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**SOUTHERN RENT ASSESSMENT PANEL AND
LEASEHOLD VALUATION TRIBUNAL**

**In the matter of section 9 and section 27 of the
Leasehold Reform Act 1967 (as amended)**

and in the matter of 20 Kelston Gardens Worle Weston super Mare

Case Number: CHI/00HC/OAF/2005/0004

**Upon the application of Maurice Frederick Maybank and Margaret McInnes
Maybank ("the Applicants")**

Inspection and initial consideration -

18 March 2005.

Final consideration -

26 April 2005.

The matter was considered in the light of written representations without a hearing

Decision of the Tribunal

Issued:

Tribunal

Mr R L Sansbury (Chairman)
Mrs M Hodge BSc MRICS.

Decision

1. The tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion in this matter is the sum of £ 913. That figure includes a sum of £45 for the value of the intermediate leasehold interest so that the amount payable for the head leasehold interest is £868.

Reasons

2. 20 Kelston Gardens ("the property") is an end-terrace bungalow with a living room, two bedroom, a kitchen, a bathroom and a good-size conservatory. It stands on a development of properties for occupation by persons of sixty years of age and over at Worle that were built in or about 1987. It is of brick cavity construction under a tiled roof. It has a small garden which is subject to a right of way in favour of other properties in this terrace; this property has the benefit of rights of way over such properties. There is no garage although parking spaces are available as part of the development.
3. The property is built upon part of the land demised by a sixteenth century lease, of which the tribunal understands no copy now is known to exist. The demise was in favour of John and Isabel Thomas for a term expiring in 2057 at an annual rent of £1-6-9d (£1-34). The tribunal is informed that no rent is paid by the lessees of the property under this lease. The whereabouts of the lessors or beneficiaries under this lease are now unknown.
4. The Applicants hold the property by means of an Underlease granted by Second City (SW) Limited to Ruby Ellen Jackson for a term of seventy years from 1 January 1987 at a peppercorn rent. There are service charges that the tribunal is informed are for the use of warden and emergency facilities, for decoration and for gardening.
5. The Applicants have applied to the Weston super Mare County Court to have the property vested in them pursuant to section 27 of the Leasehold Reform Act 1967 (as amended) ("the Act"), which deals with applications where the whereabouts of the landlord are unknown, on terms to be determined by this tribunal. As appears from paragraph 6 below the tribunal deem such application to have been made on 22 December 2004. The amount that the tribunal is to determine is the 'appropriate sum' defined in section 27(5) of the Act as follows:

'The appropriate sum which in accordance with sub section (3) above, is to be paid into Court is the aggregate of:

- (a) such amount as may be determined by (or on appeal from) a leasehold valuation tribunal to be the price payable in accordance with section 9 above, and
- (b) the amount or estimated amount as so determined of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.'

6. Section 9 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation. The effect of section 27(2)(a) is that the valuation date is the date on which the application for an Order was made to the Court. The tribunal took the view that that was the date on which the application was issued in the Court office rather than the date of the Court Order; such date of issue had not been supplied to the tribunal. However it was clear from the date of signature by the Applicants that the application must have been issued between 13 December and 22 December 2005 and that the value of the property would not have changed during that short period. For convenience therefore the tribunal accepted 22 December 2004 (the date suggested by Messrs Stephens & Co Chartered Surveyors) as the valuation date.
7. There was before the tribunal a valuation report by Messrs Stephen & Co, that adopted the "standing house" method of calculation. The tribunal is satisfied that that is an appropriate approach in the present case. There is unlikely to be evidence of sales of vacant sites because the area in which the property stands has been fully developed for some years. The standing house value requires an assumption that the property is freehold, has been fully modernised and is in good condition,
8. For the purpose of establishing the standing house value of the property on the valuation date Messrs Stephen & Co had supplied details of sales of three comparable properties:-

7 Kelston Gardens sold in December 2003 for £99,000
17 Kelston Gardens sold in October 2003 for £99,500
6 Kelston Gardens sold in April 2004 for £115,000

From those figures they had concluded that the value of the property on the valuation date was fairly represented by a sum of £115,000.

9 The first two of those comparables were respectively twelve months and fourteen months old at the valuation date and the tribunal considered them too old to be helpful in this case. The comparable 6 Kelston Gardens was some eight months old at the valuation date. Messrs Stephens & Co do not indicate whether any of the properties are freehold or leasehold, neither do they state whether any of them have been modernised or not.

The tribunal therefore disregarded those comparables. It was however mindful of its own decision in December 2004 concluding that the entirety value of 17 Kelston Gardens was £110,000; the valuation date in that case was 31 March 2004.

- 10 It was known to members of the tribunal that the property market was rising in April 2004, and continued to rise until about the autumn of that year, that it had stopped rising by 22 December 2004 ("the valuation date") and indeed had probably fallen slightly by that date. Having regard to the value of 17 Kelston Gardens in March 2004 and the movements of the market since then, the tribunal