



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

Case Reference : CHI/18UE/OAF/2019/0008

Property : 12 Heanton Street, Braunton EX33 2JS

Applicant : Marcus Philip Denham & Claudia Baddick

Representative : Slee Blackwell Solicitors

Respondent : Missing

Representative :

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

Tribunal Member : Mr D Banfield FRICS

Date of Decision : 10 October 2019

DECISION

The Tribunal determines that the price payable for the freehold interest is £5,500 and the amount of unpaid pecuniary rent is nil.

Background

1. By an Order of His Honour judge Lethem sitting at the County Court at Central London and dated 1 July 2019 the Claimant was required to apply to the Tribunal to determine “the price payable for the freehold of the property in accordance with section 9 of the Act: and the amount or estimated amount of any pecuniary rent payable for the property up to the date of the conveyance which remains unpaid in accordance with section 27(5)(b) of the Act”
2. A valuation report prepared by Mr David J Dark FRICS dated 10 September 2019 has subsequently been provided assessing the purchase price at £5,500.
3. An inspection of the property has not been made.

The Lease

4. The site is identified on the HM Land Registry plan edged red under title number DN313591 and is held by way of a lease for a term of 300 years from 13 March 1788 and made between parties said to be “unknown”. It is further stated that no rent is payable.

The Law

5. 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.*
6. 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.
7. 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.
8. The Tribunal takes account of the following decisions: *Arbib v Cadogan* (2005), *Cadogan Estates Limited v Sportelli* (2006) and *Clarice Properties Limited Appeal* (2012).

The Premises

9. The property comprises an end of terrace two storey house built about 1800.

Evidence

10. In his expert report Mr Dark states that the accommodation comprises a lounge, inner hallway and kitchen on the ground floor with 2 bedrooms and a shower room on the first. The property has recently been refurbished with new wiring, gas boiler, new windows, wood burning stove and kitchen and shower room fittings.
11. The property fronts directly on to the pavement. There is no off road parking or garage. There is an enclosed rear courtyard garden and small lawned area.
12. Mr Dark made his determination on an open market value of the property at £215,000, a site value proportion of 33.00% (£70,950) a modern ground rent at 5% (£3,547.50) capitalisation rate of 5% and a deferment rate of 5% for the unexpired term and 7% on the reversion. He takes the valuation date at 23 January 2019.
13. In support of his open market value of £215,000 Mr Dark refers to the sale of 5 properties of similar or slightly larger sizes and with sale prices between £195,000 and £225,000 with sale dates between 8 March 2017 and 25 September 2018.

Decision

14. I accept the valuation date at 23 January 2019 that being the date the application was made to the County Court.
15. Whilst I do not accept all of the constituent parts of Mr Dark's valuation I am able to confirm his valuation of £5,500.
16. I also determine that the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.
17. The Tribunal therefore determines that the price payable for the freehold interest is £5,500 and the amount of unpaid pecuniary rent is nil.

D Banfield FRICS

10 October 2019

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.