

**LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL**

Our Ref:

DECISION OF LEASEHOLD VALUATION TRIBUNAL

*ON AN APPLICATION UNDER SECTION 21(1) (ba)
OF THE LEASEHOLD REFORM ACT 1967*

Applicant: Mr & Mrs I Wray
Respondent: D G Lewis Estate Limited
Re: 59 Ramillies Crescent, Great Wyrley, Walsall WS6 6JG

Date of Tenants Notice: 17.07.2002

Application to Tribunal dated: 13th November 2002

Heard at: Birmingham

On: 6.03.2003

APPEARANCES:

For the Applicant: Mr J. C. Ritchie Solicitor

For the Respondent: None

Members of the Leasehold Valuation Tribunal:

(Chairman) Robert T Brown
John Woolf
Carol Smith

Date of Tribunals decision: 6.03.2003

REFERENCE BIR\41UF\OAF\2002\0081 AND BIR\41UF\OC6\2002\0048

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

MIDLAND RENT ASSESSMENT PANEL

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

IN RESPECT OF

**D.G. LEWIS ESTATES LIMITED AGAINST IAN AND BEVERLEY WRAY
59 RAMILLIES CRESCENT, GREAT WYRLEY, WALSALL WS6 6JG**

BACKGROUND

These cases follow applications by Mr J C Ritchie of Margetts & Ritchie (Solicitors) on behalf of the Lessee Mr & Mrs I Wray for a determination of the price to be paid under Section 9 (1) and for a determination of the costs to be paid under Section 9 (4) of the Leasehold Reform Act 1967 (as amended).

The Lease dated 17th August 1965 is for a term of 99 years from 29th September 1963 at an annual ground rent of £15 per annum.

The Lessee's Notice of Claim to purchase the freehold is dated 17th July 2002.

The Tribunal inspected the property on 6th March 2003.

THE PROPERTY

The property comprises of an end town house constructed in the early 1960's in traditional materials. The centrally heated, double glazed accommodation is as follows: Ground floor; open plan kitchen/breakfast room, dining room off which lead cloakroom (WB and WC), utility room and lounge to the rear. On the first floor; one single and two double bedrooms, bathroom (full suite with shower over bath). Outside driveway to front and garden to rear.

The property has been considerably extended to include the front extension and conversion of garage to provide large kitchen and utility store. the living room has been extended at the rear of the property.

The site has a frontage of approximately 20 feet.

THE HEARING

Mr J C Ritchie of Messrs Margetts & Ritchie Solicitors appeared on behalf of the Lessees, Mr & Mrs I Wray.

The Freeholders did not appear, nor were they represented, nor did they submit a written representation.

(i) The Leaseholders case

A. Valuation Issue

Mr Ritchie presented his valuation as follows:

Term:

Ground Rent	£15.00	
YP 60 years @ 7%	14.0392	£210.58
Standing House Value	£60,000.00	
Site Value @ 33%	£19,800.00	
S15 Rent (7% of Site Value)	£1,386.00	
YP deferred 60 years @ 7%	0.24653	£341.69

		£552.27
		=====

Say £555.00

In support of various elements of his valuation, Mr Ritchie commented as follows:

(a) Entirety value. In adopting an entirety value of £60,000, Mr Ritchie had consulted with Caroline Marlow, Branch Manager of Paul Carr Estate Agents who have local offices. She produced a series of sales information listed below:

- (1) 15 Ramillies Crescent was a two bed mid terrace with no garage, which sold at £49,950 in June 2002 and has subsequently completed.
- (2) 81 Anson Road was a leasehold mid terrace, which sold at £62,950 and completed on 9th December 2002.

- (3) 16 Achilles Close was a freehold, three-bed end of terrace, which sold at £64,950 and completed on 6th December 2002.
- (4) 27 Achillies Close was a two bedroomed mid terrace in need of improvement. We agreed a sale at £50,000 but the vendors withdrew it from the open market and it was entered into a London auction last month.
- (5) Anson Close: The last property with an integral garage/converted room, three bedrooms, had a leasehold interest and completed in August, 2002 at a value of £65,000.

In further support of his figures, Mr Ritchie produced a letter from Messrs Collins Son & Harvey (Mr T Thursfield) in relation to No. 32 Ramillies Crescent advising that he had used a value of £45,000 in respect of this property in April, 2001.

Mr Ritchie suggested that with the Stamp Duty Threshold at £60,000 there were few properties sold just over £60,000 they tended to move into the next bracket figure of £65,000. In conclusion he considered that £60,000 was realistic in the summer of 2002.

The Tribunal introduced evidence of asking price in respect of 4 properties on the opposite side of the road at prices ranging from £54,950 - £59,995. None of these properties were sold and they are considerably smaller and of a poorer quality construction. When asked if he thought his entirety value was on the low side, in light of this information Mr Ritchie indicated that in his opinion the market had actually peaked in this area in the summer of 2002 and this particular property was 'over developed' in so far as the conversion of the garage to living accommodation had, in fact, a detrimental impact on the Capital value.

Site Value

Mr Ritchie had adopted site value apportionment of 33% being in line with decisions of the panel. With hindsight he suggested he might have reduced this figure, however, he did not go on to produce evidence to support this contention.

B. Costs Issue

(1) Legal Costs

Mr Ritchie submitted that the legal fees should be £225.00 plus VAT with no allowance for disbursements. In support of this contention he made the following points:

- (a) There has been no reaction from the freeholder or their solicitors to the service of the Notice.
- (b) The leaseholder will provide all the Office Copy Entries

(c) This is a single freehold with no registered covenants.

(d) The execution by a 'T P 1' form will be prepared by the purchasers solicitors for transfer of the whole.

As a result of the above, the amount of work involved by the vendors solicitors is absolutely straightforward and does not justify a fee in excess of that proposed.

(2) Valuation Fees

Mr Ritchie argued that no valuation fees should be incurred as no valuation had been carried out.

THE DECISION

A. Enfranchisement Price

1. Section 9 (1) of the Act provides as follows:

(1) *Subject to subsection (2) below, the price payable for a house and premises on a conveyance under section 8 above shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, (with the tenant and members of this family who reside in the house not buying or seeking to buy) might be expected to realise on the following assumptions –*

(a) *on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy but on the assumption that this Part of this Act conferred no right to acquire the freehold, and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's rights under section 17 below) it was to be so extended;*

(b) *on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rent charges (....) to which section 11 (2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchases would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's in cumberances: and*

(c) *on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.*

2. Having examined the evidence Submitted by Mr Ritchie and considered the evidence of those properties currently on sale in Ramillies Crescent the Tribunal adopt Mr Ritchie's valuation in its entirety.

B. Costs

1. Section 9 (4) of the Act provides as follows:

"Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:

- (a) *any investigation by the landlord of that person's right to acquire the freehold;*
- (b) *any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;*
- (c) *deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;*
- (d) *making out and furnishing such abstracts and copies as the person giving the notice may require;*
- (e) *any valuation of the house and premises:*
but so that this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void"

Para 5 of Part 1 of Schedule 22 to the Housing Act 1980 provides that:

"the costs which a person may be required (to bear) under section 9(4)... of the 1967 Act... do not include costs incurred by a landlord in connection with a reference to a leasehold valuation tribunal"

2. It is evident from Mr Ritchie's submission that the freeholders have incurred/will incur no costs in relation to Section 9 (4)(a),(c), (d) Mr Ritchie suggests that the sum of £225.00 plus VAT (if applicable) is appropriate.
3. Valuation Fee. No valuation has been undertaken under Section 9 (4) (e), therefore, no fee is applicable.

THE DETERMINATION

1 Determination of Price

We determine that with the benefit of our inspection and the use of our knowledge (but not any special knowledge) and experience in evaluation of evidence deduced, that the sum to be paid for the freehold interest in the above described property in accordance with Section 9 (1) of the Leasehold Reform Act 1967 (as amended) is Five hundred and fifty pounds (£550).

2 Determination of Costs

We award costs in accordance with section 9(4) of the Leasehold Reform Act 1967 and Paragraph 5 of Part 1 of Schedule 22 of the Housing Act 1980 as follows:

- A Section 9 (4) subsections (a)(c)(d). No award of costs.
- B Section 9 (4) (b) conveyancing costs. The sum of £225.00 plus VAT (if applicable).
- C Section 9 (4) (e) valuation fees. No award of valuation fees is made.

Signed

Robert T Brown

Robert T Brown FRICS
Chairman