



ACQ/99/2006

LANDS TRIBUNAL ACT 1949

COMPENSATION – Compulsory Purchase - dwelling house – freeholder in bankruptcy – trustee in bankruptcy disclaiming interest – freehold determined on escheat – absentee first chargee – compensation determined at £6,000 – s5 and Schedule 2 Compulsory Purchase Act 1965 not applicable.

IN THE MATTER OF A NOTICE OF REFERENCE

BETWEEN

**ALICE MAUD CORNER,
ANDREW HOWARD KORMORNICK
BARCLAYS BANK PLC
and
THE DUCHY OF LANCASTER**

Claimants

and

SALFORD CITY COUNCIL

**Compensating
Authority**

**Re: 25 Reservoir Street
Salford, M6 5WB**

DECISION ON THE BASIS OF WRITTEN REPRESENTATIONS

by

A J Trott FRICS

No cases are referred to in this decision.

© CROWN COPYRIGHT 2007

DECISION

Introduction

1. This is a reference to determine the amount of compensation payable in respect of the compulsory purchase of the dwelling house known as 25 Reservoir Street, Salford, M6 5WB. The property was acquired under the City of Salford (Field Street, Salford) Compulsory Purchase Order 2003 by means of a general vesting declaration dated 1 April 2005. The property was vested in the acquiring authority on 2 May 2005, which is the valuation date.

2. The freehold interest in the property was registered in the name of Frank James Corner on 10 March 1992. On 29 October 1992 Mr Corner granted a charge over the property to Alice Maud Corner. He granted further charges over the property on 1 December 1992 to Andrew Howard Kormornick and on 26 February 1992 (but not registered until 2 February 1993) to Barclays Bank Plc.

3. Mr Corner was declared bankrupt in 1994 and on 3 August 1994 a bankruptcy inhibition was imposed against the freehold title under which no disposition by the proprietor of the land was to be registered until a trustee in bankruptcy was registered. The person appointed as the trustee in bankruptcy was Michael Howorth of White and Co. Mr Howorth disclaimed his interest in the property on 25 February 2005. The freehold estate in the property was therefore determined on escheat and reverted to the Duchy of Lancaster.

4. The acquiring authority have tried but failed to contact the first chargee, Alice Maud Corner. At the same time as it referred the matter to this Tribunal to determine the compensation payable the Council also made an application under section 5 and Schedule 2 of the Compulsory Purchase Act 1965 (absent and untraced owners) in order that the compensation, as determined, might be paid into court.

5. The acquiring authority, the second and third chargees and the Duchy of Lancaster all agreed to the written representation procedure. Only the acquiring authority submitted any such representations, the other parties agreeing to rely upon that authority's report.

Evidence

6. The acquiring authority submitted a report from the office of the District Valuer North West. This relied upon information supplied by that authority about the condition of the property since the building had been demolished by the time the report was commissioned.

7. The reference property was a mid-terrace dwelling house built in the late 19th or early 20th century. It comprised a living room, dining room and kitchen extension on the ground floor with two bedrooms and a bathroom on the first floor. The gross external area of the property was approximately 57 square metres. It was said in the report that the property had been vandalised and damaged prior to demolition and that it was in a poor state of repair.

8. The District Valuer assessed the open market value of the freehold interest in the reference property in the sum of £6,000 as at the valuation date. In doing so he relied upon evidence of several sales of similar properties in Reservoir Street in the late 1990s at values below £10,000. He also referred to six sales which were made in advance of, or under, the compulsory purchase order. The dates of sale ranged from December 2003 to March 2005. The properties ranged in size from 57 sq m to 81 sq m and the capital values showed a range from £5,250 (£92.10 per sq m) to £11,000 (£164.20 per sq m). The closest comparable to the subject property, geographically, temporally and in terms of size, was 33 Reservoir Street which was sold in March 2005 for £5,250. The subject property was valued towards the bottom of the value range (at £105.30 per sq m) to reflect these comparables and the poor condition of the property.

Conclusions

9. In absence of any evidence from the freeholder or the chargees I accept the evidence of the acquiring authority which in the circumstances I consider to be relevant and persuasive. The open market value of the freehold interest in the reference property is therefore determined in the sum of £6,000.

10. The application made by the acquiring authority under section 5 and Schedule 2 of the Compulsory Purchase Act 1965 fails because section 10(2) of the Compulsory Purchase (Vesting Declarations) Act 1981 provides that Schedule 2 of the 1965 Act shall not apply where, as in this case, a notice to treat is deemed to have been served under Part III of the 1981 Act.

Dated 9 May 2007

A J Trott FRICS