

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

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

**Case Number: CH1/18UH/OAF/2009/0009**

**Application under Section 27(5) of the Leasehold Reform Act 1967 as amended  
By Section 149 of the Commonhold and Leasehold Reform Act 2002**

**Re: 1 Brookland Cottage, Nadderwater, Exeter, Devon, EX4 2JG  
("the Premises")**

**Between: Professor J Maloney ("Applicant")**

**And**

**Unknown Freeholder ("Respondent")**

**Tribunal Members: Mr T E Dickinson BSc FRICS IRRV (Chair)  
Mr T N Shobrook BSc FRICS**

**Date of Application: 28 April 2009**

**DECISION:**

For the reasons set out below the Tribunal has determined that the price payable by the Applicant (such amount to be paid into the Court) for the freehold reversion to the property pursuant to the Application made by the Applicant to the Court and in accordance with its jurisdiction under Section 27 of the Leasehold Reform Act 1967 (as amended), shall be £411.

## **REASONS:**

### **Background:**

1. On 28 April 2009 an application was acknowledged by Exeter County Court "Claim No: 9EX01331" in relation to a claim under the Leasehold Reform Act 1967 for an Order vesting the freehold of the leasehold house known as "1 Brookland Cottage, Nadderwater, Exeter" in the name of the Claimant.
2. On 24 July 2009 District Judge Arnold, sitting at Exeter County Court, Exeter Crown and County Court, Southernhay Gardens, Exeter, ordered that the matter shall forthwith be referred to the Residential Property Tribunal Service by the Court and the freehold of the property shall be transferred to the Claimant upon payment into Court by the Claimant of the sum assessed by the Residential Property Tribunal Service. That Order is dated 31 July 2009.
3. Provisional directions were issued by the Residential Property Tribunal Service on 5 August 2009 in the matter of an application under Sections 9 and 27 of the Leasehold Reform Act 1967 – Enfranchisement (Missing Landlord")

### **Inspection:**

4. The Members of the Tribunal inspected the property on the morning of 30 September 2009. The property is situated in the small hamlet of Nadderwater on the north western fringes of the cathedral city of Exeter, within approximately two miles of the city centre.
5. The property comprises a period detached cottage on ground and upper floors, extended to the rear and also extended to the side with a conservatory which was apparently added in 2003. The property is constructed principally of brick and stonework walls with part rendered elevations and the main roof is pitched and covered with natural slating/manmade slate.
6. The property is situated alongside the road, but raised up above the roadway, with mainly steep wooded gardens to the rear extending to about half an acre. Some of the garden areas however have been levelled with a grassed area to the north western side. Adjacent to the roadway is a double car parking bay.
7. The accommodation comprises:  
  
Ground Floor: Small hall, front dining room/study, living room, rear kitchen and side conservatory.  
  
First Floor: Small landing, double bedroom, twin bedroom, study with door to garden, bathroom/wc.
8. Mains water and electricity are provided and drainage is to a septic tank on the opposite side of the highway. The property has an oil fired central heating system and there is also a wood burning stove in the living room.
9. Copies of the Registers of Title to the premises held by HM Land Registry have been produced to the Tribunal and these indicate that the property was first registered on 3<sup>rd</sup> May 2002. The Property Register refers to Title Number DN461913 with land held for a term of 500 years from 25 March 1632. There is additionally a separate leasehold interest under Title Number DN409034 for a term of 400 years with effect from 27 May 1639.
10. The Applicant is currently the registered proprietor listed in the Proprietorship Register and the price said to have been paid for the leasehold property on 19 December 2003 under Title Number 409034 was £243,000.

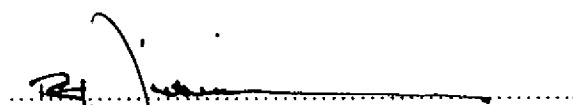
## The Law:

11. The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to 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 of the Act.
  - 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
12. 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(1) is that the valuation date is the date on which the application for an order was made to the Court and that date is in this case 28 April 2009.

## Considerations and Decision

13. In the bundle provided by the Applicant was a valuation made by Lloyd Smale FRICS of Drew Pearce Chartered Surveyors dated 3 April 2009. His opinion is that the market value of the premises was £260,000 following an inspection of the property on 13 March 2009. Mr Smale, in his report, refers to the two leasehold interests held by Professor Maloney, namely a 500 year term with effect from 25 March 1632 and a 400 year term with effect from 27 May 2009. The Tribunal accepts that for the purposes of the valuation exercise, only the original lease commencing 25 March 1632, is relevant to the enfranchisement procedures. The Tribunal also notes that the original ground rent has been apportioned such that the amount payable under one or other of the leases stands in the sum of £1.25 per annum.
14. Whilst no comparable evidence has been cited, the Tribunal accepts that this is a relatively unique property. The Tribunal has paid due regard to the purchase price of £243,000 in late 2003; which was assumed to be an open market arms-length transaction; and the Tribunal has taken into account the rise and fall in the market in the intervening period. Using its own knowledge and experience, the Tribunal decided to concur with Mr Smale's valuation of the "entirety value".
15. With regard to site value, the Tribunal accepts Mr Smale's figure of £104,000, representing 40% of the entirety value and considers that this figure is appropriate for a site of this size and a property of this particular value.
16. The Tribunal has given due consideration to the rate of 5% adopted to arrive at the modern ground rent and accepts the figure of £5,200.
17. Mr Smale referred to a deferment rate of 5% but gave no explanation as to why he had chosen this rate, as opposed to the 4.75% rate for houses, suggested as a generic rate after the decision of the Lands Tribunal in the case of Earl Cadogan v Sportelli (LRA50 2005 Sportelli). As no substantive argument has been produced by the applicant's expert valuer to the contrary, this Tribunal considers that the generic deferment rate of 4.75% should apply.
18. The Tribunal has therefore arrived at a figure of £411 and calculations are set out in the Appendix to these Reasons.

Signed



Mr T E Dickinson BSc FRICS IRRV (Chairman)  
A Member of the Leasehold Valuation Tribunal appointed by the Lord Chancellor

Dated 2 October 2009

**APPENDIX**  
**Tribunal's Valuation**

Ground Rent reserved	£ 1.25
YP 123 years @ 5%	20
	<hr/> 25
<b>Reversion</b>	
Market value of Premises (28 Apr 2000)	£260,000
Site value @ 40%, say	£104,000
Modern ground rent @ 5%	£ 5,200
Years purchase of a reversion to a perpetuity after 123 years @ 4.75%	0.0742397
	<hr/> £386.05
	<hr/> £411.05
But say £411	

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