



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **BIR/00CS/OAF/2017/0028**

Property : **52 Merrivale Road, Bearwood,
Smethwick, West Midlands, B66 4EJ**

Applicant : **Mr G Gaskill**

Representative : **Wright Solicitors Limited**

Respondent : **Unknown**

Representative : **N/A**

Type of Application : **Application to determine the amount
to be paid in to Court for the transfer
of the freehold interest under the
Leasehold Reform Act 1967 (as
amended)**

Tribunal Members : **Judge M K Gandham
Mr. N Wint FRICS**

**Date and venue of
determination** : **Paper Determination made on
9th January 2018**

Date of Decision : **12 February 2018**

DECISION

Decision

1. For the purposes of section 27(5) of the Leasehold Reform Act 1967 (the 'Act'), the Tribunal determines that, taking account of the evidence adduced and the Tribunal's own general knowledge and experience, the appropriate sum to be paid into Court for the acquisition of the freehold interest in the property known as 52 Merrivale Road, Bearwood, Smethwick, West Midlands B66 4EJ (the 'Property') under section 27(3) is **£37,740**, being the price payable in accordance with section 9 of the Act.

Reasons for Decision

Introduction

2. On 10th July 2017, by Order of Deputy Judge Rich-TD sitting in the Birmingham County Court, the Court ordered the Applicant to lodge in to Court a sum, yet to be determined, being the amount provided by section 27(5) of the Act to be the price payable for the Property. The Court determined that there was no pecuniary rent payable for the Property which remained unpaid.
3. By an Application received by the Tribunal on 15th November 2017, the Applicant applied to the Tribunal to determine the price payable for the Property in accordance with section 9 of the Act.
4. As the Applicant's Representative, Wright Solicitors Limited, had enclosed a copy of their valuation with the Application, the Tribunal confirmed that a directions order was not required.
5. The Applicant confirmed that it was content for the Tribunal to determine the matter in issue on the papers submitted without the need for an oral hearing.

The Law

6. Section 27 of the Leasehold Reform Act contains detailed provisions for the application to the County Court. Subsection (3) provides that, upon the payment in to Court of the 'appropriate sum,' a conveyance shall be executed as provided in that subsection. Subsection (5) of the Act provides as follows in relation to the determination of the 'appropriate sum':
(a) such amount as may be determined by (or 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.

7. It is therefore the duty of the Tribunal to determine the value of the Property under section 9 of the Leasehold Reform Act 1967, as amended by the Commonhold and Leasehold Reform Act 2002.

Inspection

8. The Tribunal inspected the Property on 9th January 2018 in the presence of Mrs. Gaskill, the wife of the Applicant, and Mr Williets from Wright Solicitors Limited.
9. The Property is a traditional two storey mid-terraced house built circa. 1905 in brick with a pitch tiled roof. It has a small yard to the front and garden to the rear.
10. The Property comprises, on the ground floor, a front and rear living room leading through to an inner hall with kitchen to the rear. The first floor is accessed via a steep staircase and comprises a landing leading to a bathroom and two double bedrooms.
11. The Property has the benefit of double-glazing but is not centrally heated, and there is extensive evidence of damp. Both the kitchen and bathroom are extremely dated and overall the Property is in a very poor state of internal repair and in need of substantial updating, modernization and redecoration throughout. In addition, the roof appears to be in need of further inspection and the rear garden is over-grown.
12. The Property is held under an Underlease (the 'Underlease') dated 7th January 1957, originally granted between Cornwall Estates Limited and Frederick Gaskill and his wife Ethel Gaskill, for the residue of the period of 99 years from 25th March 1907, at an annual rent of Five pounds.
13. The Headlease, (the 'Headlease'), under which the Underlease was held, is dated 1st January 1908 and was originally granted between Thomas Jennings and Arthur Thomas Jennings with the lessee paying a yearly rent of Eighteen pounds. As at the valuation date, both the Underlease and Headlease had expired by effluxion of time.
14. The freeholder cannot be traced and the headlessor has accepted that, as the Headlease has expired, they have no further interest in the Property.

Applicant's Submissions

15. The valuation report received from the Applicant's Representative was prepared by Mr Geraint Evans FRICS of Bureau Property Consultants. In his report, he submitted that the valuation should be in accordance with section 9(1) of the Act.

Entirety Value

16. Mr Evans utilised a value of £120,000 as the entirety value. He stated that this was a theoretical figure, used to calculate the modern ground rent only.

Standing House Value

17. Mr Evans submitted that, due to the very poor state of repair of the Property and the fact that it was in need of full refurbishment including wiring, plumbing and repairs to the roof, the actual value of the freehold of the Property to be in the region of £65,000.

Site Value Apportionment

18. Mr Evans utilised a site value of 27.5%, but his report provided no information as to why this figure had been utilised.

Capitalisation Rate

19. Mr Evans utilised a rate of 5.5%, but his report provided no information as to why this figure had been utilised.

Deferment Rate

20. Mr Evans utilised a rate of 5.5%, but his report provided no information as to why this figure had been utilised.

Schedule 10 Allowance

21. Following the decision in Clarise Properties Limited [2012] UKUT 4 (LC), Mr Evans made a Schedule 10 deduction of 10%, but his report provided no information as to why this figure had been utilised.

Valuation

22. Applying those figures to the valuation formula Mr Evans arrived at a value of £31,010, SAY £31,000.

The Tribunal's Deliberations

23. The Tribunal considered all the evidence submitted and summarised above.

Enfranchisement Price

24. The valuation exercise under section 9(1) is usually in three stages:

Stage (1) the valuation of the remainder of the existing term by capitalising the Ground Rent,

Stage (2) Valuing an assumed extension to the lease of 50 years and

Stage (3) Valuing the property with assumed vacant possession after the end of the existing term plus 50 years (subject to tenant's rights under Schedule 10 of the Local Government and Housing Act 1989 Act).

In this case, as there is no sum due for the term that has expired, Stage (1) is not required.

25. The Tribunal, having considered the evidence of Mr Evans and based on its own expert knowledge and investigations, was satisfied that the methodology adopted by Mr Evans is the proper approach to arrive at the enfranchisement price.
26. The Tribunal considers that both the notional Entirety Value submitted by Mr Evans, of £120,000 and the Standing House Value, of £65,000, to be fair and reasonable given the extent of the accommodation, location and current condition of the Premises.
27. The Tribunal has considered the site value apportionment and, having regard to the construction, location and site constraints as well as market conditions and recent decisions in the Midlands region, considers a site value of 30% should be adopted.
28. The Tribunal accepts the capitalisation rate of 5.5%
29. The Tribunal adopts a Deferment Rate of 5.25% in accordance with recent Upper Tribunal decisions and other decisions of the Tribunal in the Midlands region.
30. Following the decision in *Clarise Properties Limited* [2012] UKUT 4 (LC) the Tribunal accepts a Schedule 10 allowance is appropriate and adopts 10% as submitted by Mr Evans.

31. Applying those determinations, the Tribunal's valuation is detailed in Appendix 1.

Appeal

32. If the Applicants are dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

M. K. GANDHAM

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Judge M. K. Gandham

