

**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 4 Saxby Close Worle Weston super Mare

Case Number: CHI/00HC/OAF/2006/0020

Upon the application of Mr N E Fagan (“the Applicants”)

Inspection 16th January 2007

Determination 22nd January 2007

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

Decision of the Tribunal

Issued: 25th January 2007

Tribunal

Mr R P Long LLB (Chairman)
Mr M J Ayres FRICS

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 £1583-00.

Reasons

2. 4 Saxby Close (“the property”) is a small house with a living room, a bedroom, a kitchen and a bathroom. It stands on a development of properties at Worle that were built in or about 1987. It is of brick cavity construction under a tiled roof. It is part of a block of houses such that it adjoins two other houses in the block. It has a small garden, a very small portion of which is separated by a footpath from the remainder. There is no garage although parking spaces are available as part of the development.
3. The property is built upon land that was part of that demised by a sixteenth century lease (“the lease”) granted on 1st September 1557 by Catherine Wallop of which we understand no copy is known now 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). We are 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. The Applicants hold the property as assignees under the lease.
4. The Applicants 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 on 7th July 2004 and the Court’s order is dated 13th September 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.’
5. 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 Applicant’s solicitors have certified that the application was made on 21st November 2006.

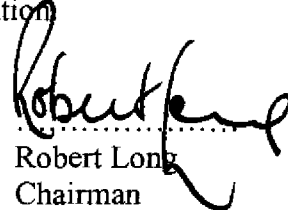
6. There was before the tribunal a valuation report by Messrs Stephen and Co, Chartered Surveyors, that adopted the “standing house” method of calculation. The tribunal is satisfied that that is an appropriate approach in the present case. There is unlikely to be evidence of sales of vacant sites because the locality in which the property stands has been fully developed for some years.
7. 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 two comparable properties. 39 Perrymead had been sold in May 2006 for a price of £100,000, and 22 Saxby Close had also been sold in August 2006 for a price in that case, of £107000. The Tribunal inspected the outside of the latter premises and agreed that it was rather better than the property, having direct access from the roadway. It accepted Messrs Stephen & Co’s valuation of £100000 for the property.
8. The standing house value requires an assumption that the property is freehold, has been fully modernised and is in good condition to arrive at the ‘entirety value’ on which the modern ground rent is to be based. There was no indication in Messrs Stephen & Co’s valuation that those points had been taken into account, as the valuation appeared from the information they gave to proceed on a straightforward comparison of the indexed prices for the properties as they stood at the time of sale.
9. Messrs Stephen & Co argued that the site value should be taken as 26.5% of the entirety value. They pointed to the fact that the split nature of the site would not readily allow a house to be constructed independently.
10. The Tribunal was content to accept that apportionment, which reflects a similar apportionment made by another tribunal in respect of 22 Saxby Close. The nature of the construction of these houses is such that independent development of their sites would not be a practical proposition.
11. Messrs Stephen & Co had taken a deferment rate of 6% rather than the 4.75% that might be indicated by the decision of the Lands Tribunal in *Earl Cadogan and others v Sportelli [LRA 50 2005]* (“Sportelli”). They argued that the nature of these premises, being suburban social housing in respect of which no ground rent is payable militated against the use of a deferment rate as low as that used in Sportelli.
12. The Tribunal recognised that there is some force in the argument that the absence of a ground rent in these cases can be regarded in this context as a particular feature that may indicate some departure from the rates mentioned by the Lands Tribunal as does the absence of a freeholder who can enforce the freehold covenants. It bore in mind that the property in Sportelli was a high value, low risk central London property, the market for which bears very little practical relationship for a property of this type in its location, and in an area where the rise of property prices generally has not been nearly as rapid as it has in central London. Those factors in its judgement produce a risk factor that may be regarded as higher than that for a reversionary investment of the sort considered in Sportelli. It therefore adopted the deferment rate used by Messrs

Stephen & Co of 6% which it considers to be a more accurate estimate of the sort of deferment rate that might be applied in the open market in the Weston super Mare area for a property like this.

13. The tribunal accepted Messrs Stephen & Co's representation that a modern ground rent in this locality might be established using a 7% rate of return on the site value.
14. The tribunal's valuation therefore was:

Ground rent reserved:	Nil
<u>Reversion</u>	
Estimated site value (27.5% of £100000)	27500 - 00
Modern Ground rent @ 7%	1855-00
YP in perpetuity @6% deferred 53 years	<u>0.8536</u>
Total	£1583-43
But say £1583-00	

15. The amount payable for leasehold interest is thus £1583-00. Since no ground rent falls to be paid no addition is appropriate in that respect.
16. We approve the form of transfer that was sent with the application, a copy of which is annexed and is signed by me for identification


Robert Long
Chairman

23rd January 2007

**Transfer of whole
of registered title(s)**

H M Land Registry

TR1

1. Stamp Duty

It is certified that the transaction effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value of the aggregate amount or value the consideration exceeds the sum of £125,000.00

2. Title Number(s) of the Property *(leave blank if not registered)*

AV79143

3. Property

4 Saxby Close, Worle, Weston-super-Mare, North Somerset, BS22 0UP

If this transfer is made under section 37 of the Land Registration Act 1925 following a not-yet-registered dealing with part only of the land in a title, or is made under rule 72 of the Land Registration Rules 1925, include a reference to the last preceding document of title containing a description of the property.

4. Date

5. Transferor

The Successors in Title to Catherine and Henry Wallop

6. Transferee for entry on the register

Noel Edward Fagan

7. Transferee's intended address(es) for service in the U.K. (including postcode) for entry on the register

4 Saxby Close, Worle, Weston-super-Mare, North Somerset, BS22 0UP

8. The Transferor transfers their interest in the property to the Transferee.

9. Consideration

The Transferor has received from the Transferee for the property the sum of _____ Pounds (£
)

10. The Transferor will transfer with limited title guarantee.

CH1/004C/DAF/2006/0020 Approved draft (2 pages)

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Rhys
Chairman . 23.1.07

This Transfer is made pursuant to an Order for enfranchisement within the provisions of Section 8 and Section 27 of the Leasehold Reform Act 1967 made in the Bristol District Registry by order of District Judge dated the _____ day of _____ 200.

12. Application is hereby made to the Chief Land Registrar to close the leasehold title number AV79143 and to cancel the entries numbers 1 and 2 of the Property Registry.

SIGNED AS A DEED pursuant to the Order for Enfranchisement

by **District Judge**
as successor in Title to Henry Wallop and Catherine Wallop
in the presence of :-

Signature of
witness

Name (*in BLOCK CAPITALS*).....

Address
.....

SIGNED AS A DEED by
NOEL EDWARD FAGAN
in the presence of:

Signature of
witness

Name (*in BLOCK CAPITALS*).....

Address
.....