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SOUTHERN RENT ASSESSMENT PANEL

Certificate pursuant to regulation 11(2) of the Rent Assessment Committee (England & Wales)(Leasehold Valuation Tribunal) Regulations 1993 (SI 1993/2408)

**Re: 2, 3 & 5 THE WOODRISINGS, 10 BRANKSOME WOOD ROAD,
BOURNEMOUTH**

Case No: LVT/01/4

I certify pursuant to the above-mentioned regulation that there is an error in the Notice of the Leasehold Valuation Tribunal's decision in this matter dated 22 October 2001.

The figure of £8822 (The Price) shown in paragraph 12.7 & 13 is incorrectly stated and should read £8832.

Dated 7 November 2001

SIGNED: MISS R WYNN-JONES (BA Solicitor)

.....
Chairman

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24 OCT 2001
LVT/01/4

LEASEHOLD VALUATION TRIBUNAL FOR THE
SOUTH WESTERN RENT ASSESSMENT PANEL

Tribunal: Miss R Wynn-Jones BA Solicitor Chairman
Mr P G Harrison FRICS Member
Mr T E Dickinson BSc FRICS Member

REASONS FOR THE DECISION OF THE TRIBUNAL

In the matter of Sections 9 and 21 of the Leasehold Reform Act 1967 (as amended)

RE: 2, 3 AND 5, THE WOODRISINGS, 10 BRANKSOME WOOD ROAD, BOURNEMOUTH

Applicant: Mrs N M Kane
Mr and Mrs W Home
Mr and Mrs R Cook

Solicitors: Derek T Wilkinson & Co

Valuers: House & Son

Respondent: Mr H J Clarke

Solicitors: Preston & Redman
Valuers: Rebbeck Brothers

Date of Tenant's Notice (in the case of each property): 29 August 1997
Date of Tenant's Application (in the case of each property): 6 April 2001
Date of Hearing: 2 July 2001

Appearances:

For the Applicant:

**Mr A Howard
of Derek T Wilkinsons**

**Mr Colin Wetherall FRICS
of House & Son**

For the Respondent:

**Mr P De La Piquerie
Counsel**

Mr R Clough

**Mr M G Harrington FRICS
of Rebbeck Brothers**

In attendance:

Mrs N M Kane

Mr H J S Clarke

INTRODUCTION

1. This was an application made under Section 21(1) of the Leasehold Reform Act 1961 as amended, ("the Act") in respect of the price payable under Section 9 of the Act for the acquisition of the freehold of the premises being numbers 2, 3 and 5 The Woodrisings, Branksome Wood Road, Bournemouth (together called "the properties").
2. The application also required that the Tribunal settle the amount of compensation payable to the Respondent pursuant to Section 9(A) of the Act. However at the hearing the Tribunal was informed that the matter of compensation had been settled by the parties. This was confirmed in subsequent letters to the Clerk to the Tribunal from the Applicant's and Respondent's solicitors dated 17 and 19 July 2001, respectively. As a result of

the information given at the hearing, the Tribunal did not give a decision on the question of compensation.

3. On the 10 April 2001 an Order for Directions was issued by the Tribunal to all parties.
- 4.1 On 2 July 2001 in the presence of the Applicant, the Tribunal conducted an inspection of numbers 2 and 3 The Woodrisings. "The houses" were considered to be representative of the properties.
- 4.2 The houses were found to be split level terrace premises of brick construction erected in the late 1970's. The houses formed part of a small development, comprising eight dwellings in total ("the development"). The development had a small communal front garden, fronting onto Branksome Wood Road.
- 4.3 At the rear was a private roadway giving vehicular access to the dwellings and some parking. There was a further small, planted area, at the rear of the development with pedestrian access to the Upper Gardens in Bournemouth. Each house had an integral garage with access therefrom to the first floor of the house.
- 4.4 The interior of the houses followed a similar layout and comprised a hall, cloakroom, dining room, living room and kitchen on the street level floor. There were three bedrooms and two bathrooms on the upper floor. At the rear of the houses at street level and above the garage was a sun terrace. The houses were found to be in good, to very good decorative condition. Each had the benefit of gas fired central heating.

5. JURISDICTION OF THE TRIBUNAL

The jurisdiction of the Tribunal derives from the terms of Section 21 of the Act, (as amended). The Tribunal was required to determine the price payable for each house under the terms of Section 9(A) of the Act, and in particular the value of the properties with their existing leases.

6. FACTS

The Tribunal made the following findings of fact:

- (i) the properties were all held on leases with terms of ninety-four and one half-years. At the date of the Tenant's notice there was in each case 69.5 years of each term, unexpired;
- (ii) under the terms of the leases of the properties, the Tenants were responsible for internal repair and redecoration. The Landlord was responsible for the repair and redecoration of the exterior and structure. The Landlord was also responsible for insuring the development. The Tenants paid a contribution towards such expenditure;

- (iii) the statutory notice of the Tenants' claim for purchase of the freehold of each of the properties was served on the landlord on 29 August 1997;
- (iv) the Applicant and Respondent agreed that:
 - (a) the value of the properties with a freehold title at the date of the Tenants' notice was £140,000 each;
 - (b) the appropriate capitalisation rate for the ground rent income was 6%;
 - (c) the appropriate discount rate for the freehold reversion was 6%;
 - (d) the value of the freehold reversion in each property (excluding marriage value and any compensation) was £2,664.

7. THE HEARING

The hearing was held at the Town Hall, Bournemouth, and commenced at 11.00 am.

- 8. Mr Wetherall for the Applicant made the following points concerning valuation of the houses.

8.1.1 Comparable properties

The nearest comparable was an open market sale of No 4 Woodrisings (the "first comparable premises") in August 1995.

- 8.1.2 There was an adjustment to be made in the price. The Halifax House Price Index gave an increase of 12.5% in house prices over the period from August 1995 (the date of valuation of the first comparable premises) and the value of properties at the date of service of the Tenant's notice. In August 1997 the figure for the value of properties was £125,000 (see page 12 of Mr Wetherall's Statement of Case).

- 8.1.3 In his Supplementary Valuation Evidence (page 7) Mr Wetherall stated that in Dorset there has been a greater property price increase between August 1995 and August 1997. This was a 22% increase, based on data from the Land Registry.

- 8.1.4 Mr Wetherall considered that the regional price index was more accurate than the national index. Accordingly, if the Land Registry statistics were followed then the value of the houses in August 1997 would be about £128,000.

8.2 Improvements.

Valuation for improvements was necessarily subjective, but the total value of the improvements to the first comparable premises, he considered to be £14,000.

8.3 The next comparable premises was 8 Woodrisings (“the second comparable premises”). This had a recorded sale in April 1998, at a price of £140,000.

8.3.1 Using the Halifax scale this adjusted back to a figure in August 1997 of £134,000. From this figure Mr Wetherall had made deductions to account for the fact that the second comparable property was larger than the properties and also had a larger garage. To put it another way Mr Wetherall would make deductions from the valuation of the properties to allow for the fact that the properties were smaller and had smaller garages.

8.3.2 In his Supplementary Valuation Evidence Mr Wetherall had also cited the Land Registry evidence (December 2000) in which the value of the second comparable property, was put at £225,000.

8.4 Improvements

From the figure of £225,000 Mr Wetherall deducted £13,000 in respect of improvements, which would give a figure of £212,000.

8.5 Land Registry evidence for the period December 1997 to December 2000, gave a regional increase in the value of properties over the period of 48%. Using this figure, this would give a value of £143,243 for the second comparable property (see page 5 Wetherall supplementary valuation evidence).

8.6 A letter of 29 June 2001 from Connells (see Mr Wetherall’s Supplementary Valuation Evidence - Appendix F) in respect of the second comparable property in October 1997 was considered. The letter confirmed that a value of £169,950 was attributed to those premises, at that date.

8.7 In addition, as a final check, Mr Wetherall looked at values as shown on page 13 of his Statement of Case.

8.8 Basis of Valuation

8.8.1 As far as uplift was concerned, it was agreed that the unexpired term of the lease at the date of the Applicant’s notice was 69.5 years. Two comparables were used in respect of this aspect of the Applicant’s case. These were properties at Bow Hill and 3 Merlewood Close, Bournemouth. They were both properties which had been the subject of applications to the Leasehold Valuation Tribunal in Bournemouth in the past. In the case of Bow Hill, the uplift was 20% (However as the term remaining on the lease, was not similar, this was agreed not to be a useful comparable).

8.8.2 The other comparable was 3 Merlewood Close. Here the length remaining of the term was 69.25 years, and the uplift was 11%. This was considered to be a useful comparable for the purposes of determining uplift.

9. QUESTIONS FROM COUNSEL FOR THE RESPONDENTS TO THE APPLICANT'S VALUER

9.1 Comparable Properties

It was agreed that the valuation figure for the second comparable property in August 1997 was probate value. Counsel pointed out that the District Surveyor had approved that valuation at the time.

9.2 Improvements

The value of improvements calculated by Mr Wetherall was based on his experience of cost of improvements, rather than a sight of bills, actual costings etc.

9.3 Basis of Valuation

A query was raised as to the basis on which Mr Wetherall had made his valuation. Mr Wetherall stated that he calculated values on the basis of open market value, and that this was in accordance with RICS Red Book procedure.

10. THE RESPONDENT'S CASE

10.1 Comparable Properties

Mr Harrington for the Respondent considered that the second comparable property was the best comparable evidence. He did confirm however that the second comparable property was an end of terrace property, which had natural light and ventilation on the west side. It also had a larger garage.

10.2 Basis of Valuation

Mr Harrington did not agree with Mr Wetherall as to the basis on which the Applicant had calculated his valuation of the properties. There was a fundamental difference in approach.

10.3 Improvements

The figure placed by Mr Harrington on improvements for each of the properties was £20,000.

11. QUESTIONS FROM THE SOLICITOR FOR THE APPLICANT TO THE RESPONDENT'S VALUER

11.1 Comparable Properties

Where valuation was made for probate purposes it was suggested to Mr Harrington that the valuation would be at the lower end of the range of figures. Mr Harrington agreed and added that he had at first considered £115,000 as a fair price in August 1997 for the second comparable premises. He finally settled on £110,000 as an appropriate figure for the second comparable premises. This figure was substantially less than the valuation of £169,950 made by Connells on the second comparable property in August 1997.

11.2 Basis for valuation

Mr Harrington agreed with Mr Howard that the best way to test a valuation, was a sale on the open market.

11.3 Basis for Valuation

Mr Harrington agreed that the Red Book allowed adjustment to values (by reference to independent indices of values) where there was no direct comparable evidence.

11.4 Mr Harrington made the point that if there was no direct comparable evidence at the correct date, it was not feasible in his opinion to use indices of value for more than one year before or after the date of a lessee's notice. Using indices and applying their figures for periods of more than one year before or after the date of a notice, would lead to an inaccurate result.

11.5 Improvements

Mr Harrington had not made any investigation of the cost of improvements himself. Mr Harrington confirmed he had not inspected the houses following service of the Tenant's notice.

12. THE DECISION OF THE TRIBUNAL

12.1 Basis of Valuation

The Tribunal was not convinced by the argument put forward by Mr Harrington, arguing that pre or post valuation date comparables was not good practice and could not give an accurate figure. The only comparable that Mr Harrington produced was the probate valuation for the second comparable property. However the Tribunal was not satisfied that the £110,000 figure was a fair reflection of market values.

12.2 It seemed reasonable to the Tribunal, and was in accordance with RICS practice that a valuation that was after the date of the notice could be used, reducing those values by reference to changes in house prices. These were

evidenced nationally by the Halifax House Price Index and on a local level by the Land Registry.

12.3 Improvements

The Tribunal was satisfied that it is reasonable to calculate the cost of improvements based on expert witnesses' experience of the cost of these items where actual costs were not available.

12.4 Comparable Premises

The Tribunal considered that where the probate figure had been given at £110,000 for the second comparable premises in August 1997 and where there had been a separate valuation of the second comparable property in October 1997, the subsequent sale price of the second comparable was a figure, mid way between the two valuations.

12.5 Looking at all the evidence the Tribunal was satisfied that in the absence of contemporary open market valuation for directly similar property, it was reasonable for the expert witnesses to set a valuation in accordance with the guide-lines of the RICS Red Book.

12.6 The Tribunal was more attracted to Mr Wetherall's figures based on an uplift of 12% which the Tribunal considered more in line with Lane Registry data and accordingly agreed with the Applicant's figure for the value of the properties at the date of the notice at £125,000.

12.7 The Tribunal considered that the calculations set out by Mr Wetherall in his Statement of Case were correct and decided that the price payable for each individual house and premises should be determined as follows:-

	Freehold (agreed between parties)		£2,664
	Marriage Value		
	Value of property with freehold title, ignoring improvements	£140,000	
less	Value of property with existing Leasehold title, ignoring improvements	£125,000	
less	Freehold as above	£ 2,664	

	Gain on marriage	£ 12,336	
	Shared equally	£ 6,168	£6,168
		Total	£8,822

£8,832

(see correction certificate)

13. THE PRICE

The Tribunal accordingly determined the price payable for each individual house and premises being 2, 3 and 5, The Woodrisings, under Section 9 of the Act, at ~~£8,822~~. *£8,832 (see correction certificate)*

Signed: MISS R WYNN-JONES (BA Solicitor)

Dated: 22 October 2001