



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

**Case Reference** : **BIR/00CR/0AF/2015/0028**

**Property** : **10 Neath Way Dudley DY3 1DE**

**Applicant** : **Ms Julie Dawn Dibble**

**Representative** : **The Banahan Tennant Partnership Ltd**

**Solicitors**

**Respondent** : **Persons Unknown**

**Type of Application** : **An Application under section 21 (1) (a) of the  
Leasehold Reform Act 1967**

**Tribunal Members** : **V Ward FRICS (Chairman)  
P Hawksworth Lawyer**

**Date of Decision** : **12 October 2015**

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**DECISION**

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## **Introduction**

1. The Applicant, Ms Julie Dawn Dibble, holds the residue of a lease of 10 Neath Way, Dudley DY3 1DE ("the Property") granted for a term of 380 years from 26 April 1712 at the rent of a peppercorn and wishes to acquire the freehold interest. She was unable to locate the landlord to negotiate terms and applied to the County Court on 24 February 2015 under Section 27 (5) of the Leasehold Reform Act 1967 ("the Act") for the freehold to be transferred to her subject to payment of costs into court.
2. By way of an Order dated 12 May 2015, District Judge Loyns, sitting at Dudley Crown Court, ordered the claim to be transferred to the First-tier Tribunal (Property chamber) ("the Tribunal") to determine the price to be paid for the freehold interest in the Property.
3. On 14 May 2015 the Banahan Tennant Partnership Ltd, Solicitors, acting on behalf of the Applicant, made an application to the Tribunal under Section 21 (1)(c) of the Act for a determination as to the amount of the appropriate sum to be paid in to court under Section 27 (5) of the Act.
4. Directions were issued by the Tribunal on 17 June 2015. The Applicant did not request an oral hearing, accordingly the Tribunal determined the matter on the basis of the documentation before it and the submissions by the Applicant.

## **The Law**

5. The Tribunal has considered the submitted documents and it is satisfied that the price of the freehold interest is to be determined in accordance with Section 9 (1) of the Act.
6. In addition, Section 27(5)(b) of the Act requires the Applicant to pay to Court any ground rent that remains unpaid up to the date of conveyance.

## **Inspection**

7. The members of the Tribunal inspected the Property on 1 September 2015 in the presence of the Applicant.

## **The Property**

8. The Property comprises of a chalet style bungalow originally constructed during the 1980s of cavity brickwork the whole being surmounted by the combination of a pitched inter-locking tiled and flat roofing system also

benefiting from a gas fired central heating and double glazing. The Property has since been extended to provide the first floor accommodation.

The accommodation offered by the property is as follows:

Ground Floor

Hall

Lounge

Kitchen

Shower Room

Dining Room

Double Bedroom

Conservatory

First Floor

Double Bedroom

Bathroom with full suite including shower

9. The Property has front and rear gardens and is served by a private driveway which also serves No. 8 Neath Way. In the Tribunal's opinion the site is fully developed.

**The Applicant's Submissions**

10. Submissions were made on behalf of the Applicant by the Banahan Tennant Partnership. Acknowledging that they were not valuers, the Applicant's solicitors provided details of two comparable circumstances where the leaseholders had acquired the freehold interest in their respective properties.
  - a. 21 Brookfield Way, Tipton where the sum of £7,500 was paid for the freehold interest on 13 January 2015. At the time of acquisition there was approximately 70 years left on the lease.
  - b. 23 Brookfield Way, Tipton where the price paid for the freehold interest was £7,500. Again there was approximately 70 years remaining on the un-expired lease term.

**The Tribunal's Deliberations**

11. The Tribunal notes the information provided by the Applicant however the price of the freehold interest is to be determined in accordance with the Act, not directly by reference to other transactions.

### Valuation Date

12. The valuation date to be adopted is the date of the Application to the Court i.e. 24 February 2015.

### Ground Rent

13. The ground rent is a peppercorn.

### Entirety Value

14. The Tribunal considered the comparables submitted by the Applicant along with its own knowledge of values within the Dudley area and concluded that the value of the freehold interest in a property fully developed on the subject plot would have been £220,000 at the valuation date.

### Site Apportionment

15. Taking into account the fact that the site is fully developed the Tribunal assesses the site proportion at 30%.

### Deferment Rate

16. The starting point for the calculation of the deferment rate is the *Sportelli* decision (*Cadogan and Another v Sportelli and Another* (2007) EWCA Civ 104) subject in this case to the modifications in *Zuckerman* (*Zuckerman and Others v Trustees of the Calthorpe Estate* LRA/97/2008) of 0.5% (lower real growth outside Prime Central London) and *Re Mansal Securities Limited and Others* (2009) LRA/185/2007 of 0.25% (volatility of land reversion to site not site and buildings). Although no new evidence was introduced in this case, it is now generally accepted that, in the Midlands area, a higher deferment rate should be adopted. Thus, the starting point for the Tribunal's determination is as follows:

Section 9(1)				
<i>Sportelli</i>	Risk Free			2.25
	Real Growth		minus	2.00
			equals	0.25
	Risk Premium	4.50		
<i>Zuckerman</i>	Poorer growth outside the PCL	0.50		
<i>Mansal</i>	Reversion to site not site and buildings	0.25	equals	5.25
<i>Deferment rate</i>				5.5%

17. The Tribunal therefore determines the deferment rate at 5.5%.

### Entirety Value

18. The Tribunal finds that the value of the property as at the valuation date represents the Entirety Value as the property is in good condition and the plot is fully developed. Accordingly £220,000 is adopted as the Entirety Value.

### Standing House Value and Adjustment for Section 10

19. The Tribunal concluded, on the basis of its inspection, that there is no difference between the Standing House Value and Entirety Value as the site is already developed to its full potential.

20. The Tribunal determines that it is appropriate to make an allowance for the Tenant's right to remain in possession under Schedule 10 to the Local Government and Housing Act 1989 because of the likelihood that the property will be standing at the end of the extended term. This is in line with the decision in *Clarise Properties Ltd Re: 167 Kingshurst Road* [2012] UKUT 4(LC) LRA/170/2010. Accordingly a deduction of 5% from the Standing House Value has been made to reflect this risk.

### The Tribunal's Valuation

21. The Tribunal's valuation is as follows:

Ground Rent – Peppercorn		£0
First Reversion		
Entirety Value	£220,000	
Site Apportionment @ 30%	£66,000	
Section 15 Modern Ground @ 5.5%	£3,630	
YP 50 years @ 5.5%	<u>16.9315</u>	
	£61,461.35	
Present Value £1 76 years 10 months @ 5.5%	0.0163498	£1,004.88
Second Reversion		
Standing House Value	£220,000	
Schedule 10 Adjustment @ 5%	£209,000	
Present Value £1 126 years 10 months @ 5.5%	0.00112432	<u>£234.98</u>

£1239.86  
Say £1240.00

### **Determination**

22. The Tribunal determines that, taking account of the evidence adduced, our evaluation of it, using our general knowledge experience, but not any special knowledge, the price payable by the lessee for the acquisition of the freehold interest in the property known as 10 Neath Way, Dudley DY3 1DE in accordance with Section 9(1) of the Leasehold Reform Act 1967 as amended, is £1240.00 (Twelve Hundred and Forty Pounds).

### **Appeal**

23. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal an aggrieved party must apply in writing to the First-tier Tribunal for permission to appeal within 28 days of the date specified below stating the grounds on which that party intends to rely in the appeal. Further information is contained within Part 6 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013 No. 1169).

Vernon Ward  
(Chairman)