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LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

M/EH 2292
M/LRC 297

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

ON APPLICATIONS UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Mrs J Reilly (leaseholder)

Respondents: Mr & Mrs Sian (freeholders)

Subject property: 32 Winstanley Road
Stechford
Birmingham
B33 8UH

Date of tenant's notice: 12 May 2001

Applications to the LVT: 15 August 2001 (price payable)
20 October 2001 (reasonable costs)

Hearing: 30 January 2002

Appearances:

For the applicants: Mr A W Brunt FRICS

For the respondents: Mr Sian

Members of the LVT: Professor N P Gravells MA
Mr S Berg FRICS
Mrs N Jukes

Date of determination: **30 JAN 2002**

M/EH 2292c

**REASONS FOR THE LEASEHOLD VALUATION TRIBUNAL
DECISION IN REPECT OF:**

32 Winstanley Road, Stechford, Birmingham, B33 8UH

Introduction

- 1 This is a decision on two applications under the Leasehold Reform Act 1967 (“the 1967 Act”) made to the Leasehold Valuation Tribunal by Mrs Reilly, leaseholder of the house and premises at 32 Winstanley Road, Stechford, Birmingham B33 8UH (“the subject property”). The two applications are, first, under section 21(1)(a) for the determination of the price payable under section 9 for the freehold interest in the subject property; and, second, under section 21(1)(ba) for the determination of the reasonable costs payable under section 9(4).
- 2 The applicant leaseholder holds the subject property under a lease, dated 3 June 1937, for a term of 99 years from 25 March 1936 at a ground rent of £6.75 per year. The lease was assigned to the applicant on 30 September 1977. The unexpired term at the date of the Notice of Tenant’s Claim to Acquire the Freehold (“the relevant date”) was approximately 34 years.
- 3 The applicant served on the respondent landlords a tenant’s notice dated 12 May 2001, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and she subsequently made the present applications.
- 4 The parties did not dispute and the Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

Subject property

- 5 The subject property is a semi-detached house of brick and tile construction, located on Winstanley Road, a cul-de-sac in Stechford, in a residential area. The accommodation comprises, on the ground floor, a large hallway, two reception rooms and kitchen; and, on the first floor, three bedrooms, bathroom and separate wc. Outside there are small gardens to the front and rear of the property. There is double-glazing to the rear elevation of the property. Space heating is by night storage heaters. The small size of the rear garden means that the property is rather overlooked by the properties to the rear. A single lean-to garage with a glazed roof has been added to the side of the property, although the usable width of the garage is restricted by a waste pipe running down the side of the property. The frontage of the property is approximately 8.6 metres and the total site area is approximately 161 square metres.

Inspection and hearing

- 6 The Tribunal inspected the subject property on 30 January 2002 in the presence of the applicant leaseholder and Mr Brunt.
- 7 The subsequent hearing was attended by Mr Brunt (representing the applicant leaseholder) and by Mr Sian (one of the respondent freeholders).
- 8 It should be noted that Mr Sian had not advised the Tribunal that he intended to attend the hearing; and that the hearing had been in progress for twenty minutes when Mr Sian telephoned the Rent Assessment Panel office to inform the Tribunal of his imminent

arrival. The Tribunal adjourned the hearing until Mr Sian arrived; and Mr Brunt agreed to restart his submissions. When it subsequently became apparent that Mr Sian had brought the wrong papers with him, the Tribunal again adjourned to give him the opportunity to have the relevant papers sent by fax.

Representations of the parties

The price payable for the freehold interest in the subject property

- 9 Mr Brunt, on behalf of the applicant leaseholder, adopted as the basis of valuation under the 1967 Act the generally recognised three-stage approach normally attributed to *Farr v Millerson Investments Ltd* (1971) 22 P & CR 1055. That approach involves (i) the capitalisation of the ground rent payable under the existing lease for the remainder of the unexpired term; (ii) the identification of a modern ground rent (by decapitalising the site value); and (iii) the capitalisation of the modern ground rent as if in perpetuity, deferred for the remainder of the unexpired term. The price payable on this basis is the sum of the capitalisations at stages (i) and (iii).
- 10 Recognising his duty to the Tribunal to give his independent and honest expert opinion, Mr Brunt acknowledged that, despite his thorough research, he had been unable to find evidence of directly comparable properties on the market in the last twelve months. However, he gave evidence that the adjacent property (30 Winstanley Road) had been sold in or about October 2000 for approximately £79,000; but that that property had an additional bedroom in the roof space. On the basis of this admittedly limited evidence, Mr Brunt submitted that the standing house value of the subject property at the relevant date was £74,000. He further submitted that, applying a 33.3 per cent figure in calculating the site value on the standing house basis, the site value was £24,666; and that the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) and decapitalising and recapitalising the site value at stages (ii) and (iii) is 7 per cent.
- 11 On the basis of those figures, he submitted the following valuation:
- (i) *Capitalisation of existing ground rent to termination of lease*
- Ground rent payable: £6.75 per year
Years Purchase: 34 years @ 7%: 12.85
Capitalised ground rent: £6.75 x 12.85 = £86.74
- (ii) *Modern ground rent*
- Standing house value of subject property: £74,000
Percentage attributable to site: 33.3%: £24,642
Annual equivalent @ 7%: £1724.94
- (iii) *Capitalisation of modern ground rent*
- Modern ground rent (above): £1724.94
Years Purchase at 7% in perpetuity deferred 34 years: 1.43
Capitalised modern ground rent: £1724.94 x 1.43 = £2,469.13

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say) £2,555.

- 12 Mr Sian was not able to give the Tribunal a great deal of assistance. He had purchased the freehold of the subject property (together with the freehold of another property on the same road) at auction in March 2001 for £8,500. He had never visited the property and he had never had it valued. The Tribunal carefully explained to Mr Sian the scheme of the 1967 Act and the issues for determination by the Tribunal. Mr Sian confirmed that he understood the procedure but that he was unable to assist the Tribunal further.

Reasonable costs

- 13 Mr Brunt submitted that the appropriate figure for conveyancing costs was £250 (plus VAT if applicable). He submitted that no other costs were payable.
- 14 Mr Sian accepted that the figure of £250 was reasonable.

Determination of the Tribunal

The price payable for the freehold interest in the subject property

- 15 The Tribunal holds that the basis of valuation adopted by Mr Brunt properly reflects the principles of the 1967 Act.
- 16 In the absence of any relevant evidence from Mr Sian, the Tribunal examined the figures submitted by Mr Brunt in respect of the standing house value of the subject property, the percentage to be applied to the standing house value in calculating the site value and the percentage yield rate to be applied at all stages of the valuation calculation. The Tribunal considered whether those figures were open to challenge on their face or in the light of the evidence of Mr Brunt in response to questions from the Tribunal.
- 17 The Tribunal finds that neither Mr Brunt (nor Mr Sian) produced compelling evidence as to the standing house value of the subject property; but that such evidence as there was suggests that the standing house value at the relevant date was marginally higher than the figure submitted by Mr Brunt. Using its general knowledge and experience (but no special knowledge) the Tribunal finds the evidence of the sale price of the adjacent property reflected the general level of property values in the area of the subject property. However, given the upward movement in property prices between the date of the sale of the adjacent property and the relevant date, and bearing in mind the differences between the adjacent property and the subject property, the Tribunal finds that the standing house value of the subject property at the relevant date was £77,500.
- 18 Consistently with previous practice, and in the absence of any circumstances suggesting a departure from that practice, the Tribunal holds that the appropriate percentage to be applied to the standing house value in calculating the site value is 33 1/3 per cent; and that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7 per cent.

19 Adopting those figures, and applying figures of Years Purchase from Parry's Valuation Tables, the Tribunal calculates the price payable as follows:

(i) *Capitalisation of existing ground rent to termination of lease*

Ground rent payable: £6.75 per year
Years Purchase: 34 @ 7%: 12.854
Capitalised ground rent: £6.75 x 12.854 = £86.76

(ii) *Modern ground rent*

Standing house value of subject property: £77,500
Percentage attributable to site: 33 1/3 %: £25,833.33
Annual equivalent @ 7%: £1808.33

(iii) *Capitalisation of modern ground rent*

Modern ground rent (above): £1808.33
Years Purchase at 7% in perpetuity deferred 34 years: 1.4317
Capitalised modern ground rent: £1808.33 x 1.4317 = £2588.99

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of £2675.75

20 Accordingly, the Tribunal determines the price payable under section 9 of the 1967 Act for the freehold interest in the subject property at £2675.

Reasonable costs

21 The Tribunal holds that the respondents are entitled to recover conveyancing costs under paragraph (b) of section 9(4) of the 1967 Act. Relying on the recent practice of Leasehold Valuation Tribunals in the West Midland region, and bearing in mind the Mr Sian's acknowledgement of the reasonableness of the figure submitted by Mr Brunt, the Tribunal determines those costs at £250 (plus VAT if appropriate).

Summary

22 The Tribunal determines the price payable by the tenants for the freehold interest in the subject property at £2675 and the landlords' reasonable costs at £250 (plus VAT if appropriate).

Nigel Gravells

NIGEL P GRAVELLS
CHAIRMAN

05 JAN 2002

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