notional Lease), the prevailing market, the shape of the site, its availability and development and the position of the plot. In the circumstances, the Tribunal adopted a cleared site value of 30% of vacant possession value.

Both sides were candid enough to adduce their own opinion and the opinion of others that there was not a great deal to choose between 6% or 7% as the discounted rate and as much or as little evidence could be adduced to support either. In 1999 interest rates were at a then historical low and have continued to be stable and reduce. There has been a significant reduction in interest rates since, for example (and it is only an example) the Newcome –v- Skelisbrook case which proceeded between 1993 and 1995. On balance the Tribunal preferred a discount rate of 6%.

The Tribunal was satisfied that under the terms of the Lease it was not compulsory for the tenant to place insurance through the landlord or the landlord's nominated agent (although insurance had to be approved by the landlord). As a matter of fact the insurance had, for 20 years or more, been effected by Mrs. Shaw without commission benefit to the landlord.

The Price Calculation

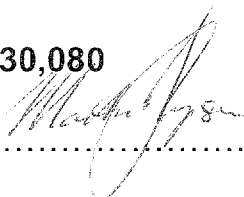
The Tribunal was considerably assisted by the form of the evidence given by the valuers for both parties, which set out a broadly agreed formula in accordance with Section 9 of the Leasehold Reform Act 1967. The up-dated calculations produced by Mr. Rawlings at the hearing were a little more detailed than that appended to Mr. Bushell's statement but both produced the same result if applied to the Tribunal's findings as above.

Utilising the shorter version the Tribunal accordingly determined the price payable pursuant to Section 9 as being £30,080 as follows:-

£

1.	Term	
	£1 x 2 years purchase @ 6%	1.83
2.	Modern Ground Rent	
	Site Value £30,000 @ 6% = £1,800 per annum	
	New Lease for 50 years @ 6% x 15.76 = £28,368	
	Present value 2 years @ 6% x 0.8899964	25,247.41
3.	Reversion to standing house value	
	£100,000 in 52 years @ 6% x 0.0483164	<u>4,831.64</u>
		30,080.88

Say - £30,080



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MARTIN J. SIMPSON

CHAIRMAN