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Our Ref: M/EH 2237c

**MIDLAND RENT ASSESSMENT PANEL**

Leasehold Reform Act 1967

Housing Act 1980

**DECISION OF LEASEHOLD VALUATION TRIBUNAL**

**ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Applicant: Mr Sydenham

Respondent: Mr & Mrs Acton

Re: 109 Weymoor Road, Harborne, Birmingham, B17 0RT

Date of Tenants Notice: 28 September 2002

RV as at 1.4.73: £263

Application dated: 22 April 2002

Heard at: The Panel Office

On: 24 May 2002

**APPEARANCES:**

For the Tenant: Mr A W Brunt - A W Brunt & Co

For the Landlord: Mr T Sloan – Pennycuick Collins  
Mr Acton

**Members of the Leasehold Valuation Tribunal:**

Mr J R Bettinson LLD (Chairman)  
Mr S Berg  
Mrs C L Smith

Date of Tribunals decision:

**25 JUN 2002**

UNEXPIRED LEASE	33 YEARS
ANNUAL GROUND RENT	£6.63
VALUE OF PROPERTY	£97,500

## DECISION OF THE MIDLAND LEASEHOLD VALUATION TRIBUNAL

### APPLICATION

This is a reference to determine the price to be paid by the Tenant Mr. D.R. Sydenham for the freehold interest in the property known as 109 Weymoor Road Harborne Birmingham B17 ORT in accordance with the provisions of the Leasehold Reform Act 1967 as amended. The Tenant holds the property under an Underlease dated 5<sup>th</sup> August 1933 for the unexpired residue of a term of 99 years (less 3 days) from 29th September 1932 at a yearly ground rent of £6.63. The intermediate leasehold interest is understood to have merged in the freehold. The Tenant's Notice of Claim to acquire the freehold interest was dated 28<sup>th</sup> September 2000 when some 31 years of the term remained unexpired. The parties accept that the qualifying conditions for enfranchisement under the Act have been met

### INSPECTION

Prior to the Hearing the Tribunal called to see the property which they found on inspection to be a semi detached house constructed of brick and tile (with pebbledash elevations) situated in a residential area of similar properties. The accommodation comprises on the ground floor a through living room and extended kitchen and on the first floor three bedrooms (one small) with a bathroom and separate W.C. The front garden and drive (leading to an attached garage) are quite steeply inclined but the rear garden is level. The site of the subject property has a road frontage of some 8.5 metres and an area of about 365 square metres.

### THE HEARING

This was attended by Mr. A.W.Brunt FRICS on behalf of the Tenant and Mr. Tom Sloan of Messrs. Pennycook Collins on behalf of the Landlords Mr. and Mrs. D.E. Acton. Mr.Sloan reported that he and Mr. Brunt were agreed on the valuation of the present ground rent and also as to his client's valuation fee of £250 plus VAT. Mr. Brunt submitted his valuation as follows :

Ground Rent	£ 6. 63	
YP for 31 years @ 7%	12.532	
	-----	83. 09
Reversion		
Standing house value	£95,000	
Plot value @ 30%	£28,500	
Sec.15 rent @ 7%	£ 1,995	
YP in perpetuity deferred		
For 31 yrs @ 7%	1.754	
	-----	3,499. 23
		-----
	<b>say</b>	<b>£ 3.582</b>
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In support of his entirety value he tabled extracts from three editions of Property News Week current in July/September 2000 giving brief details of similar properties for sale in Weymoor Road at asking prices of £88,500 - £95,000. He had adopted a 30% proportion for the land value in view of the upwards sloping nature of the site. He also referred to Land Registry office copies which were produced showing that the like freehold reversion to No. 107 Weymoor Road had been purchased by the tenants in February 2001 for £3,000 and that the present Landlords had purchased the freehold reversion to No. 109 Weymoor Road for £4,350 in September 2000. (Mr. Acton had at the commencement of the Hearing questioned the admissibility of the latter but accepted that it was a matter of public record and that the purchase had been made at auction and duly reported) The No. 107 sale had been the result of a negotiated purchase (although the purchasers were entitled to enfranchise) from the Trustees of E.H. Farr deceased – who had also been the sellers at the auction of the No. 109 freehold.

Mr. Sloan questioned in cross examination whether the Farr Trustees might not have been generous to the long standing tenants of No.107 and Mr. Brunt accepted that he had not checked at the Land Registry or identified more specifically at what prices the other Weymoor Road house sales to which he had referred might have been eventually sold. Mr. Sloan tabled his valuation as follows :

Term :		
Ground Rent (as above)		£ 83
Reversion :		
Freehold value	£1,075.00	
Site 35%	£ 376.25	
Rent at 7%	£2,633.75	
YP in perpetuity deferred		
31 years @ 7%	1.75390	4,619
		-----
	say	£ 4,700
		-----

He tabled in support of his freehold value particulars of the sales of three houses in Weymoor Road (No. 101 77 and 37) sold in May/June 2001 for £115,000 £110,000 and £107,000. Also No. 117 Osmaston Road at £125,000. More recently No. 76 Weymoor Road had been sold for £128,000 indicating a buoyant market which had begun to rise in the Spring of 2000 He claimed the site of the subject property to be quite large and while accepting its slope suggested that there were drainage advantages in such a fall. His clients were experienced investors and were not likely to have overbid at auction. Cross examined he could not speak to the condition of the various properties he had listed but he did not believe central heating (which the subject property did not enjoy) made any difference to a property's value.

Mr. Acton then addressed the subject of his legal costs and helpfully filed a written submission which detailed the previous decided case history of applications for costs leading

up to the present time. He then cited the recently published Land Tribunal decision of Judge Rich (83 Glendon Road Erdington Birmingham – LRA/34/2002) in which he and his wife had been the Appellants.

He claimed that this had created a fundamental change in the approach to legal costs which had been awarded to him in that case on a time basis at the Court rate of £135 per hour. That rate has, it appeared, increased to £145 from May 2002. On that basis, he submitted that his costs should be allowed at 2 hours attendances = £290 plus an element to cover uncharged letters and telephone calls - £166. This figure he calculated on the basis of 12 letters in and 9 out and 10 telephone calls in and 1 out all at £14.50 = £464. One quarter = £116. In addition he put the conveyancing work still to be done at £150 making an overall total of £556 plus VAT – and £8 for Land Registry office copies and filed plan.

Cross examined by Mr. Brunt he accepted that the Respondents had not been represented at the Lands Tribunal hearing but did not believe the uncontested nature of the case weakened its authority. He was a sole practitioner and while it might be the case that legal work of this kind could be undertaken by staff lacking formal legal qualifications he was not in a position to delegate the work to an assistant.

While he acknowledged that Solicitors' firms charged and accepted fees of between £250-£350 for work of this kind, he did not regard it as unreasonable to expect tenants to meet the proper remuneration of the professional advisors of Landlords. Enfranchisement was a form of compulsory purchase.

## DECISION

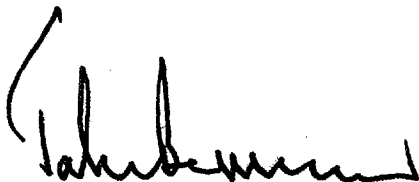
The Tribunal often finds that the valuation evidence it is asked to consider lacks corroborative detail and in this case the historic nature of the relevant date makes this task difficult for all concerned. There is no doubt that at that time the market was moving upwards quite quickly but experience indicates that there are price barriers (such as £100,000 in the present case) which the buying public are loth to break. Mr. Brunt's evidence may lack detail but we cannot accept Mr. Sloan's contention that a price of £107,500 would have been obtainable at the time and it is noticeable that his supporting evidence is all drawn from a period at least ten months after the event. We are also of the opinion that the site does not have a generous frontage whatever the perceived advantages or disadvantages of its slope.

Accepting therefore the agreed value of the present Ground Rent of £83, our valuation of the Reversion is :

Standing house value	£97,500	
Site proportion 33%	£32,175	
Section 15 Rent	£ 2,252	
YP in perpetuity		
Deferred for 31 years @ 7%	1.745	
	<hr/>	£3,950
i.e. £4,033 in total		

On the subject of legal costs, this Tribunal adheres to its view that these to be 'reasonable' must have some regard to the market place and to the relatively straight forward nature of the work in the great majority of cases. We are prepared to accept that a Landlord may charge for what we designate the administrative function involved i.e. receiving and responding to the initial Notice. This would include checking the Applicant's entitlement but would not include reading Hague or the Tenant's applications for price and costs to this Tribunal (which in any event both fall outside the provisions of Sec 94 of the 1967 Act) Every case must be assessed on its individual features (for example if the title is registered the conveyancing work comprises only providing office copies, approving a Land Registry Standard Form of Transfer and completing the transaction). Mr. Acton suggests that there was in this case a duplication of work due to the submission of two Notices and two Cautions but this appears only to have arisen due to a failure to advise the Tenant of a change of freehold ownership

If we have reservations concerning the Lands Tribunal decision (by which we do not regard ourselves as being bound)- particularly in view of its untested character or Mr. Acton's estimate, it is the low level of costs attributable to the conveyancing work, which we more fairly put at £225. So far as dealing with the Notice to enfranchise is concerned, we believe reasonable remuneration for the level of ability needing to be involved to be £100 in this case. The Valuation fee having been agreed at £250 we determine the price to be paid by the Tenant for the freehold interest in the subject property at £4,033 plus the Landlords' reasonable costs calculated in accordance with Section 9(4) Leasehold Reform Act 1967 at £575 plus VAT and £8 office copy fee



JOHN BETTINSON  
Chairman

25 JUN 2002  
June 2002