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LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

M/EH 2453
M/LRC 435

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

ON APPLICATIONS UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicants: Mr T S and Mrs E Moulton (leaseholders)

Respondent: Organised Investments Ltd (freeholder)

Subject property: 81 Southfield Avenue
Castle Bromwich
Birmingham
B36 9AX

Date of tenant's notice: 17 January 1998

Applications to the LVT: 15 May 2002 (price payable)
11 July 2002 (reasonable costs)

Hearing: 13 August 2002

Appearances:

For the applicants: Mr A W Brunt FRICS

For the respondent: Miss Adler

Members of the LVT: Professor N P Gravells MA
Mr J E Ravenhill FRICS
Mrs M A L McKenzie

Date of determination: 24 SEP 2002

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 Mr and Mrs Moulton, leaseholders of the house and premises at 81 Southfield Avenue, Castle Bromwich, Birmingham B36 9AX (“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, secondly, under section 21(1)(ba) for the determination of the reasonable costs payable under section 9(4).
- 2 The applicant leaseholders hold the subject property under a lease, dated 29 December 1955, for a term of 99 years less three days from 29 September 1954 at a ground rent of £9.00 per year. The unexpired term at the date of the Notice of Tenant’s Claim to Acquire the Freehold (“the relevant date”) was approximately 55 2/3 years.
- 3 The applicants served on the respondent freeholder a tenant’s notice dated 17 January 1998, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and they subsequently made the present applications.
- 4 The parties do 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 Southfield Avenue, in a residential area of Castle Bromwich. The accommodation comprises, on the ground floor, a hallway (with cloakroom off), two reception rooms and kitchen; and, on the first floor, three bedrooms, bathroom and separate wc. A lean-to utility garage and utility area have been added to the side of the property. The property is fully double-glazed. Space heating is by gas-fired central heating with radiators in all rooms. Outside there are gardens to the front and rear of the property. The frontage of the property is approximately nine metres; and the total site area is approximately 350 square metres.
- 6 The property has been very well maintained by the leaseholders and has benefited from a number of internal and external improvements.

Inspection and hearing

- 7 The Tribunal inspected the subject property on 13 August 2002 in the presence of the applicant leaseholders and Mr Brunt.
- 8 The subsequent hearing was attended by Mr Brunt, representing the applicant leaseholders, and by Miss Adler, representing the respondent freeholder.

Representations of the parties

The price payable for the freehold interest in the subject property

- 9 Mr Brunt, on behalf of the applicant leaseholders, 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 However, Mr Brunt did not submit a detailed calculation. Rather he referred to two earlier decisions of the Leasehold Valuation Tribunal in relation to properties on Southfield Avenue. On 14 May 1999 the Tribunal determined the price payable for the freehold interest in 77 Southfield Avenue at £670.00, the date of the tenant's notice in that case being 24 August 1998; and on 17 September 1999 the Tribunal determined the price payable for the freehold interest in 2 Southfield Avenue at £798.00, the date of the tenant's notice in that case being 4 November 1998. Mr Brunt attached particular weight to the former decision on the ground that the property in question was very close to the subject property and in all material respects identical to it; and, in substance, he adopted the calculation of the Tribunal in that decision.
- 11 In its decision in relation to 77 Southfield Avenue, the Leasehold Valuation Tribunal calculated the price payable as follows:

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

Ground rent payable: £9.00 per year
Years Purchase: 55 years @ 7%: 13.9399
Capitalised ground rent: £9.00 x 13.9399 = £125.46

(ii) Modern ground rent

Standing house value of subject property: £75,000
Percentage attributable to site: 30%: £22,500
Annual equivalent @ 7%: £1575

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £1575
Years Purchase at 7% in perpetuity deferred 55 years: 0.34578
Capitalised modern ground rent: £1575 x 0.34578 = £544.60

The price payable was determined at £670.00.

- 12 Miss Adler, on behalf of the respondent freeholder, submitted that the usual basis of valuation adopted by the Tribunal, and adopted by Mr Brunt as appropriate in the present case, was “outdated” and “antiquated”; and she did not offer any evidence of appropriate figures to which that basis of calculation might be applied. Rather she requested the Tribunal to determine what she termed a “just figure” as the price payable for the freehold interest. She stated that in February 1997 the freeholder had achieved a price of £2800 for the freehold interest in the property at 83 Southfield Avenue, although she acknowledged that that figure was not a decision of the Leasehold Valuation Tribunal; and she did not challenge Mr Brunt’s evidence that the leaseholder in that case had been anxious to acquire the freehold interest in order to sell the property. Miss Adler invited the Tribunal to determine the price payable in the present case at £4000.

Reasonable costs

- 13 Mr Brunt suggested as reasonable the figure of £225 (plus VAT if applicable) in respect of legal costs. He further submitted that in the absence of any evidence of any valuation on behalf of the freeholder no valuation fee was payable.
- 14 Miss Adler made no representations on the issue of costs.

Determination of the Tribunal

The price payable for the freehold interest in the subject property

- 15 The Tribunal holds that the basis of valuation usually adopted by the Tribunal and adopted by Mr Brunt as appropriate in the present case properly reflects the principles of the 1967 Act.
- 16 The Tribunal therefore rejected the broad “just figure” approach of Miss Adler. The Tribunal also found that the evidence adduced by Miss Adler as to the price achieved for the freehold interest in the property at 83 Southfield Avenue was unhelpful. As noted above, the price was not determined by the Leasehold Valuation Tribunal; and it was uncertain whether the price purported to have been determined in accordance with the principles of the 1967 Act.
- 17 In the absence of any relevant representations from the respondent freeholder, the Tribunal examined the calculation in the decision in relation to 77 Southfield Avenue, which Mr Brunt adopted as his calculation in the present case. In particular, the Tribunal examined the figures adopted 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.

- 18 In relation to the standing house value, the Tribunal finds that there was very little movement in property prices in the period between the respective dates of the tenant's notice in relation to the subject property and 77 Southfield Avenue. The Tribunal therefore finds that the standing house value of the subject property at the relevant date was £75,000.
- 19 In relation to the appropriate percentage of the standing house value attributable to the site, the Tribunal accepts that a lower percentage figure (within the usual range) is appropriate where, as in the present case, access to the garage is very narrow. The Tribunal therefore holds that the appropriate figure is 30 per cent.
- 20 Consistently with previous practice, and in the absence of any circumstances suggesting a departure from that practice, the Tribunal holds that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7 per cent.
- 21 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: £9.00 per year
Years Purchase: 55 2/3 @ 7%: 13.955
Capitalised ground rent: £9.00 x 13.955 = £125.60

(ii) Modern ground rent

Standing house value of subject property: £75,000
Percentage attributable to site: 30%: £22,500
Annual equivalent @ 7%: £1575

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £1575
Years Purchase at 7% in perpetuity deferred 55 2/3 years: 0.33069
Capitalised modern ground rent: £1575 x 0.33069 = £520.84

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of £646.44

- 22 Accordingly, the Tribunal determines the price payable under section 9 of the 1967 Act for the freehold interest in the subject property at £650.00.

Reasonable costs

- 23 In the absence of any evidence of work undertaken, the Tribunal determines, in accordance with section 9(4) of the 1967 Act and the recent practice of Leasehold Valuation Tribunals in Midland Rent Assessment Panel region, that the respondent freeholder is limited to the recovery of conveyancing costs of £250.00 (plus VAT if applicable) under paragraph (b) of section 9(4).

24 In relation to valuation costs the Tribunal determines that, in the absence of evidence of any valuation of the subject property, no valuation costs are payable.

Summary

25 The Tribunal determines the price payable by the leaseholders for the freehold interest in the subject property at £650.00 and the freeholder's reasonable costs at £250 (plus VAT if applicable).

Nigel Gravells

24 SEP 2002

NIGEL P GRAVELLS
CHAIRMAN