

496

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

BIR/OOCN/OAF/2004/0257c

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON APPLICATIONS UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967*

**Applicant:** Ms B J Stanton (leaseholder)  
**Respondent:** Mansal Securities Limited (freeholder)  
**Subject property:** 56 Chichester Drive  
Quinton  
Birmingham  
B32 1BH  
**Date of tenant's notice:** 6 May 2004  
**Applications to the LVT:** 7 September 2004  
**Hearing:** 23 November 2004  
**Appearances:**  
*For the applicant:* Mr A W Brunt FRICS  
*For the respondent:* Not represented  
**Members of the LVT:** Professor N P Gravells MA  
Mr M Williams FRICS  
Mr M H Ryder  
**Date of determination:** 07 DEC 2004

### **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 Ms Stanton, leaseholder of the house and premises at 56 Chichester Drive, Quinton, Birmingham, B32 1BH ("the subject property"). The two applications are, first, under section 21(1)(a) for the determination of the price payable under section 9(1) 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 leaseholder holds the subject property under a lease, dated 5 October 1970, for a term of 99 years from 29 September 1968 at a ground rent of £25.00 per year. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was 63 1/3 years.
- 3 The applicant served on the respondent landlord a tenant's notice dated 6 May 2004, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and she subsequently made the present applications.

### **Subject property**

- 4 The subject property is an end-terrace house of brick and tile construction, located on Chichester Drive in a residential development in Quinton between the M5 motorway and the Quinton Expressway. The accommodation (which has been extended) comprises, on the ground floor, entrance hall, wc, sitting room and dining area, kitchen and lean-to conservatory; and, on the first floor, three bedrooms, bathroom and separate wc. The property is double-glazed. Space heating is by gas-fired central heating (with radiators in all rooms). There is an integral garage. Outside there are gardens and car standing to the front of the property and gardens to the rear. The frontage of the property is approximately 7.25 metres and the total site area is approximately 180 square metres. There is a public footpath to the side of the property.

### **Inspection and hearing**

- 5 The Tribunal inspected the subject property on 23 November 2004 in the presence of Ms Stanton, the applicant leaseholder, and Mr Brunt.
- 6 The subsequent hearing was attended by Mr Brunt. The respondent freeholder did not attend and was not represented.

### **Representations of the parties**

#### *The price payable for the freehold interest in the subject property*

- 7 Mr Brunt, on behalf of the applicant leaseholder, 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).

8 Mr Brunt acknowledged that he had no evidence of actual sale prices of comparable properties; but he gave evidence of asking prices in relation to a number of similar properties in the locality of the subject property. On the basis of that evidence and his general professional experience, he submitted that the Tribunal should adopt the figure of £155,000 as the entirety value of the subject property at the relevant date. He further submitted that the Tribunal should apply a 33 per cent figure in calculating the site value on the standing house basis; and that the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) and decapitalising and recapitalising the site value at stages (ii) and (iii) is 7 per cent.

9 On the basis of those figures, he submitted the following valuation:

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

Ground rent payable: £25.00 per year  
Years Purchase: 63 1/3 years @ 7%: 14.0887  
Capitalised ground rent: £25.00 x 14.0887 = £352.22

*(ii) Modern ground rent*

Entirety value of subject property: £155,000  
Percentage attributable to site: 33%: £51,150  
Annual equivalent @ 7%: £3,580.50

*(iii) Capitalisation of modern ground rent*

Modern ground rent (above): £3,580.50  
Years Purchase at 7% in perpetuity deferred 63 1/3 years: 0.1968  
Capitalised modern ground rent: £3,580.50 x 0.1968 = £704.64

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say) £1,057.

*Reasonable costs*

- 10 In relation to legal costs under section 9(4) of the 1967 Act, Mr Brunt submitted that, in the absence of any evidence of actual costs incurred by the respondent, the respondent's costs recoverable from the applicant should be limited to £300 (plus VAT if applicable).
- 11 In relation to valuation costs under section 9(4)(e), Mr Brunt submitted that, in the absence of evidence of any valuation carried out by the respondent, no valuation costs were payable by the applicants.

**Determination of the Tribunal**

*The price payable for the freehold interest in the subject property*

- 12 The Tribunal holds that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.
- 13 The Tribunal holds that the basis of valuation adopted by Mr Brunt properly reflects the principles of the 1967 Act applicable in the present case.

- 14 In the absence of any evidence from the respondent, the Tribunal examined the figures submitted by Mr Brunt in respect of the entirety value of the subject property, the percentage to be applied to the entirety value in calculating the site value on the standing house basis 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.
- 15 The Tribunal acknowledges (as had Mr Brunt) that the evidence of the entirety value of the subject property is limited. However, the Tribunal considered the evidence of asking prices submitted by Mr Brunt; and, using its general knowledge and experience (but no special knowledge) the Tribunal finds that the entirety value of the subject property at the relevant date was £155,000.
- 16 Bearing in mind previous practice of Leasehold Valuation Tribunals in the Midland Rent Assessment Panel area, and in the absence of any circumstances suggesting a departure from that practice, the Tribunal holds that the appropriate percentage to be applied to the standing house value in calculating the site value is 33 per cent; and that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7 per cent.
- 17 Since the Tribunal agrees with the figures submitted by Mr Brunt, the Tribunal endorses and adopts the calculation submitted by Mr Brunt and detailed in paragraph 9 above.
- 18 Accordingly, the Tribunal determines the price payable under section 9(1) of the 1967 Act for the freehold interest in the subject property at £1,057.

*Reasonable costs*

- 19 In the absence of any evidence of actual costs incurred by the respondent, the Tribunal accepts the submissions of Mr Brunt and holds (i) that the respondent freeholder's legal costs recoverable from the applicant leaseholder should not exceed £300 (plus VAT if applicable); and (ii) that no valuation costs are payable to the respondent by the applicant.

**Summary**

- 20 The Tribunal determines that the price payable by the applicant leaseholder for the freehold interest in the subject property is £1,057; that the respondent freeholder's legal costs recoverable from the applicant leaseholder should not exceed £300 (plus VAT if applicable); and that no valuation costs are payable.

*Nigel Gravells*

**NIGEL P GRAVELLS**  
CHAIRMAN

107 BEC 2004