



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

Case Reference : **MAN/00CA/OAF/2020/0026**

Property : **36 Kenilworth Road, Ainsdale, Southport
PR8 3PE**

Applicant : **David Allen and Marie May Allen**

Represented by : **Cockshott Peck Lewis**

Respondents : **Christina Lynne Brooke and Gillian Caroline
Davies**

Represented by : **J B Leitch Real Estate**

Type of Application : **Under s.21(1)(a) of the Leasehold Reform Act
1967**

Tribunal Members : **Judge P Forster
Mr I D Jefferson FRICS**

Date of Decision : **7 May 2021**

**Date of
Determination** : **19 May 2021**

DECISION

Decision

The price payable by the Applicant for the freehold interest in 36 Kenilworth Road, Southport, PR8 3PE is £1,300 plus the Respondent's reasonable costs of the valuation and to affect the transfer of the freehold.

Background

1. The Applicants are the owners of the leasehold interest in 36 Kenilworth Road, Southport, PR8 3PE ("the Property") registered at HM Land Registry under title number MS190926. They acquired their interest in 1994.
2. The Lease of the Property is dated 4 August 1983, made between (1) Bentfield Investment Company Limited and (2) Francis William Stephenson and Mary Agnes Stephenson. The term of the Lease is 999 years from 1 January 1978. The current rent reserved by the Lease is £45 per annum, increasing to £75 per annum from 2029. The Applicants were registered as the proprietors of the Property with H M Land Registry on 31 October 1994.
3. The freehold reversion expectant on the Lease belongs to the Respondents.
4. The Applicants wish to purchase the freehold reversion from the Respondents free from restrictions but the parties cannot agree the price. The Applicants place a value on the freehold reversion of £750 and the Respondents value it at £4,720. The Applicants apply to the Tribunal under s.21(1)(a) of the Leasehold Reform Act 1967 ("the Act") to determine the price.
5. The Tribunal issued Directions on 29 January 2021 requiring the parties to send to each other a bundle of documents containing all the relevant documents on which the party wished to rely. The Tribunal considered it appropriate to determine the application on the papers without a hearing unless either party asked for one within 21 days. Neither party requested a hearing and so the Tribunal has proceeded to determine matters on the papers.

The claim

6. The Appellants served a notice of their claim to acquire the freehold dated 9 July 2020. The notice was in Form LRA1 as prescribed by the Leasehold Reform (Notices) (Amendment) (England) Regulations 2002.

7. The Respondents served a notice in reply to the Applicants' claim dated 7 September 2020 in form LRA3. They admitted the Applicants' right to acquire the freehold subject to any question as to the correctness of the particulars of the house and premises given in the notice of claim of the Property. The Respondents have not challenged the validity of the notice. The Respondents agreed in their counter-notice that the Property should be valued in accordance with s.9(1) of the Act.
8. The Applicants rely on a report prepared by Simon Wall FRICS of Wall & Macnab dated 22 May 2020 which values the freehold reversion at £750. In an email sent on 6 April 2020 on behalf of the Respondents, it was stated that they would be willing to sell the freehold reversion for £9,000. The Respondents did not provide a bundle of documents in accordance with the Tribunal's Directions but belatedly have produced a valuation report dated 29 July 2020 prepared by Mr A Chadwick BSc MRICS of Hardie Brack.

The Law

9. The law as it relates to the purchase price payable by a purchaser is set out in Part II to Schedule 6 of the Act.

Reasons for the decision

10. The sum payable by the Applicants to the Respondents is calculated in accordance with s.9(1) of the Act.
11. The valuation date is 8 July 2020. The commencement date of the relevant Lease is 1 January 1978. The term granted was for 999 years leaving an unexpired term of approximately 957 years. The current annual ground rent payable in respect of the Property is £45 per annum, rising to £75 per annum from 2029.
12. Mr Wall, on behalf of the Applicants, valued the freehold with vacant possession at £350,000 without an inspection and based on a video tour of the Property. The valuation is based on a plot value as a percentage of the freehold value at 33%. The ground rent is £45 per annum. The unexpired term is 956.75. The valuation term is expressed as 956.75 years at a capitalisation rate of 6% and recapitalisation rate of 5.5%. Mr Wall values the freehold reversion at £750.
13. Mr Chadwick, on behalf of the Respondents describes the Property as a two-story, three bedroom, detached house with a conservatory, driveway and attached single garage, situated in Southport in a predominantly residential area. Current market conditions are said to be stable. The freehold value with vacant possession is taken as £360,000. The plot value as a percentage of the freehold value is given at 40%. The unexpired term is said to be 957.86 years. The ground rent is given as £75 per annum at 4%. The decapitalisation and recapitalisation rate is 4%. Mr Chadwick values the freehold revision at £4,720.

14. The Tribunal having considered the terms of the lease and using its knowledge and experience do not consider it necessary to establish the entirety value of the property; it is only necessary to value the ground rent for the remaining unexpired term, taking into account the final ground rent revision to a fixed uplift in 2029.
15. The valuation by Mr Wall resulted in a figure of £750, using a capitalisation rate of 6%, and whilst the covering letter dated 22 May 2020 is a good summary of events, the methodology employed in the actual valuation is incorrect in parts. First, Mr Wall did not appear to be adequately instructed in that he is seemingly unaware that there is a fixed uplift in the lease as set out in para 11 above. The reversionary part of the valuation is therefore the higher ground rent in around 8 years' time which will inevitably result in a figure slightly higher than that set out by Mr Wall.
16. The lengthy report by Mr Chadwick includes a valuation of £4,720 in respect of the premium. There is some discrepancy as to the number of years unexpired at the valuation date between the valuation sheet stipulating 957.86 years and 956.5 years in paragraph 8 of his report. The Tribunal's own valuation has rounded the unexpired term due to the extremely long lease as the precise length is largely immaterial. Mr Chadwick however has mistakenly utilised a current ground rent of £75 per annum, which does not come into effect for another 8 years approximately. The term part of the valuation should therefore be at the current ground rent of £45. When dealing with the fixed review forever after the 51st year there is clearly no reason to split that valuation in to 6 separate periods. Moreover in 948 years' time convention has it that there is essentially no value and the Tribunal prefers Mr Wall's approach in this regard. The Tribunal adopts a capitalisation rate of 5%, which is more usual, and is also the average of the differing rates put forward by the surveyor for each party.
17. The Tribunal is grateful to each party for putting forward their valuation and having regard to that evidence and the Tribunal's own knowledge and expertise of enfranchisement and noting that the Respondents accepted that it is a s.9(i) valuation, determine that the correct premium payable is £1,300. A copy of the Tribunal's valuation is attached by way of an Appendix to this Decision.
18. The Tribunal determined the premium to be paid by the Applicant for the Property is £1,300.

Tribunal Judge P Forster
Dated 7 May 2021

APPENDIX

Lease of 999 years from 1 January 1978 at a current ground rent of £45 per annum increasing to £75 in year 51.

Date of Notice: 8 July 2020

Valuation

Current Ground Rent	£45	
YP 8 years @ 5%	6.4632	£291
Increased ground rent in 2029	£75	
YP 948years @ 5% 20.00	£1,500	
PV of £1 in 8 years	0.6768	£1,015
Premium Payable		£1,306
Say		<u>£1,300</u>