



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

**Case Reference** : **MAN/OODA/OAF/2018/0030**

**Property** : **12 Airedale Gardens Leeds LS13 1DN**

**Applicants** : **Mr. Karl Scott  
Ms. Angela Eddison**

**Respondent** : **unknown**

**Type of Application** : **Landlord and Tenant Act 1987 -  
section 24(1)**

**Tribunal Members** : **Mr John Murray LLB  
Mrs. Sally Kendall BSc MRICS**

**Date of Decision** : **31 October 2018**

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**DECISION**

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## **ORDER**

**That the purchase price for the freehold interest of 12 Airedale Gardens, Leeds LS13 1DN be determined at £61**

### **THE APPLICATION**

1. The Applicants issued a claim in the Leeds County Court (Claim number EO2LS033) for an Order determining they were entitled to acquire the Freehold of 12 Airedale Gardens, Leeds LS13 1DN ("the Property") by virtue of Part 1 of the Leasehold Reform Act 1967. They further sought permission to issue the Claim form against persons unknown.
2. By an order dated the 7 September 2018 the Leeds County Court granted the Applicants permission to issue the Claim Form against persons unknown, and vested the freehold of the Property in the Applicants subject to payment of a reasonable premium to be determined by the Tribunal. Upon payment of the premium, the freehold title is to transfer to the Applicants. The Claim was transferred to the Tribunal.
3. The Applicants case summary filed in the County Court confirmed that they have owned the Property since 2001 under a lease referred to in the Office Copy Entry of their title, registered at the Land Registry under Number YWE48668. The lease described in the Office Copy Entries is dated 24 August 1652 and made between the Right Honourable Thomas Lord Viscount Saville and Abraham Hinchcliffe, for a term of 500 years. No copy of the lease was available, neither the original nor a certified copy or extra having been available on first registration. The particulars of the lease were extracted from an examined abstract of an Assignment of the land dated 22 October 1877 which referred to apportioned rents of 18s.3d and £6 1s 9d ors such other apportioned rents as were then payable in respect of the land assigned.
4. The Tribunal is therefore asked by the Applicants to determine the single issue of the price payable for the transfer of the freehold interest pursuant to s21 Leasehold Reform Act 1967 ("the Act"). By virtue of the order of the Leeds County Court, no other issues fall to be determined.
5. Directions were made on 27 September 2018 for the Applicant to provide two copies of any evidence they wished the Tribunal to consider, along with a draft transfer.
6. The Application was listed to be determined on the paper alone, following an inspection of the Property.

## **THE PROPERTY**

7. The Tribunal carried out an inspection of the Property at 11.30am on 31 October 2018.
8. The Applicants were present and arranged access for the Tribunal.
  - (a) The Property was found to be a two storey semi detached house satisfying the condition of s2(1) of the Act in a cul de sac of similar semi detached and detached homes. It is held under two leases as described above, which are qualifying leases under the Act.
9. Internally was an entrance hall and stairs, a lounge, dining kitchen, three bedrooms and bathroom with WC to the first floor. A brick built garage was attached with covered verandah to the rear. It was on a rectangular plot with landscaped gardens to the rear and a drive and adjacent pebbled parking to the front.
11. The Tribunal subsequently met for deliberations. In accordance with the directions, no hearing was held and the Tribunal considered the application in the light of evidence and submissions filed by the Applicants, the inspection, and its own expert knowledge.

## **THE LAW**

12. S9(1) of the Act provides broadly that the price payable for a house and premises shall be the amount which at the relevant time the house and premises if sold in the open market by a willing seller, (with the tenant or members of his family not seeking to buy).
13. The tenant must bear the reasonable costs of the Landlord in relation to the process, by virtue of S9(4) of the Act.

## **VALUATION EVIDENCE**

14. The Applicants filed valuation evidence prepared by Mr. Bruce Collinson of Adair Paxton Ltd, Station Road Horsforth dated 28 September 2018.
15. Mr. Collinson had inspected the Property on the 25th September 2018. He described it as a lefthand semi detached house conventionally built of brick and tile with accommodation on two floors. The accommodation consists of an entrance hall and stairs, a lounge, a combined fitted dining kitchen and an understairs cupboard to the ground floor, with a landing, 3 bedrooms, bathroom and WC to the first floor. It has a shallow rectangular pot, an attached brick and felt single garage, and a car port type canopy of softwood framing, with twin wall polycarbonate sheeting being the garage. The gardens are described as heavily landscaped. He measured it at 73.3m<sup>2</sup> in total over both floors

16. He valued the Property at £210,000, producing comparable evidence in his report., of three semi detached houses in Airedale Gardens that had sold in 2017 for prices between £180,000 and £200,000.
17. He referred to the ground rents of 18s 3 and £6 1s 9d in the Assignment, as being apportioned. He (incorrectly) totalled this to £8 (it totals £7) and suggested it was likely that it was apportioned (hypothetically as they did not exist at that time) between the 40 odd dwellings in Airedale Gardens and Airedale Croft, he went on to explain he did not think this would have a material effect upon his opinion of the value of the freeholder's interest .
18. He had previously calculated rateable values for similar semi detached houses on Airedale Gardens and Airedale Croft at £166 and £169 and therefore Section 1 applies.
19. In his valuation methodology, even capitalising the sum of the ground rents of £8 per annum at a notional 8% produced only a capital sum of £100. (At £7 it would be less) The cost of collection would exceed the value of the ground rent, and he therefore attributed no value to that element.
20. He valued the reversion based on £210,000 less 10% at 5% deferred 134 years and arrived at a sum of £273. For a modern ground rent he applied a standing house value of 35% and a capitilisation rate of 5% giving a current value of the modern ground rent of £96.61.
21. He calculated the value of the premium at £369.61.
22. He referred to the Tribunals' earlier decision regarding 30 Airedale Gardens (Case number MAN/00DA/OAF/2015/007 wherein the Tribunal valued the reversion at nil, saying the Tribunal considered it was likely the rent reserved exceeded the costs of collection (presumably he means the reverse), a modern comparable was not justifiable and a purchase price of £60 was determined.

## **DETERMINATION**

30. The price payable by the Applicants for the Transfer of the freehold will be £61
31. The Tribunal agrees with the view that the value of the term is nil, by virtue of the unexpired length of the term (134 years) and the costs of collecting ground rent likely to exceed £7 per annum

32. The Tribunal considered the expert report of Mr. Collinson but did not accept the rest of his methodology and sets out its calculation-

|                             |          |                 |
|-----------------------------|----------|-----------------|
| First reversion             |          |                 |
| Property with vp            | 210,000  |                 |
| Site value @33.3%           | 69,930   |                 |
| Sec 50 Rent                 | 3846     |                 |
| YP for 50 years @ 5.5%      | 16.932   |                 |
| PV of £1 in 134 years       | 0.00076  | 49.49 say £50   |
| Second reversion            |          |                 |
| Standing house              | 120,000  |                 |
| PV of £1 in 184 years @5.5% | 0.000052 | 10.92 - say £11 |
| Total cost                  | £61      |                 |

33. There is no need to make an order for any costs to be borne by the Applicants, as there has been no Respondent to this application.

**Judge John Murray**  
**31 October 2018**