

SOUTHERN RENT ASSESSMENT PANEL AND LEASEHOLD VALUATION  
TRIBUNAL

Case No: CHI/OOHC/OAF/2010/0001

In a matter under Sections 9 and 27 of the Leasehold Reform Act 1967, as amended,  
[“the Act”] and :-

In the matter of 7 Blackthorn Gardens, Worle, Weston Super Mare, BS22 6RZ [“the  
property”].

Upon the application of the Executors of Mrs. E.E. Short dec'd. [the Applicants].

Inspection - 4<sup>th</sup>. February 2010.

Determination - 15<sup>th</sup>. February 2010

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

Tribunal Mr. J.S. McAllister F.R.I.C.S. [Valuer Chairman]  
Mr.M. J. Ayres F.R.I.C.S. [Valuer Member]

Decision issued – 15<sup>th</sup>. February 2010

DETERMINATION AND REASONS

SUMMARY DECISION

1. The Tribunal has determined, for the reasons set out below that the price payable by the Applicants for the freehold reversion in the property is in the sum of £2,273.00 and that the amount of unpaid pecuniary rent payable for the property up to the date of the conveyance is nil.

Reasons

2. The Tribunal were unable to inspect the property internally. It is an end terrace 2 storey house. After the inspection the Tribunal received a valuation report from M.T. Ripley esq. F.R.I.C.S. of Stephen & Co. dated 2<sup>nd</sup>. February 2010, which described the property as having been built during the late 1970s by Heron Homes. It is traditionally built of brick and tile hung walls under a concrete tiled roof.

The accommodation is stated to be, on the ground floor, porch, hall, lounge, kitchen/dining room and on the first floor 3 bedrooms, bathroom, separate w.c. and landing. Outside there is an enclosed rear garden with pedestrian access via a common footpath to a garage compound. There is a garage and car space to the rear of the

property. At the front there is an open plan garden. A plan is attached showing the property edged red, the plan being a copy of the Land Registry title no. AV30529. The property does not have direct frontage to the road, pedestrian access being by shared footpath from Verbena Way. There is an area of communal open space land in front of the property.

Apparently all main services are connected, with space heating by a gas fired central system. There are modern double glazed windows to the house.

The rateable value of the property in the 1973 Valuation List was £176.

The Applicants did not seek a hearing before the Tribunal.

3. The property is built upon land that was part of that demised by a 16<sup>th</sup>.Century lease, of which the Tribunal has been informed that no copy now exists. The demise was in favour of John and Isabel Thomas for a term of 500 years from 1<sup>st</sup> September 1557 at an annual rent of £1.6s.9d. The Tribunal is told that the Applicants pay no ground rent and that the whereabouts of the lessors or beneficiaries are unknown.

4. The Applicants solicitors have submitted to the Tribunal various copy documents, under cover of letters dated 4<sup>th</sup>. January 2010 and 3<sup>rd</sup>. February 2010. These include the above valuation report and a provisional "Order for Enfranchisement where Landlord cannot be Found". A copy of this Order is attached. It was made by the Weston Super Mare County Court and directs that the enfranchisement price payable for the freehold interest is to be determined by the Leasehold Valuation Tribunal under Section 9[i] of the Act under the "original valuation" basis together with the estimated amount of unpaid rent payable by the Applicants.

5. 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 ..... is to be 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 so determined of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid"

6. 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] [2] [a] is that the valuation date is the date of the application to the Court. This date is not entirely clear from the papers submitted to the Tribunal. Mr. Ripley's valuation was carried out on the 2<sup>nd</sup>. February 2010 and the Tribunal has adopted this date as the valuation date in this case.

7. The Tribunal accepts the "standing house" basis of valuation submitted by Mr. Ripley as being compatible with the basis ordered by the Court. The Tribunal is aware that the expression "original valuation basis" does not appear in "Hague on Leasehold Enfranchisement", the leading textbook on the subject. The expression does appear in a paper on the website of "Lease", [the Leasehold Advisory Service] which explains leasehold valuations and which adopts the "standing house" method of valuation. The question whether or not a Court can instruct an expert Tribunal to adopt a particular

method of valuation is not settled. However the Tribunal in this case is minded as above, as to the basis of valuation, and it appears to the Tribunal that that is also the method envisaged by the Court.

8. Furthermore there is not likely to be any evidence of sales of vacant sites as the locality has been developed for some years etc. Accordingly the Tribunal took into account the comparables submitted and cases referred to in Mr. Ripley's report.

9. The Tribunal also carefully considered Mr. Ripley's detailed valuation report which gave a valuation of £1135.00, and an opinion that the unpaid rent can be regarded as "infinitesimal". The Tribunal agreed with most of the valuation in particular the entirety value of £115,000. We did not accept the site value of 25% of the entirety value put forward by Mr. Ripley, considering that any fall in land values is taken into account with the drop in property values and could result in "double counting".

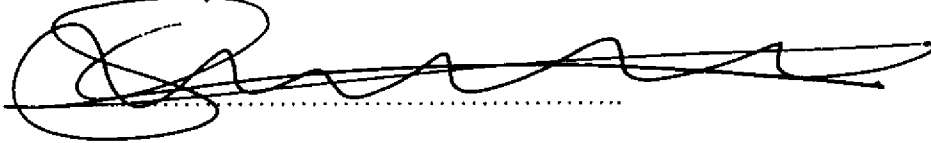
10. With regard to the deferment rate the Tribunal adopted 6%, having carefully considered the appeal decision in *Earl Cadogan and others v Sportelli* [2007] EWCA Civ. 1042]. in which, inter alia, the methodology employed by the Lands Tribunal to calculate the generic deferment rates was endorsed. The Tribunal accepted Mr. Ripley's opinion that, for the four grounds stated in his report etc. the rate should be different from the 4.75% adopted in *Sportelli*. It could not accept that *Sportelli* is now "historic" but considered that there should be some adjustment to take into account the limited prospect of future growth, deterioration etc. However they considered that 6% was the appropriate rate in this particular case, not agreeing with Mr. Ripley's view that current market conditions justified "... a rate of 7% as applied prior to the *Arbib* and *Sportelli* cases".

11. Accordingly the Tribunal's valuation is:-

Ground rent reserved	Nil
Reversion	
Estimated site value [27.5 % of entirety value of £115,000]	£ 31,625.00
Modern ground rent @ 7 %	£2,213.75 p.a.
Years purchase in perpetuity @ 6% Deferred 47.75 years	1.0268
Total	£2,273.08
	but say £2,273.00

12. The Tribunal accepts that the amount of unpaid ground rent in this case is nil. With regard to the copy draft transfer form TR1 sent with the application, the

Tribunal note that the Court Order states that the terms of the conveyance are to be settled by the Court.

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a series of loops and a long horizontal stroke. The signature is written over a horizontal dotted line.

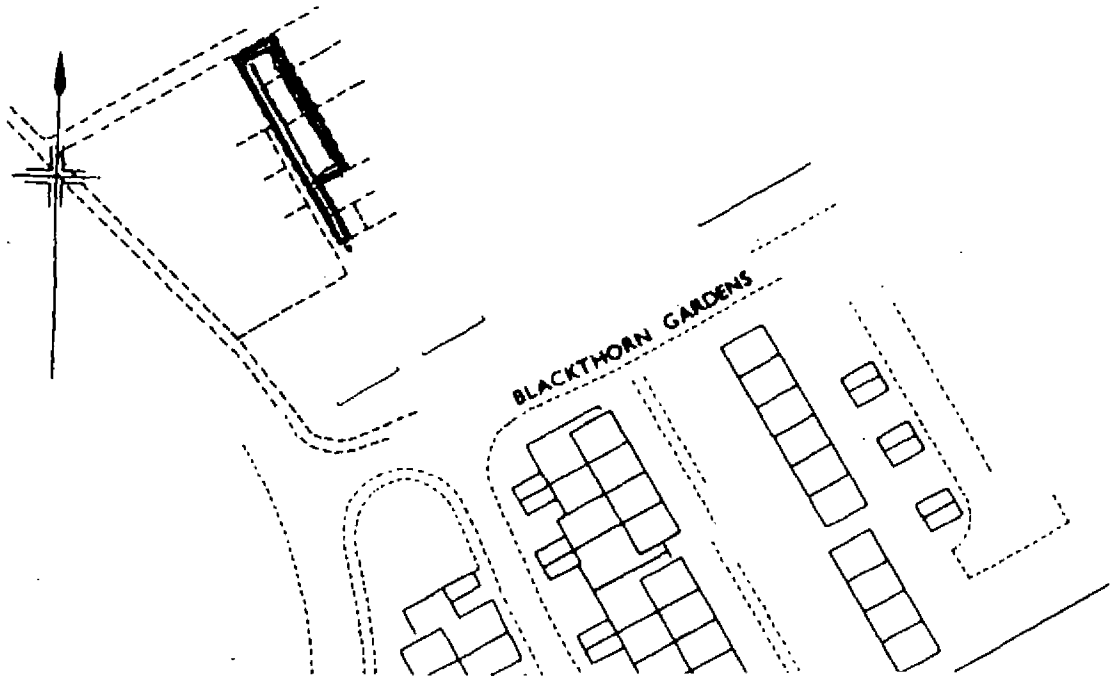
J.S. McAllister F.R.I.C.S.  
Chairman

Dated 15<sup>TH</sup>. February 2010

<b>H.M. LAND REGISTRY</b>		TITLE NUMBER	
		<b>AV30529</b>	
ORDNANCE SURVEY PLAN REFERENCE	ST 3662	SECTION K	Scale 1/1250
COUNTY <del>AVON</del>		DISTRICT WOODSPRING	© Crown copyright 1978

ADMINISTRATIVE AREA

NORTH SOMERSET



Order for Enfranchisement where Landlord cannot be found

IN THE WESTON-SUPER-MARE COUNTY COURT

Matter No.

District Judge

IN THE MATTER OF 7 Blackthorn Gardens, Worle, Weston-super-Mare, North Somerset

UPON THE APPLICATION of Sheila May Hunt, Richard Glenville Short and Kenneth Nicholas Short AS EXECUTORS FOR EMILY EDITH SHORT by  
Originating Summons

AND UPON HEARING the Solicitor for the Applicants and upon reading the documents recorded in the Court File as having been read.

AND THIS COURT being satisfied that the Applicants acting as Executors of Emith Short being a Tenant of the property at 7 Blackthorn Gardens, Worle, Weston-super-Mare, North Somerset, has a right under Part I of the Leasehold Reform Act 1967 to acquire the freehold thereof and is prevented from giving notice in accordance with the said Act of their desire to have the freehold because the identity of the person to be served with notice cannot be ascertained.

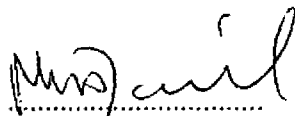
AND with a view to the said property being vested in the Applicants for an estate in fee simple absolute in possession nominates in pursuance of Section 39 of the Supreme Court Act 1981 as amended by Section 139 and Section 149 of the Commonhold and Leasehold Reform Act 2002 one of the District Judges appointed by the Court to execute a Conveyance of the said property in favour of the Applicants and containing proper provisions for giving effect so far as possible to the requirements of Section 10 of the Leasehold Reform Act 1967, the terms of the said Conveyance to be settled by the Court.



AND THIS COURT determines and declares pursuant to the provisions of Section 27(5) of the Leasehold Reform Act 1967 that the estimated amount of pecuniary rent payable for the said property by the Applicant as Tenants thereof under the Lease out of which the Applicants current interest arises as provided by Section 3 of the Landlord and Tenant Act 1954 (as amended) and which remains unpaid and will remain unpaid up to the date of this Order is the sum to be determined by the Leasehold Valuation Tribunal under Section 9 (i) of the Leasehold Reform Act 1967 under the "original valuation" basis.

AND THIS COURT ORDERS that the Applicants be at liberty on or before the date of the final Order or such later date as the Court may direct to lodge in Court such sum as is directed by the Leasehold Valuation Tribunal as the price payable for the said property and the said estimated amount of rent which will remain unpaid as aforesaid.

AND IT IS ORDERED upon such lodgement being made the District Judge do execute or do nominate someone to execute in favour of the Applicants the said Conveyance and the Applicants is to be at liberty to apply.

  
Signed \_\_\_\_\_  
26/11/2011