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BIR/00CN/OAF/2005/0077

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

**DETERMINATION OF THE MIDLAND LEASEHOLD VALUATION TRIBUNAL  
OF A SUM TO BE PAID INTO COURT UNDER S27 OF THE  
LEASEHOLD REFORM ACT 1967**

**Property:** 41 Aversley Road, Kings Norton, Birmingham B38 8PD

**Applicants:** Mr A J Moore and Mrs P A Moore

**Respondent:** Colmore Properties Limited (dissolved)

**Date of hearing:** 13 June 2005, at Birmingham

**Attendance:** Mr Peter Steele, estate agent

**Members of the leasehold valuation tribunal:**

Lady Wilson  
Mr V Chadha MRICS  
Mrs N Jukes

**Date of the tribunal's decision:** 7 July 2005

## Background

1. This is a determination under section 27 of the Leasehold Reform Act 1967 ("the Act") of the sum to be paid into court for 41 Aversley Road, Kings Norton, which is to be vested in the applicants by order of the county court under that section, since the landlord cannot be found.
2. The sum to be paid into court is, by section 27(5) of the Act, 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 [of the Act]; 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.
3. By section 27(2)(a), the rights and obligations of all parties are to be determined as if the applicant had, at the date of the application to the court, duly given notice of his desire to have the freehold. The valuation date is accordingly the date of the application to the court. The application to the court (made, incorrectly, to the Chancery Division of the High Court although section 148 of the Commonhold and Leasehold Reform Act 2002 conferring jurisdiction on the county court had come into force when the application was made) was dated 19 November 2003. No new application was made and the initial application was transferred to the county court by an order made in the Birmingham District Registry of the Chancery Division on 1 March 2004. In these circumstances it seems clear that the valuation date must be the 19 November 2003, at which date approximately 33 years remained unexpired on the lease.
4. 41 Aversley Road is a two storey semi-detached house built in the 1930s, with a living/dining room and three bedrooms, kitchen, bathroom and integral garage. It is held by the applicants

under a lease dated 27 March 1939 for a term of 99 years, expiring on 23 June 2037, at a ground rent of £6 per annum

5. The tribunal inspected the property on 13 June 2005. We found it to be extensively modernised and were satisfied that it fully exploits the potential of the site.

6. At the hearing later in the day, the applicants were represented by Mr Peter Steele, an estate agent.

### **Decision**

7. We were satisfied that the rateable value of the property is such that the valuation falls to be made under section 9(1) of the Act and that the components of the valuation which required determination were thus the entirety value, the proportion of the entirety value to be taken as the value of the site, and yield.

8. Mr Steele initially advanced the surprising proposition that the entirety value of the property was £50,000. Asked by the tribunal to explain this, he said that he had done so because he had valued it to a valuation date of 1996, which, he said, was the date when the applicants first took steps to locate the freeholder with a view to acquiring the freehold under the Act. When it was pointed out to him that, even at that date, there were nothing like as much as the 54 years unexpired on the lease which he had adopted as the unexpired term in his valuation, he said that he had been informed by the applicants' solicitors that 54 years was the unexpired term. Asked to give his opinion of the entirety value at the correct valuation date, he said at first that it was £135,000, but when we informed him that we were aware from our own researches of recent sales of similar properties in the same road at £159,950 and £197,950 and of two properties in