

**Leasehold Reform Act 1967 Section 21  
Housing Act 1980 Section 142 and Schedule 22**

This document records the decision of the Leasehold Valuation Tribunal in respect of  
an application for enfranchisement in respect of:

**445 Burnley Road  
Accrington  
Lancashire  
BB5 6LD**

**Applications:** By notice dated 13<sup>th</sup> November 2003. Mr S L and Mrs S A Reddaway of 445 Burnley Road, Accrington sought to exercise their rights to acquire the freehold of their residence. The notice was sent to the freeholder Mr Thomas Woodcock who acknowledged the leaseholders rights by notice 8<sup>th</sup> January 2004. An application for Determination by a Leasehold Valuation Tribunal dated 15<sup>th</sup> April 2004 was submitted to the Tribunal by Mr & Mrs Reddaway's solicitor Michael A Loveridge and received 19<sup>th</sup> April 2004 together with a copy of a lease dated 5<sup>th</sup> October 1934.

**Inspection:** The Tribunal comprising C H Davies MA FRICS, J W Shaw JP FRICS and Mrs S Burden BA JP inspected 445 Burnley Road during the morning of 16<sup>th</sup> July 2004. It found the house to be a semi detached two storey dwelling erected mid 1930's with traditional accommodation comprising two living rooms and kitchen to the ground floor, two double, 1 single bedrooms, bathroom and separate w.c. to the first floor and with part basement storage accessed from the rear garden. The house had been extensively modernised over recent years and was in good order.

**Hearing:** A hearing took place later the same morning at Accrington Town Hall, the applicants were not present or represented but Mr Woodcock had travelled from London to assist the Tribunal and plead his case on value. It quickly transpired that Mr and Mrs Reddaway's interest was an underlease of a plot extending to 330 sq yards out of the original demise of 1,954 sq yards which head lease now vested with Mr Kennedy, 451 Burnley Road. The originally reserved rent £12 four shillings and three pence per annum was now paid as £12.20 per annum by Mr Kennedy to Mr Woodcock with an informally apportioned annual ground rent of £2.75 attributed to 445 Burnley Road for a period expiring some days short of 999 years from 3<sup>rd</sup> May 1934 the headlease term.

Mr and Mrs Reddaway submitted no evidence beyond a figure of £50 set out in their application. Mr Woodcock, whose family had owned the freehold for many years and who had attended the inspection, said that he had no knowledge of balcony (ex kitchen) or porch extensions which had been attached without his consent and therefore in contravention of the lease. Mr Woodcock also spoke to a valuation dated 1<sup>st</sup> July 2004 which he had commissioned from Richard Pallister

MRICS a local practitioner valuing the £2.75 per annum ground rent at £60 and also pointing out the breaches of the underlease as set out above. Mr Woodcock submitted that in addition to the sum of £60 he should be entitled to £25 for the grant of permission for the unauthorised extensions and £15 'sentimental value' thus a total figure of £100.

The Tribunal put to Mr Woodcock the basis of valuation which it had to adopt and the failure of Mr Pallister to state the proper basis (his report referred to 'market value') and set out any evidence as to the experience he claimed in dealing with acquisition and disposal of freehold interests... Further questioning of Mr Woodcock centred upon interest rates and costs of collection. The Tribunal was grateful to Mr Woodcock for his help in detection of the chain of ownership which was not evident from papers submitted by the applicants.

### Valuation Principles

In assessing the value of freehold revisions under the 1967 Act the Tribunal took account of the following.

- i) that there was nothing in the statute which would restrict their determination to the limits indicated by the prices considered appropriate by the parties.
- ii) That it would not be consistent with the verbal definition of price in Section 9(1) of the 1967 Act or with the circumstances of the case to apply the algebraic formula prescribed by Parliament for the redemption of rent charges (Rentcharges Act 1977, s10);
- iii) That they were entitled to rely on their general knowledge and experience whatever the evidence or representations (or the absence of such) submitted by the parties;
- iv) That the statutory wording involved envisaged the sale on its own as one lot, ie not as included in a parcel of ground rents;
- v) That the possibility of bids from the sitting tenant which might push up the open market price had been expressly excluded by the 1967 Act;
- vi) That the seller (although not also the buyer) had been statutorily described as "willing" so that any policy or practice of the landlord restricting sales had to be disregarded;
- vii) That the resultant loss of income to the landlord/seller was not comprehended by the statutory formula for determining the price payable;

- viii) That the hypothetical and potential buyers in the market would have in mind their own conveyancing costs (although not also those of the seller under Section 9 (4) of the 1967 Act and any covenants which would be continued in the conveyance (see Section 9 (1) (c) and Section 10 (4) of the 1967 Act) and most important the length of the term and the amount of ground rent under the lease; and
- ix) That the costs of collection of the ground rent, which might involve agents, the giving of receipts and proceedings for recovery of arrears must be taken into account as a yearly matter strictly in accordance with the terms of the lease notwithstanding any practice of less frequent payment.
- x) In many cases in the open market tenants anxious to purchase the freehold of their properties often without valuation advice put forward sums which include the tenants bid, an element which the Tribunal has to exclude (Delaforce -v- Evans 1970 215 EG 31).

#### **Interests to be enfranchised**

In this case it is clear that Mr & Mrs Reddaway's notice dated 13<sup>th</sup> November 2003 was served incorrectly upon Mr Woodcock since their immediate landlord was Mr Kennedy, 451 Burnley Road. The intention of the parties is clear; Mr & Mrs Reddaway wish to acquire the freehold, and both Mr Kennedy and Mr Woodcock accept their entitlement so to do having been given notice in writing by the Tribunal to object. The Tribunal in these circumstances is prepared to proceed on the basis of an amendment to the original notice incorporating the route via Mr Kennedy to Mr Woodcock and in doing so it has decided to adopt the informal apportionment of the head rent as to £2.75 in respect of the subject 445 Burnley Road.

#### **Award**

The Tribunal understood Mr Woodcock's sentimental attachment to the freehold. It was also mindful that no Court would consider forfeiture in respect of the lack of permission for the small extensions. The Tribunal using its local knowledge and experience and assessing on the required statutory and case law basis set out above decided that

- 1) Subject to the informal apportionment of the total rent of £2.75 per annum payable in respect of 445 Burnley Road and the therefore reduced rent £9.45 per annum payable by Mr Kennedy the head lessee the purchase price of the intermediate interest is a nominal £1 (one pound).
- 2) Subject to the same apportionment the compensation payable to the freeholder should be £20 (Twenty pounds).

#### **Costs:**

The above awards are exclusive of costs as set out in the Leasehold Reform Act 1967 Section 9 (A).

An appeal may be made from this decision to the Lands Tribunal by leave of the Leasehold Valuation Tribunal or the Lands Tribunal.

Such appeal must be made within 28 days of the issue of reasons (Lands Tribunal Act 1949 Section 6/3 and (Lands Tribunal Rules 1975) as amended.

**C H Davies**  
**Chair – Leasehold Valuation Tribunal**

**24 August 2004**