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MIDLAND RENT ASSESSMENT PANEL

Case No: BIR/00CN/OAF/2004/0184

Leasehold Reform Act 1967
Commonhold and Leasehold Reform Act 2002

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

On an application under section 175 Commonhold and Leasehold Reform Act 2002

FOR LEAVE TO APPEAL TO THE LANDS TRIBUNAL AGAINST

The determination of the Leasehold Valuation Tribunal under section 21 Leasehold Reform Act 1967 of the price payable on enfranchisement for the house and premises under section 9(1) Leasehold Reform Act 1967

Applicant Freeholders: Adalat Khan, Pauline Sylvia Khan and Jon-Adam Khan

Respondent Tenants: Ronald Christopher Pitt and Marilyn Joan Pitt

Property: 24, Glenwood Road, Kings Norton, Birmingham B38 8HF

Application dated: 24 November 2004

Date of Tribunal's decision:

15 DEC 2004

1. By its determination (the '**Determination**') dated 15 October 2004 the Leasehold Valuation Tribunal (the '**LVT**') determined the sum to be paid by the Tenants for the acquisition of the freehold interest in the Property in accordance with section 9(1) Leasehold Reform Act 1967, as amended, is £5,756.
2. Mr Adalat Khan BSc (Est Man), one of the joint Respondents and on behalf of the other joint Respondents, applies (the '**Application**') by letter 1 November 2004 for leave to appeal, under s.175 Commonhold and Leasehold Reform Act 2002 and Regulation 20 Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003, the Determination to the Lands Tribunal (the '**LT**').
3. A copy of the Application has been served on the other parties. On our invitation to the Respondents to reply, Carvill and Johnson, solicitors for them, makes written representations dated 24 November 2004 opposing the Application.
4. Neither party has requested a hearing on the Application. Both parties have been given a reasonable opportunity to make written representations on the Application.
5. Mr Khan's grounds for the Application are: (a) that the LVT failed, in its Determination, to give adequate weight to his evidence on the price payable; (b) that the LVT failed to consider that the Property had been altered by the Tenants; (c) that, at the hearing on the price payable, the Tenants' surveyor representative did not produce adequate comparable evidence; (d) the percentage used to derive the site value from the standing house value was too low; (e) the yield rate used was too high; (f) that a County Court Order (Claim No 4BM72372 in Birmingham dated 28 April 2004), in a connected matter, can be reconsidered by the LT; (g) fairness and justice require permission for leave to appeal be given, as he is unhappy with the Determination.
6. Carvill and Johnson submits permission should be refused as; (a) the Determination is correctly made; and (b) the Court Order gives the Tenants the right to acquire the freehold and the LVT has made its Determination on the price payable.
7. We dismiss the Application for the reasons set out below:
 - 7.1 (a) The Determination cannot reasonably be shown -
 - (i) to have wrongly interpreted or wrongly applied the law, or
 - (ii) to have misinterpreted or disregarded a relevant principle of valuation, or
 - (iii) to have taken account of irrelevant considerations or failed to take account of relevant considerations, or
 - (iv) that there was a procedural defect;
 - (b) The Court Order, relevant to the Application, is a consent order entitling the Tenants to acquire the freehold of the Property;
 - (c) There are no exceptional circumstances;
 - (d) No issue is involved which is of general importance or which, in the public interest, should be examined by the LT;
 - (e) The costs of an appeal would be disproportionate to the outcome of an appeal;
 - (f) An appeal would involve re-examination of the oral evidence of the primary facts;
 - (g) The LVT has not exceeded its jurisdiction; and
 - (h) Despite Mr Kahn's possible very strong feelings that the Determination is unjust, his feelings are not arguably objectively justified.

8. In accordance with s.175 Commonhold and Leasehold Reform Act 2002, further application may be made for permission to appeal to the Lands Tribunal.

DATE **17.5 DEC 2004**

T F Cooper
Chairman

A handwritten signature in black ink, appearing to read 'T F Cooper', with a long horizontal stroke extending to the right.