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**LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL**

BIR/OOCU/OAF/2004/0284

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967*

Applicant: Mr R A Lockett (leaseholder)
Respondent: Mr J W J Wallace-Jarvis (freeholder)
Subject property: 24 Ventnor Road
Solihull
West Midlands
B92 9BU
Date of tenant's notice: 16 July 2004
Applications to the LVT: 24 September 2004
Hearing: 12 November 2004
Appearances:
For the applicants: Mr A W Brunt FRICS
For the respondent: Not represented
Members of the LVT: Professor N P Gravells MA
Mr D J Satchwell FRICS
Mrs N Jukes
Date of determination: 13 DEC 2004

Introduction

- 1 This is a decision on two applications under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Mr Lockett, leaseholder of the house and premises at 24 Ventnor Road, Solihull, West Midlands, B92 9BU ("the subject property"). The two applications are, first, under section 21(1)(a) for the determination of the price payable under section 9(1) for the freehold interest in the subject property; and, secondly, under section 21(1)(ba) for the determination of the reasonable costs payable under section 9(4).
- 2 The applicant leaseholder holds the subject property under a lease, dated 11 July 1947, for a term of 99 years less three days from 25 December 1936 at a ground rent of £8.00 per year. The lease was assigned to the applicant on 27 March 1956. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was approximately 31.5 years.
- 3 The applicant served on the respondent landlord a tenant's notice dated 16 July 2004, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and he subsequently made the present applications.

Subject property

- 4 The subject property is a semi-detached house of brick and tile construction, located on Ventnor Road in a residential area of Solihull. The accommodation comprises, on the ground floor, hall, two reception rooms and kitchen; and, on the first floor, three bedrooms and bathroom/wc. The property is double-glazed. Space heating is by gas-fired central heating (with radiators in all rooms). There is a garage to the side of the property, although it is too narrow to accommodate most modern cars. Outside there are gardens to the front and rear of the property. The frontage of the property is approximately 7.3 metres and the total site area is approximately 276 square metres.

Inspection and hearing

- 5 The Tribunal inspected the subject property on 12 November 2004 in the presence of Mr Lockett, the applicant leaseholder, and Mr Brunt.
- 6 The subsequent hearing was attended by Mr Brunt. The respondent freeholder did not attend and was not represented.

Representations of the parties

The price payable for the freehold interest in the subject property

- 7 Mr Brunt adopted as the basis of valuation under the 1967 Act the standard three-stage approach normally attributed to *Farr v Millerson Investments Ltd* (1971) 22 P & CR 1055. That approach involves (i) the capitalisation of the ground rent payable under the existing lease for the remainder of the unexpired term; (ii) the identification of a modern ground rent (by decapitalising the site value); and (iii) the capitalisation of the modern ground rent as if in perpetuity, deferred for the remainder of the unexpired term. The price payable on this basis is the sum of the capitalisations at stages (i) and (iii).

8 Mr Brunt gave evidence of current asking prices for a number of similar properties on Ventnor Road and on Mountjoy Crescent, the adjacent road. The prices ranged from £160,000 to £204,950. He acknowledged that the current state of the market rendered the determination of the entirety value of the subject property at the relevant date difficult; but, on the basis of his evidence, he submitted that the Tribunal should adopt the figure of £190,000. He adopted a 35 per cent figure in calculating the site value on the standing house basis (marginally higher than the standard 33 per cent figure on the ground that the subject property is located in a good residential area); and he applied a 7 per cent yield rate in capitalising the existing ground rent at stage (i) of the valuation calculation and in calculating and capitalising the modern ground rent at stages (ii) and (iii).

9 On the basis of those figures, he submitted the following valuation:

(i) Capitalisation of existing ground rent to termination of lease

Ground rent payable: £8.00 per year
Years Purchase: 31.5 years @ 7%: 12.5892
Capitalised ground rent: £8.00 x 12.5892 = £100.71

(ii) Modern ground rent

Standing house value of subject property: £190,000
Percentage attributable to site: 35%: £66,500
Annual equivalent @ 7%: £4,655

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £4,655
Years Purchase at 7% in perpetuity deferred 31.5 years: 1.6965
Capitalised modern ground rent: £4,655 x 1.6965 = £7,897.21

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say) £7,998.

Reasonable costs

10 In relation to legal costs under section 9(4) of the 1967 Act, Mr Brunt submitted that, in the absence of any evidence of actual costs incurred by the respondent, the respondent's costs recoverable from the applicant should be limited to £300 (plus VAT if applicable).

11 In relation to valuation costs under section 9(4)(e) of the 1967 Act, Mr Brunt submitted that, in the absence of evidence of any valuation carried out by the respondent, no valuation costs were payable by the applicants.

Determination of the Tribunal

The price payable for the freehold interest in the subject property

12 The Tribunal holds that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

13 The Tribunal holds that the basis of valuation adopted by Mr Brunt properly reflects the principles of the 1967 Act applicable in the present case.

- 14 In the absence of any evidence from the respondent, the Tribunal examined the figures submitted by Mr Brunt in respect of the entirety value of the subject property, the percentage to be applied to the entirety value in calculating the site value on the standing house basis and the percentage yield rate to be applied at the various stages of the valuation calculation. The Tribunal considered whether those figures were open to challenge on their face or in the light of the evidence of Mr Brunt in response to questions from the Tribunal.
- 15 The Tribunal acknowledges (as had Mr Brunt) that the evidence of the entirety value of the subject property is limited. However, the Tribunal considered the evidence of asking prices submitted by Mr Brunt; and, using its general knowledge and experience (but no special knowledge) the Tribunal finds that the entirety value of the subject property at the relevant date was £190,000.
- 16 Bearing in mind the previous practice of Leasehold Valuation Tribunals in the Midland Rent Assessment Panel area, and in the absence of any circumstances suggesting a departure from that practice, the Tribunal holds that the appropriate percentage to be applied to the standing house value in calculating the site value is 35 per cent; and that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7 per cent.
- 17 Since the Tribunal agrees with the figures submitted by Mr Brunt, the Tribunal endorses and adopts the calculation submitted by Mr Brunt and detailed in paragraph 9 above.
- 18 Accordingly, the Tribunal determines the price payable under section 9(1) of the 1967 Act for the freehold interest in the subject property at £7,998.

Reasonable costs

- 19 In the absence of any evidence of actual costs incurred by the respondent, the Tribunal accepts the submissions of Mr Brunt and holds (i) that the respondent freeholder's legal costs recoverable from the applicant leaseholder under section 9(4) of the 1967 Act should not exceed £300 (plus VAT if applicable); and (ii) that no valuation costs are recoverable from the applicant leaseholder.

Summary

- 20 The Tribunal determines that the price payable by the applicant leaseholder for the freehold interest in the subject property is £7,998; that the respondent freeholder's legal costs recoverable from the applicant leaseholder should not exceed £300 (plus VAT if applicable); and that no valuation costs are recoverable.

Nigel Gravells

NIGEL P GRAVELLS
CHAIRMAN

13 DEC 2004