



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

Case Reference	:	BIR/00CN/OAF/2019/0025
Property	:	38 Woodstock Road, Handsworth, Birmingham, B21 9HX
Applicant	:	Birmingham City Council
Representative	:	Birmingham City Council Legal and Governance Department
Respondent	:	Parties Unknown
Type of Application	:	Application to determine the price payable for the Freehold interest pursuant to s.9(1) of the Leasehold Reform Act 1967 ('the Act') following an application to the County Court under s.27(5) of the Act where the landlord's identity is unknown.
Tribunal Members	:	I.D. Humphries B.Sc.(Est.Man.) FRICS Judge D.R. Salter
Date and Venue of Hearing	:	None.
Date of Decision	:	28 th February 2020

DECISION

- 1 The price of the Freehold interest is determined at £35,000 (Thirty Five Thousand Pounds). The Applicant is also required to pay £24 (Twenty Four Pounds) into Court representing six years' ground rent under the Lease.

REASONS

Introduction

- 2 Birmingham City Council holds a sub-lease of the subject property for a term of 85 years less 6 days from 25th March 1934 at ground rent of £8.00 p.a. The Council resolved to acquire the Freehold interest and as it was unable to locate the landlord to serve a Notice, it applied to the County Court for a vesting order under s.27(5) of the Leasehold Reform Act 1967 ('the Act') for the Freehold to be transferred subject to payment of compensation into Court. The application was made on 14th March 2019 which is the valuation date for present purposes, at which point there were 5 days unexpired on the Council's sub-lease.
- 3 Accordingly, the County Court made an Order on 18th October 2019 requiring the Council to apply to the First-tier tribunal to determine the price under section 9(1) of the Act, together with the appropriate sum to be paid into Court under section 27(5) of the Act (Birmingham County Court Claim No.FOOBM546).
- 4 The Tribunal received the application on 9th December 2019, issued Directions and inspected the property on 14th February 2020. Having considered the application and evidence provided by the City Council the Tribunal finds as follows.

The Law

- 5 The title to the property at the valuation date 14th March 2019 was as follows:

Freehold: Parties unknown.

Leasehold: 85 years less three days from 25.3.1934 at £4.00 p.a. (Lease missing)
Expiry: 21.3.2019
Interest owned by Monocastle Limited.

Sub-Leasehold: 85 years less 6 days from 25.3.1934 at £8.00 p.a.
Expiry: 19.3.2019
Interest owned by Birmingham City Council.

Sub-sub-Leasehold: Mr Emry Palmer is in occupation. The Tribunal has not seen a copy of the tenancy agreement but it is not relevant to valuation of the Freehold.

- 6 The Tribunal considered the submitted documents and is satisfied that the price is to be determined under s.9(1) of the Act.
- 7 In addition, s.27(5)(b) of the Act requires the Applicant to pay any ground rent that remains unpaid to the date of the conveyance into Court.
- 8 Any compensation for the 3 day reversion payable to the Leaseholder, Monocastle Ltd., would have to be claimed by Monocastle from the County Court, Leasehold Reform Act 1967 Schedule 1.1(1)(b). The present valuation is only to assess the price and sum payable to the Freeholder.

Facts Found

- 9 The Tribunal inspected the property on 14th February 2020. The Council's tenant in occupation, Mr Palmer, was present with his Advisor but there were no other parties present.
- 10 The property is a small, traditional, two storey Victorian terraced house. It is in a street near Soho Road which is the main road through the centre of Handsworth where there are shops, banks and a wide range of local facilities. There is street parking available outside.
- 11 The house is brick and slate construction with a two storey rear wing. It is set back from the pavement behind a small front garden and has a small, enclosed back garden. The accommodation comprises a sitting room, dining room and kitchen on the ground floor with a landing and two bedrooms on the first floor. The interior is in very poor condition.

Submission and Tribunal Determination on Valuation Points

- 12 The Council submitted a Valuation Report prepared by its in-house Valuer Mr Azmat Mir MRICS. He valued the Freehold interest at £41,000 subject to the lease. The elements of the valuation and the Tribunal's decision on each point are below:
- 13 **Term 1 – The value of rent for the unexpired term of the Lease (5 days)**

Applicant

Mr Mir assessed the capitalised rent for the remaining term at 11p. This was based on a capitalised ground rent of £8.00 p.a. apportioned for the remaining 5 days of the term, amortised at 6.5% p.a.

Tribunal

The Tribunal finds the value of the term to have been nil, because the sub-lease required ground rent to be paid quarterly in advance and any payment demanded on the previous Quarter day 25th December 2018 would have covered this period. The ground rent was not in fact demanded as the Freeholder was missing, but the ground rent for this period is reserved as an additional payment to be paid into Court. See para. 22 below.

Furthermore, even if ground rent had been capitalised for the term, it should not have been amortised at £8.00 p.a. which was the ground rent reserved by the sub-lease, but at £4.00 p.a. which was the ground rent reserved by the Lease, referred to in paragraph 2 of the Recitals to and Part 1 of the First Schedule to an Assignment dated 29th September 1983, between Lucas Finance Company Limited and Monocastle Limited (See the Applicant's bundle pages 62 and 65 respectively).

- 14 **Term 2 – The value of rent for the hypothetical 50 year lease extension**

Mr Mir adopted the standard valuation approach taken in *Farr v Millerson (Investments)* 1971 218 EG 1177 of assessing the hypothetical ground rent for a 50 year lease by estimating the maximum price that might be achieved for a hypothetical house on the plot, assuming a percentage of that value to represent the value of the plot and using that figure to assess the equivalent annual rent for the extended lease, generally referred to as the 'modern ground rent'.

The Tribunal agrees this to be an appropriate means of valuing the present value of the hypothetical ground rent and comments on the valuation inputs as follows:

15 Entirety Value

This is the assumed value of a fully developed house on the plot.

Mr Mir assumed that if another house were built on the plot, with similar accommodation but potential to add a room in the roof, it would sell for £120,000. This was based on the sales of four properties nearby:

23 Woodstock Road B21 9HX	3 bed terrace sold 18.12.18	£125,000
3 Woodstock Road B21 9HX	2 bed terrace sold 17.5.19	£116,500
11 Woodstock Road B21 9HX	3 bed terrace sold 24.7.19	£122,000
32 Arthur Road B21 9HY	2 bed terrace sold 16.8.19	£108,000

The Tribunal inspected each house from the road frontage. Nos. 23 and 11 were larger having three bedrooms compared to the subject property's two, and No.23 occupied a wider plot as the first floor extended over an alleyway to the back gardens. They were more valuable in the Tribunal's opinion. The Tribunal was not convinced it would have been practical to add a third bedroom in the roof of the subject house because to do so would have required one of the bedrooms to have been substantially reduced in size to make room for the staircase. The Tribunal therefore assumes the hypothetical house to have two bedrooms but to be fully modernised.

No.3 Woodstock and No.32 Arthur Road were similar to the subject property and sold within a few months of the valuation date. It was not clear why there was an £8,500 difference in their sale price but when assessing 'entirety value' it is the highest price that is relevant.

Taking these factors into account the Tribunal estimates the entirety value at £116,500.

16 Plot Value

Mr Mir provided the Decision in a previous case (Ref.BIR/00CN/OAF/2016/0009) relating to 56 Benedon Road, Sheldon, Birmingham, where evidence had been provided to the Tribunal of plot values between 27% and 32%, and in his valuation he referred to a range of plot values from 25% to 35% (See the Applicant's bundle, page 111) . From this, he submitted for a plot ratio of 30% of the value of the house to represent the value of the plot on which it stood, i.e. £36,000.

The Tribunal noted that the plot was only 11'9" wide which was very narrow. In the Tribunal's opinion, a prospective builder would only apportion 25% of the value of the entirety house to this particular plot due to the difficulties of supporting the houses to either side during construction and the limited opportunity of access for plant and machinery. The Tribunal therefore finds for 25%.

17 Deferment Rate

Mr Mir devalues the plot at 5.25% to assess its rental value. The Tribunal agrees, based on Upper Tribunal guidance in *Sportelli* (LRA/50/2005) and *Mansal Securities* (LRA/185/2007).

Reversion

18 Standing House value

Mr Mir values the existing house at £110,000.

The Tribunal found the internal condition to be very poor. It needs extensive refurbishment to replace the kitchen and bathroom suites which are in dreadful condition,

complete redecoration and other work required to the exterior. Having seen, externally, comparable properties in the area that have been sold which are referred to above in paragraph 15, the Tribunal values the 'standing house' at £105,000.

19 Schedule 10 Discount

This is a reference to Schedule 10 of the Local Government and Housing Act 1989 where sitting tenants are assumed to remain in occupation at the end of the 50 year hypothetical lease extension.

In the absence of any evidence (compelling or otherwise) in support of Mr Mir's inclusion of a Schedule 10 deduction in his valuation and no reason or rationale given for its inclusion in the substance of his report, the Tribunal is not persuaded in the circumstances of the case that such a deduction should be made.

Consequently, the Tribunal declines to make a Schedule 10 discount on this occasion.

Decision

- 20 Based on these inputs, the Tribunal assesses the price of the Freehold interest under s.9(1) of the Act at the valuation date as follows:

Term 1

0.00

Term 2

Freehold Entirety Value	£ 116,500		
Site Apportionment	<u>0.25</u>		
Site Value	£ 29,125		
S.15 Modern ground rent @5.25%		1,529	
Years Purchase 50 years @ 5.25%		<u>17.5728</u>	26,869
<u>Reversion</u>			
Standing House value	£105,000		
Present Value £1 50 years @ 5.25%	<u>0.07742</u>		<u>8,129</u>
		£	<u>34,998</u>
s.9(1) Price say		£	<u>35,000</u>

- 21 The Tribunal determines the price of the Freehold interest under the Act at £35,000 (Thirty Five Thousand Pounds).

- 22 Monocastle advise that they received no demands for ground rent for the last six years of the Lease. Accordingly, the Tribunal determines that in addition to the price of the Freehold interest, the Applicant is required to pay into Court the sum of £24 (Twenty Four Pounds) representing six years' unpaid ground rent of £4.00 p.a.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Date: 28 February 2020

Appeal to Upper Tribunal

Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal and the result sought by the party making the application.