

**HM COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Case Number: **BIR/00CN/OAF/2011/0053**

Leasehold Reform Act 1967

Housing Act 1980

**DECISION OF LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Applicant: **David Ross and Diane Ross**

Respondent: **Unknown**

Re: 26 Heathcote Road, Cotteridge, Birmingham. B30 2HU

Date of the Application to Court: 22nd November 2010

Application dated: 2nd August 2011

Determined on the basis of written representations on: 6th September 2011

MEMBERS OF THE LEASEHOLD VALUATION Tribunal:

Mr W J MARTIN (Chairman)

Mr V CHADHA M.R.I.C.S

Date of Tribunals decision: 6th September 2011

DETERMINATION

The Appropriate Sum to be paid into Court under Section 27 (5) of the Leasehold Reform Act 1967 ('the Act') is £10,005

REASONS FOR THE TRIBUNAL'S DECISION

BACKGROUND

- 1 On 2nd August 2011 Sydney Mitchell LLP, solicitors, of Birmingham, on behalf of **David Ross and Diane Ross** ('the **Applicants**') submitted an application ('the **Application**') to the Tribunal for a determination of the price payable under section 9 (1) of the Act of **26 Heathcote Road, Cotteridge, Birmingham, B30 2HU** ('the **Property**').
- 2 The Application was made under section 27 of the Act, which deals with cases in which the freeholder cannot be traced. The Applicant was authorised to make the Application by the order of Deputy District Judge Mullen, sitting in the Birmingham County Court, dated 19th July 2011.
- 3 In accordance with the Directions of the Tribunal, the Applicants' valuer, Mr K Chew F.R.I.C.S. of Lawrence and Wightman submitted a valuation to the Tribunal based upon the valuation date of 22nd November 2010, this being the date of the Applicant's application to the County Court (section 27 (1) of the Act).

THE PROPERTY

- 4 The Tribunal inspected the Property on 6th September 2011. It comprises a traditional style inter-war years terraced house with 3 bedrooms (two double and one single) and is constructed of traditional materials. It is in good condition and the site is fully developed. The plot frontage is 5.08 metres and the site area is 215 square metres. There is a small single storey extension. The Property is held under a Lease dated 22nd January 1968, for a term of 70 years from 29th September 1967 at a fixed ground rent of £20.

THE APPLICANT'S VALUATION

- 5 Mr Chew submitted a written valuation. He adopts the 'standing house' method of valuation. In respect of the entirety value he uses a figure of £135,000. To arrive at this figure Mr Chew has analysed sales in Heathcote Road and Dell Road (adjoining). The valuation discloses that number 39 was sold in September 2009 at £137,000; number 49 was sold in October 2010 at £160,000 and number 33 also sold in October 2010 at £143,000. Mr Chew states that from an external inspection these three properties appear larger than the Property.
- 6 There are two properties in Heathcote Road currently on the market. Number 63, is under offer at £123,000 and number 40 is on the market at £142,000. With regard to house type Mr Chew refers to 71 Dell Road, which has been sold subject to contract at £132,450. Mr Chew mentioned other properties and sales, but felt that number 71 is the nearest comparable property.
- 7 Mr Chew adopts a site percentage of 30%. The frontage of the Property is relatively narrow (although not unusually so for its type). Bearing this in mind and the fact that a third is common if the frontage is in excess of 20 feet (6.1 metres) Mr Chew felt 30% was the appropriate figure.
- 8 Mr Chew has adopted a rate of 6.5% for the valuation of the existing term and the rate of 5.5% for the calculation of the section 15 modern ground rent and for the deferment of capitalised value of the same for the 26 years 10 months remaining of the lease.

THE TRIBUNAL'S DETERMINATION

The Law

9 Section 27 of the Act contains the detailed provisions for the application to the County Court. Subsection (3) provides that upon the payment into court of the 'appropriate sum' a conveyance shall be executed as provided in the subsection. Subsection (5) of the Act is as follows:

(5) The appropriate sum, which in accordance with subsection (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 as to 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

10 It is therefore the duty of the Tribunal to determine the value of the Property for the purpose of section 9 (1) of the Act, as in a normal case, and also the amount of any pecuniary rent outstanding up to the date of the conveyance.

The Tribunal's Valuation

11 The Tribunal inspected the Property on 6th September 2011, and having done so, and also inspected from the outside all of the comparable properties put forward by Mr Chew, found nothing to disagree with in Mr Chew's written submission. As well as agreeing that the entirety value is fairly represented by the sum of £135,000, the Tribunal also agrees that the site percentage to be adopted is 30% and that the capitalisation and deferment rates he has used are appropriate. Accordingly, the valuation of the Tribunal set out below is identical to that contained in Mr Chew's submission.

12 The Tribunal's valuation, based upon the above determinations, is set out below.

Term Value

Unexpired Term	26 Years 10 months	
Ground rent	£20	
YP 26y 10 m @ 6.5%	<u>12.5446</u>	£ 250.89

Reversion

Entirety Value	£135,000	
Site Apportionment	30%	
Site Value	£40,500	
S 15 Modern Ground Rent @5.5%	£2,228	
YP Deferred 26y 10m @ 5.5 %	<u>4.3230</u>	<u>£9,631.64</u>
		£9,882.53

Say **£9,885**

13 To the sum of £9,885 should be added an amount representing the unpaid rent to the date of the conveyance, as required by section 27 (5) of the Act. This amount is limited to a maximum of six years unpaid rent (*re Howell's Application [1972] Ch.509.*). Accordingly the Tribunal determines that the sum of £120 should be added to the section 9 (1) determination, making a total appropriate sum for the purposes of section 27 of the Act of £10,005.

14 In reaching its determination the Tribunal had regard to the evidence and submissions of the Applicant, the relevant law and its own knowledge and experience as an expert Tribunal, but not any special or secret knowledge.

Signed _____

(W. J. Martin – Chairman)

Dated 28 September 2011