

LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

REF: BIR/00CN/OAS/2004/0075

Decision on an Application for a determination of the price payable under Section 21 (1)(a) Leasehold Reform Act 1967

Applicant: David J Shuter

Respondent: Mr K L Holland
Missing Landlord

Property: 112 Moorcroft Road
Moseley
Birmingham
B13 8LU

Date of Notice Exercising the Right to Acquire the Freehold: 13 February 2004

Hearing: 2 June 2004

Appearances: Mr A Brunt FRICS for the applicant

Respondent: Did not appear and was not represented.

Members of the Leasehold Valuation Tribunal: Miss T N Jackson BA Law (Hons) (Chair)
Mr D Power FRICS
Miss B Granger

Date of Determination:

1. **Background**

- 1.1 This is a decision on an application under Section 21 (1)(a) of the Leasehold Reform Act 1967 for the determination of the price payable under Section 9 of the 1967 Act for the freehold interest in the subject property.
- 1.2 The subject property is held under a lease dated 14 May 1959 for a term of 99 years from 29 September 1956 at an annual ground rent of £20 per annum.
- 1.3 The applicant applied to the Court under Section 27 of the Leasehold Reform Act as amended by Section 149 of the Commonhold and Leasehold Reform Act 2002 to initiate the missing landlord's procedure contained within those statutory provisions. On 30 March 2004, Birmingham County Court ordered, inter alia, that:
- (i) the matter be referred by the Court to the Leasehold Valuation Tribunal for determination of the price payable for the freehold

- (ii) the Leasehold Valuation Tribunal determination be communicated to the applicant's solicitors and the court.

1.4 Section 27 (1) of the 1967 Act provides that:

"Where a tenant of a house having a right under this Part of this Act to acquire the freehold is prevented from giving notice of his desire to have the freehold because the person to be served the notice cannot be found, or his identity cannot be ascertained, then on an application made by the tenant the High Court may make such order as the court thinks fit with a view to the house and premises being vested in him as if he had at the date of his application to the High Court given notice of his desire to have the freehold".

The Tribunal determines that 13 February 2004, being the date of the application to the Court, is to be treated as the date on which the applicant gave notice of his desire to have the freehold ("the relevant date"). The unexpired term of the lease at the relevant date was approximately 51.5 years.

2. **Subject Property**

2.1 The property comprises a two storey brick and tile built detached house constructed in about 1956. The plot is wide along the frontage but narrows considerably towards the rear. The south boundary to the rear of the house runs at an angle with the result that number 114 and to a lesser extent number 116, overlook the rear garden. According to the lease plan, the site area is approximately 568 square yards.

2.2 Accommodation comprises on the ground floor; a glazed porch entrance, hallway, full depth lounge, separate dining room and kitchen. Upstairs there are four bedrooms, a bathroom and a separate toilet.

2.3 Outside there is a single car garage, a small car port and a covered way from the kitchen towards the rear which leads to an outside W.C..

3. **Inspection and Hearing**

3.1 The Tribunal inspected the subject property on 2 June 2004 in the presence of Mr D Shuter.

3.2 The subsequent hearing held on the same day was attended by Mr A Brunt representing the applicant. The freeholder respondent did not appear and was not represented.

4. **Evidence and Submissions on Behalf of the Applicant Leaseholder**

4.1 **Entirety Value**

Mr Brunt submitted that the entirety value of the subject property was £325,000. Mr Brunt submitted details of comparables including 90 Moorcroft Road, Moseley a detached house with four bedrooms and three reception rooms which had been sold in March 2004 for £385,000. Mr Brunt also provided details of the sales particulars of 34 Moorcroft Road, Moseley, which as at 7 May 2004 had sales

particulars requesting offers in the region of £399,950. This property was an extended four bedroomed detached family house with two reception rooms.

Mr Brunt submitted adverts for a further three properties being advertised in the week ending 8 May 2004, all located in Moseley namely a traditional detached family house with four bedroomed accommodation and two reception rooms located on The Hurst for which offers in the region of £295,000 were sought; a semi detached family house with three reception rooms and three double bedrooms on Swanhurst Lane for which offers in the region of £279,950 were sought and a further property on Swanhurst Lane being a semi detached with two reception rooms and three bedrooms which had a guide price of £275,000.

Following a question by the Tribunal, Mr Brunt agreed that although prices in the housing market had continued to rise between the application date of 13 February 2004 and May when he had carried out his valuation of the subject property the difference would be insignificant

Mr Brunt was of the view that the property should be valued on the basis that the present condition should be ignored and that it should be assumed it was in good order, properly decorated and with fittings to a proper modern standard.

4.2 Yield Rates

Mr Brunt submitted that the appropriate percentage yield rate to be applied in decapitalising the ground rent and in decapitalising and recapitalising the site's value for the purpose of the valuation formula should be 7% as had been the case in other Tribunal decisions in matters of this nature and also in his personal experience of negotiated settlements of enfranchisements.

4.3 Site Apportionment

Mr Brunt submitted that the appropriate site apportionment was 35% which was consistent with previous decisions of the Midland Leasehold Valuation Tribunal for houses of this nature.

5. Determination

5.1 The Tribunal notes that whilst 90 Moorcroft Road achieved a sale price of £385,000 in March 2004, that property had four bedrooms and three reception rooms. The Tribunal considers that one of the bedrooms contained within the subject property is clearly a double bedroom whilst the other three bedrooms can be described as "good" single bedrooms, which are all of a similar size.

5.2 The Tribunal attaches little weight to the comparables at The Hurst and Swanhurst Lane as the evidence related to advertisements, the details given were of asking prices rather than prices achieved and Mr Brunt, on questions from the Tribunal, accepted that the areas in which those properties were located were not as amenable as the subject property.

5.1 The Tribunal gave full consideration to the evidence and submissions on behalf of the applicant. Using its general knowledge and experience (but no special

knowledge) of property prices in the locality of the subject property, and taking into account the positive and negative features of the subject property with all other relevant factors and considerations, the Tribunal determines the standing house value of the subject property at the relevant date was £350,000.

- 5.4 The Tribunal accepts the submissions in relation to the yield rates and site apportionment at 7% and 35% respectively.
- 5.5 Adopting the figures in relation to the entirety value and the respective percentage yield rates, and applying figures of years purchase from Parrys valuation tables (rather than the figures for years purchase provided by Mr Brunt which appeared to be inconsistent with the valuation tables), the Tribunal calculates the price payable as follows:

(i) Capitalisation of Existing Ground Rent Determination of Lease

Ground Rent Payable:	£20 per annum		
Years Purchase:	51.5 years at 7% = 13.8473	=	£276.94

(ii) Modern Ground Rent

Standing house value of the subject property:	£350,000
Percentage attributable to site at 35%:	£122,500
Section 15 annual equivalent at 7% =	£8,575

(iii) Capitalisation of Modern Ground Rent

Modern ground rent (above):	£8,575	
Years purchase at 7% in perpetuity deferred 51.5 years:	0.4384	
Capitalised modern ground rent: [£8575 x 0.4384] =		<u>£3759.28</u>
		£4036.22 say £4036

The addition of the capitalised existing ground rent of £276.94 and the capitalised modern ground rent of £3759.28 produces a figure of £4036 rounded down to the nearest pound.

Accordingly, the Tribunal determines the price payable under Section 9 of the 1967 Act for the freehold interest in the subject property at £4036

N. Jackson
N Jackson (Chair)

17 JUN 2004