



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

Case Reference : CHI/00HC/OAF/2018/0002

Property : 36 Blackthorn Gardens, Worle, Weston-super-Mare BS22 6RZ

Applicant : Joseph Edward & Ann Leece

Representative : Berry Redmond Gordon & Penney, solicitors

Respondent : The successors in title of Catherine Wallop

Representative :

Type of Application : Leasehold Reform Act 1967 (Missing Landlord)

Tribunal Member : Mr D Banfield FRICS

:

Date of Decision : 21 May 2018

DECISION

Summary of Decision

The Tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion of the property is to be the sum of £2,775 and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

Background

1. By an Order dated 25 October 2017 Deputy District Judge Whiteley sitting at the County Court at Weston–super-Mare directed that the First–tier Tribunal (Property Chamber) assess the appropriate sum in accordance with S27(5) of the Leasehold Reform Act 1967.(The Act)
2. Enclosed with the application to the Tribunal was a valuation report prepared by Mr M.T.Ripley FRICS dated 21 December 2017.
3. An inspection of the property has not been made.

The Lease

4. The site is within two Titles; the majority is identified on the HM Land Registry plan edged red under title number AV37849 and is held by way of a lease for a term of 500 years from 1 September 1557 and made between Catherine Wallop and John and Isabel Thomas. The lease is subject to a yearly rent in respect of the whole of the premises of £1 6s 9d.
5. The remainder of the site forming a strip fronting Blackthorn Gardens is held freehold under title number AV166974.
6. Mr Ripley in his valuation states that no ground rent is paid, the beneficiaries being unknown.

The Law

7. Section 27(5) of the Act provides:
The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:
 - a. *Such amount as may be determined by (or on appeal from) the appropriate Tribunal to be 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.*
8. 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) is that the valuation date is the date on which the application was made to the Court.
9. There are various bases set out in Section 9 of the Act and the Tribunal determines that the appropriate basis is in Subsection 9(1) being that on 31 March 1990 the Rateable value of the house and premises was not above £500.
10. The Tribunal has been referred to and takes account of the following decisions: *Arbib v Cadogan* (2005), *Cadogan Estates Limited v Sportelli* (2006) and *Clarice Properties Limited Appeal* (2012).

The Premises

11. The property comprises a semi detached two storey house built in the late 1970s.
12. The accommodation is described by Mr Ripley as comprising an entrance porch/hall, lounge/dining room and fitted kitchen on the ground floor with three bedrooms and a bathroom/WC on the first. There is an adjoining single garage, shallow open plan front garden and enclosed rear garden. .
13. The extent of the premises to be enfranchised does not have a frontage to a public road being separated from it by the Applicants' freehold title AV166974

Evidence and Decision

14. In a valuation report dated 21 December 2017 Mr M T Ripley FRICS determined that the value for the purposes of Section 27 of The Act as at 25 October 2017 is £1,495.
15. Mr Ripley made his determination on an open market value of the property of £190,000, a site value proportion of 27.5% (£52,250) a modern ground rent at 6% (£3,135) and a YP in perp at 7% deferred 40 years. This produced the sum of £2,990 which he reduces by 50% to reflect the value of the freehold ransom strip giving a price of £1,495.
16. Mr Ripley bases his open market value of £190,000 on the sale of four houses at prices between £179,000 and £192,000;
 - a. 4 Blackthorn Gardens, sold June 2017 for £185,000
 - b. 14 Lime Close, sold January 2017 for £179,000
 - c. 11 Heron Close, sold September 2017 for £192,000
 - d. 9 Gannet Road, sold September 2017 for £183,500
17. The Tribunal accepts Mr Ripley's value of £190,000.
18. The Tribunal agrees that the deferment period is 40 years
19. Mr Ripley considers that the deferment rate should be 7% and the modern ground rent calculated on a 6% return. He justifies the departure from the 4.75% rate determined in Sportelli and the adoption of 6% for calculating the modern ground rent for the reasons set out in paragraphs 1 to 5 on page 3 of his report.
20. The Tribunal accepts that there are grounds to depart from the generic deferment rate of 4.75% but considers that a rate of 6% is more appropriate to reflect the differences and therefore applies that figure to the valuation below.

21. The Tribunal accepts a ground rent of 6% and site value proportion of 27.5%.
22. For the reasons set out in paragraph 6 of his report Mr Ripley considers that the staged approach adopted in Clarice is inappropriate and therefore adopts a single reversionary basis. The Tribunal disagrees and sees no justification for departing from the 3 stage approach.
23. In order to reflect the assumption that Schedule 10, paragraph 4 of the Housing Act 1989 applies to the tenancy and that it will continue until the appropriate notice is served a deduction of 3.85% is made to reflect the possibility that the tenant may obtain an assured tenancy at a market rent.
24. The Tribunal's valuation is therefore;

Value of current term with no rent payable,	£00.00
Value of first reversion;	
S.15 modern ground rent @6%	£3,135
Years purchase 40 years @6%	<u>15.0463</u>
	= £47,170
Present value of £1 in 40 years deferred @6%	<u>0.0972222</u>
	=£4,586
Value of second reversion:	
Entirety value £190,000	
Deduct 3.85%, £182,685	
Present value of £1 in 90 years deferred	
@ 6% = 0.0052780 =	=£964
Total:	<u>£5,550</u>

25. The Tribunal accepts Mr Ripley's opinion that the ransom strip reduces the value of the freehold interest in the subject land. Whilst Mr Ripley gives no particular justification for the adoption of a 50% deduction other than be reference to the well-known case of Stokes v Cambridge the Tribunal is prepared to accept his reduction of 50%.
- 26. Applying the reduction of 50% produces a premium of £2,775.**
27. The Tribunal determines the amount of pecuniary rent to be nil.

D Banfield FRICS
21 May 2018

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.