

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
LEASEHOLD VALUATION TRIBUNAL**

**Property** : 6 Eagle Lane, Bocking, Braintree,  
Essex CM7 5SW

**Applicants** : Joan Hunt and Evelyn Hilda Walsh

**Respondent** : Unknown

**Case number** : CAM/22UC/OAF/20100008

**Date of Application** : 15<sup>th</sup> July 2010.

  

**Type of Application** : To determine the price payable  
for the acquisition of the freehold under  
Section 27(5) of the Leasehold Reform  
Act 1967 with the amount of rent which  
remains unpaid

**The Tribunal** : D.T. Robertson (Lawyer/Chairman)  
E. Flint DMS FRICS IRRV  
R. Marshall FRICS FAAV

**Date of the Hearing** : 12<sup>th</sup> October 2010

**Venue for the Hearing** : The Old House, 11 Bradford Street,  
Bocking, Braintree, Essex CM7 9AS

**Appearance** : The Applicants were represented by Mr  
Borden of Holmes & Hills solicitors

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**DECISION**

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1. This decision will be immediately issued to the Applicants and also the Colchester County Court Claim No. 0C001541. The total sum payable determined by the Tribunal in accordance with the County Court's Order of the 30<sup>th</sup> June 2010 is £4,390.00. This Decision relates to the one property that comprises both Title Numbers EX652144 and EX632860.

2. The price payable in accordance with Section 27(5) of the Leasehold Reform Act 1967 is £4,389.00.

3. The amount of rent payable for the Property which remains unpaid is £1.00.

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## REASONS

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### **Background of the Case**

1. The Applicants made an application to the Colchester County Court pursuant to the provisions of the Leasehold Reform Act 1967 Section 27. This claim was issued on the 30<sup>th</sup> June 2010 which the Tribunal have taken as the valuation date. The Colchester County Court made a Directions Order on the 30<sup>th</sup> June 2010 which ordered that the Tribunal determines:-

- (a) The price payable in accordance with Section 27(5) of the Leasehold Reform Act 1967 in the event of the application succeeding
- (b) The amount or estimated amount of pecuniary rent payable for the Property up to the date of the Conveyance which remains unpaid.

### **Inspection of the Property**

2. The Tribunal inspected the Property in the presence of Mrs Joan Hunt and also Mr Borden. It is a mid-terraced part two storey, part single storey dwellinghouse. The Property appears to have been originally constructed in about 1600 and there has been a subsequent extension at the rear to provide a kitchen, bathroom and a utility area. The original part of the Property is of a timber frame construction with rendered pebble dashed walls under a pantile roof. The extension is of a brick construction with a flat roof. On the ground floor the Property comprises a reception room, kitchen, bath/shower room and a utility area. There are steep stairs leading to a landing bedroom and a further bedroom on the first floor. The Property has all mains services except the gas supply does not have its meter connected. The Property has electric night storage heating. There is no front garden but a reasonable garden at the rear. The Property has the benefit of a pedestrian right of way to the rear. There is vehicular access to the Property over an unmade track but there are no garage or parking facilities at the Property itself.

3. The Property is in a pleasant residential area. The repair and decoration of the Property are reasonable.

### **Evidence**

4. Evidence is given that the enfranchisement price is calculated under Section 9(1) of the Leasehold Reform Act 1967 without any marriage value or

provision for tenants improvements. The Tribunal accepts that this is the correct approach.

5. The main evidence on behalf of the Applicants is a letter written by Mr C.C. Woodhouse FRICS of the firm Joscelyne Chase dated the 24<sup>th</sup> August 2010 addressed to the County Court. Mr Borden of Holmes & Hills attended the hearing but was not able to assist the Tribunal with any of their questions. The Tribunal were disappointed that Mr Woodhouse did not attend the hearing and had not complied fully with Directions. So far as the comparables are concerned there was no copy of the agents particulars provided or a sufficient description of the properties to enable the Tribunal to assess their values. Mr Woodhouse did not provide a full Witness Statement. In valuing the Property he has adopted the standing house approach based on a capitalised modern day cleared site ground rent deferred for the relevant period. He purports that the capitalisation of existing ground rent is not applicable in this case. The Tribunal accepts there is no evidence of clear site transactions.

### **The Existing Ground Rent**

6. The Land Registry Entries show that this Property is part of the land incorporated in a Lease dated the 6<sup>th</sup> June 1557 for a term of 500 years from the 25<sup>th</sup> September 1557. Mr Woodhouse says that no rent has been paid in living memory. There is no evidence of the rent payable and the Tribunal decided from their knowledge and experience that the proportion of the rent that would have been payable in respect of this property annually is likely to be a small fraction of £1.00. Mr Woodhouse calculates that the current lease has some 47 years unexpired from the Valuation Date and the Tribunal accepts that this calculation is correct. The Tribunal considers that Mr Woodhouse's calculation of the value of the present Ground Rent for the unexpired term at nil is wrong. They decided on a figure of £1.00 which includes any Ground Rent outstanding. In this respect the Tribunal in particular noted that no notices had been given under Section 48 of the Landlord and Tenant Act 1987 nor under Section 166 of the Commonhold and Leasehold Reform Act 2002. The Tribunal also noted that any claim for ground rent would be barred by statute after 6 years.

### **Current Value of Property**

7. Mr Woodhouse purports that the current value of the Property is £115,000.00 based on a good marketable freehold title with no undisclosed encumbrances and with vacant possession. He does not provide for the Property being developed so that the full potential of the site is achieved. In this respect the Tribunal accepts that the site is narrow and is on an unmade track and would be difficult to redevelop other than some extension being made at the rear.

8. Mr Woodhouse with some difficulty gives four comparables:-

- (a) 172 Church Lane, Bocking which sold for £155,000.00 in September of 2008. He says that it is now worth £145,000.00.
- (b) 2 Faggot Yard sold in November 2007 for £140,000.00 which he says is now worth £125,000.00.
- (c) 1 Faggot Yard sold in March 2006 for £85,000.00 on the basis that it was leasehold with 20 years unexpired. He does not consider this to be a reliable comparison.
- (d) 84 Chapel Hill, Braintree a two bedroomed terraced property with no central heating or parking facilities in a very basic condition recently sold for £118,000.00. His firm had not inspected this property.

The Tribunal inspected the exterior of numbers 1 and 2 Faggot Yard in the presence of Mr Borden. Mr Borden was asked as to how Mr Woodhouse had calculated the deduction in prices to arrive at current values but was unable to give an explanation. The Tribunal do accept that values have fallen since 2007.

9. The Tribunal did not consider that any of the comparables was particularly good. They have to rely on their own knowledge and experience. They consider that the freehold value of the Property in good condition developing the potential of the site with vacant possession and no undisclosed encumbrances would be £130,000.00.

#### Plot Value

10. Mr Woodhouse states that he is aware that cases involving enfranchisement under the Leasehold Reform Act 1967 frequently dealt with a modern day plot value based at 30%. Whilst he feels this figure was a reasonable one in good times of a few years ago he can find no evidence of 30% being applicable today in the hardened market conditions at present. He considers that a 25% figure would be appropriate. He gives no evidence as to why he thinks that 25% is appropriate. Again the Tribunal have to rely on their knowledge and experience and consider the correct percentage is 30%. 30% of £130,000.00 gives a value of £39,000.00 for the site.

#### Yields

11. Mr Woodhouse states that previous cases he is aware of have shown a yield of around 7% and he is in particular aware of a lot of residential ground rents in Braintree being sold at auction in early 2005 reflecting a yield of 6.50%. He says that with the difficult economic circumstances prevailing yields generally have hardened in the intervening period. He makes reference to the Sportelli Case providing a return of 4.75% that should be utilised for houses. To avoid an adverse differential scenario he considers that the de-capitalisation of the plot value and the re-capitalisation on a deferred basis should have a similar yield rate. The Tribunal agrees with what he says and the appropriate rate is 4.75%. With a site value of

£39,000.00 the modern ground rent at 4.75% is £1,852.00. When you re-capitalise this on a deferred basis the YP in perpetuity deferred for 47 years at 4.75% provides for a multiple of 2.37%. This gives a price payable of £4,389.00.

**Summary of Valuation**

Ground Rent		£1
Value of Property	£130,000	
Site apportionment @ 30%	£ 39,000	
Section 15 Modern Ground Rent @ 4.75%	£1852	
YP in perpetuity deferred for 47 years @4.75%x2.37		£4389
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		£4,390
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**D. T. ROBERTSON (Chair)**  
**19th October 2010**