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**MIDLAND RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN  
APPLICATION UNDER S21(1)(a) OF THE  
LEASEHOLD REFORM ACT 1967**

**Premises: 35 Darnel Hurst Road, Sutton Coldfield B75 5NE**

Applicants: Mr P A and Mrs MR Wood (tenants)

Respondent: Mr Y J A Levy (landlord)

Date of tenant's notice: 21 January 2004

RV on the appropriate day: Under £500

Application dated: 11 July 2004

Heard at: Birmingham

On: 27 October 2004

Appearance:

Mr E J Rutledge FRICS IRRV MCI Arb, Lawrence and Wightman, chartered surveyors  
for the tenants

No appearance for the landlord

Members of the leasehold valuation tribunal:

Lady Wilson  
Mr M Williams FRICS  
Mr M H Ryder

Date of the tribunal's decision:

18 November 2004

## **Background**

1. This is an application to determine the price to be paid for the freehold of 35 Darnel Hurst Road, Mere Green, Sutton Coldfield. The property is held by the tenants, Mr and Mrs Wood, on a lease for a term of 99 years from 24 June 1955 at a ground rent of £15 per annum, fixed throughout the term. Approximately 50.5 years remained unexpired on the valuation date, which is 21 January 2004, the date of the tenants' notice of claim. The rateable value of the property is such that the valuation falls to be made in accordance with section 9(1) of the Leasehold Reform Act 1967.

2. The tribunal inspected the property on 27 October 2004, before the hearing. It is a two storey semi-detached house built in the 1950s, of brick and interlocking tile construction, on a development of similar houses. The house is centrally heated and double glazed and has a living room, three bedrooms, a kitchen/dining room, bathroom/ wc, conservatory and garage. The property has a frontage of approximately 6.8 metres and an overall site area of 658 square metres. We also externally inspected four of the comparables relied on by the tenants' valuer, including 51 Darnel Hurst Road, which, as a very similar property in the same location, we regard as the most helpful comparable to establish the entirety value.

## **The hearing**

3. At the hearing the tenants were represented by Mr E J Rutledge FRICS IRRV MCI Arb of Lawrence and Wightman, chartered surveyors. The respondent freeholder was not present or represented but sent written representations in the form of letters dated 2 September and 26 October 2004 which we considered.

4. Mr Rutledge said that he considered the market value of the property at the valuation date to be £200,000. In support of this figure he provided a list of five recent sales of similar properties, one of them 51 Darnel Hurst Road, sold in September 2004 for £213,950. He also listed three properties on the market and one where a sale had been agreed but the vendor withdrew. Asked by the tribunal whether the sale price achieved for 51 Darnel Hurst Road supported a higher entirety value than £200,000, Mr Rutledge said that the comparable had been substantially extended. Asked about market movement between the valuation date (21 January 2004) and the date of the sale of the comparable, Mr Rutledge said in his experience the local market had improved between the two dates by 4 - 5%. He did not consider that the large rear garden of the subject property would necessarily add value.

5. Mr Rutledge adopted a site proportion of 30% and thus valued the site at £60,000. He said that although the plot was relatively deep it had a fairly small frontage for a semi-detached house and was slightly unusual in shape, which limited the scope for extending the house. He said that site proportions of between 28% and 35% had been agreed or determined for a large range of properties in and around Birmingham and Sutton Coldfield.

6. He adopted 7% as the appropriate yield rate to calculate the section 15 ground rent and to capitalise the existing ground rent, a yield which, he said, was based on a very large number of settlements and decisions of the leasehold valuation tribunal and of the Lands Tribunal in respect of similar properties.

7. Mr Rutledge said that he did not accept that auction evidence of the kind relied on by Mr Levy was persuasive or reliable because auction results were notoriously erratic. He said that the tenants had agreed a price of £3500 for the freehold directly with the freeholder but they had not received professional advice and the proposed price did not represent the true value. The freeholder had chosen not to proceed.

8. Mr Levy said that he had sold a freehold reversion of 39 Darnel Hurst Road at auction on 13 July 2004 for £4500 plus costs of £411.25. He had put the subject house (subject to the tenants' notice of claim) in an auction in September 2004 but it had failed to reach the reserve and was withdrawn. He had received a post-auction bid of £2800 which had not proceeded. He believed that the reduction in value from the price received for 39 Darnel Hurst Road was a direct result of the tribunal's involvement.

### **Decision**

#### **i. Entirety value**

9. We have come to the conclusion that the entirety value was, at the valuation date, £202,500. We have based this on consideration of all the comparables drawn to our attention by Mr Rutledge but particularly on the recent open market sale of 51 Darnel Hurst Road, which we have adjusted for market movement since the valuation date along the lines suggested by Mr Rutledge, which we accept as realistic. We accept that the larger plot size of the subject would not in the circumstances add significantly to value as compared with the comparable. The fact that the comparable had been extended is not relevant since the object of the exercise is to establish entirety value, and the subject plot offers similar scope.

10. In our view 33.33% rather than the 30% suggested by Mr Rutledge is the appropriate site proportion for this semi-detached house on a site which is not, in our view, particularly cramped.

11. We have adopted a yield rate of 7% to decapitalise the site to arrive at the section 15 ground rent and to capitalise the existing ground rent, in line with the great majority of settlements, leasehold valuation decisions and Lands Tribunal decisions for properties of this type, lease