

**NORTHERN RENT ASSESSMENT PANEL**

**LEASEHOLD VALUATION TRIBUNAL**

**LEASEHOLD REFORM ACT 1967 (the Act)**

**DETERMINATION OF THE APPROPRIATE SUM TO BE PAID INTO COURT IN ACCORDANCE WITH SECTION 27(5) OF THE ACT**

**PROPERTY:** 13 COLEPIKE ROAD LANCHESTER DURHAM  
DH7 0HJ

**APPLICANT:** Nicola Helen Clarke

**MEMBERS OF TRIBUNAL:** A Robertson JP FRICS  
J N Morris FRICS

**1. Background**

- 1.1 The Applicant has applied to Durham County Court for a Vesting Order under Section 27(1) of the Act and it was agreed by the Court that the matter be adjourned to allow for an application to be made to the Leasehold Valuation Tribunal for a determination of the price of the freehold.
- 1.2 Whilst no formal order of the Court has been made requiring the Tribunal's determination, the Tribunal is minded to proceed as if such order had been made and to determine the appropriate sum under section 27(5) of the Act.

**1.3 Section 27(5) provides:-**

The appropriate sum which ..... is to be paid into court is the aggregate of

- (a) such amount as may be determined by ..... 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 conveyance which remains unpaid.

**2. Inspection**

- 2.1 The Tribunal inspected the property on 30 August 2006. It is a semi detached house of traditional construction built in the mid-1960s.

### **3. The Lease**

- 3.1** The lease of 10 April 1967 between J H Fisher and Co (Newcastle) Ltd and Hugh Patrick McCormick grants a term of 999 years from 1 May 1965 at a fixed annual ground rent of £12.10s (£12.50). It contains no unusual or onerous covenants.

### **4. Hearing/Evidence**

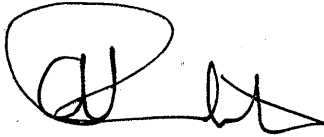
- 4.1** The applicants stated that no reports or statements would be submitted and requested that the matter be dealt with by written representations. In the absence of a respondent the Tribunal agreed to proceed without a hearing.
- 4.2** In her application the applicant asked that costs (£861.25 as at 27 June 2006) be deducted from any payment made to the Court. The Tribunal has no power enabling them to make such an order.

### **5. The Appropriate Sum**

- 5.1** Section 9 of the Act provides that the price payable for a house and premises shall be the amount which the premises, if sold on the open market by a willing seller (with the tenant and members of his family not buying or seeking to buy) might be expected to realise.
- 5.2** Effectively the open market sale would be of an income of £12.50 per annum over the unexpired residue of the term of 999 years (958 years) which in valuation terms is perpetuity. The reversion is too remote to have value.
- 5.3** The Tribunal is of the view that the sale of such an investment would be of little interest to the market and would attract but a nominal price, which the Tribunal determines at £100 (one hundred pounds).
- 5.4** Section 27(5)(b) of the Act requires that the appropriate sum includes any amounts of rent due to the landlord from the tenant up to the date of conveyance. The applicants admit not having paid ground rent since acquiring the house on 13 March 2000. This would indicate that 6 years ground rent is due but the Commonhold and Leasehold Reform Act 2002 section 166 requires since 28 February 2005 the service of a notice by the landlord in order to recover ground rent. No such notices have been served and the rents payable on 1 May 2005 and 2006 are not therefore "due". The Tribunal therefore determines that the amount payable in respect of unpaid ground rents shall be £50 (i.e. 4 years).

**6. The Decision**

- 6.1** The Tribunal finds that the appropriate sum for the claimant to pay into Court under Section 27(5)(a) and (b) is a total of £150.



**A R Robertson JP FRICS**  
Chairman of the Leasehold Valuation Tribunal

30 September 2006

By Section 175 of the Commonhold and Leasehold Reform Act 2002 a party to these proceedings before the Leasehold Valuation Tribunal (LVT) may appeal to the Lands Tribunal from the decision of the LVT.

In order to appeal a party must obtain permission so to do. An application for permission must first be made to the LVT within 21 days of the LVT decision being sent to that party. Any application for extension of that 21 day period must state the reasons and be made before the expiry of the period. (Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003 (S.I.2003 No 2099) regulations 20 and 24).

If permission to appeal is refused by the LVT an application for permission may be made to the Lands Tribunal within 28 days of that refusal (The Lands Tribunal Rules 1996 (S.I. 1996 No 1022) as amended).