

464

LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

Ref: BIR/47UB/OAF/2003/0179 and BIR/47UB/OC6/2003/0120

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Mr & Mrs C J Grant (leaseholder)

Respondent: Churchgate Properties Limited (freeholder)

Subject property: 52 Winds Point
West Hagley
Stourbridge
West Midlands DY9 0PN

Date of tenant's notice: 12 September 2003

Application to the LVT: 12 November 2003

Hearing: 22 January 2004

Appearances:

For the applicant: Mr J Moore

For the respondent: The respondent did not appear

Members of the LVT: Mr A P Bell MA LLB
Mr D J Satchwell FRICS
Mr D Underhill

Date of determination: 16 FEB 2004 2004

Introduction

- 1 This is a decision on an application under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Mr & Mrs C J Grant the leaseholder of the house and premises at 52 Winds Point West Hagley Stourbridge West Midlands DY9 0PN ("the subject property"). The application is under section 21(1)(a) of the 1967 Act for the determination of the price payable under section 9 of the 1967 Act for the freehold interest in the subject property.
- 2 The subject property is held under a Lease, dated 29 December 1967 for a term of 99 years from 25 March 1964 at a ground rent of £25.00 per year. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was 59 ½ years.
- 3 The applicant served on the respondents a tenant's notice dated 12 September 2003 claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act, and he subsequently made the present application.
- 4 The Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

Subject property

- 5 The property comprises a mid terrace house built in about 1967 in Winds Point on the edge of the village of West Hagley surrounded by similar houses as the subject property. The house is a two storey brick construction with a pitched tile roof occupying a steeply sloping site.

The accommodation comprises a porch, through lounge/dining room, kitchen, and inner hall on the ground floor and three bedrooms, bathroom and separate WC on the first floor. The subject property has secondary double glazing and gas fired central heating. Outside there is a small forecourt to the front and a smallish steeply sloping garden to the rear. There is a very steep drive leading to the integral garage at the front of the subject property which makes vehicular access to the garage difficult, if not impossible, for most vehicles.

Inspection and hearing

- 6 The Tribunal inspected the subject property on 22 January 2004 in the presence of Mrs Grant, one of the leaseholders.
- 7 The subsequent hearing was attended by Mr J Moore (representing the applicant). The respondent did not appear nor were they represented.

Representations of the parties

- 8 Mr Moore on behalf of the applicant adopted as the basis of valuation under the 1967 Act the generally recognised 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).
9. Mr Moore referred in his written submission to an identical mid terrace property in nearby Winchester Close marketed for sale in July 2003 at a price of £149,950.00 which he contended was a better property by virtue of having an integral garage that could be used, whereas the steepness of the drive to the subject property prevented a car from being driven into the garage. Mr Moore also referred to two decisions of the Tribunal in respect of 62 and 64 Winds Point which were identical mid terrace houses where the tribunal determined an entirety value of £135,000.00 in both instances effective from 7 May 2003 and 21 May 2003 respectively. On the basis of this evidence Mr Moore submitted that the standing house value of the subject property at the relevant date was £140,000.00.
- 10 Mr Moore submitted that the Tribunal should apply a 30 per cent figure in calculating the site value on the standing house basis, taking into account the steep slope on which the subject property is built which prevents vehicular access to the garage, and also further enlargement of the subject property at the rear without great difficulty and considerable extra expense. He also submitted that the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) and decapitalising and recapitalising the site value at stages (ii) and (iii) should be 7 per cent taking into account the unexpired term of 59 ½ years.
- 11 On the basis of those figures, Mr Moore submitted the following valuation:
- (i) Capitalisation of existing ground rent to termination of lease
- Ground rent payable: £25.00 per year
Years Purchase: 59 ½ years @ 7%: 14.031
Capitalised ground rent: £25.00 x 14.031 = £350.78

(ii) Modern ground rent

Standing house value of subject property: £149,000.
Percentage attributable to site @ 30%: £42,000.00
Annual equivalent @ 7%: £2,940.00

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £2,940.00
Years Purchase @ 7% in perpetuity deferred 59 ½ years: 0.255

Capitalised modern ground rent: £2,940 x 0.255 = £749.70

The addition of the capitalised existing ground rent of £350.78 and the capitalised modern ground rent of £749.70 produced a figure of £1,100.00 rounded down to the nearest pound.

12. With regard to the application for costs under section 9(f) of the 1967 Act Mr Moore submitted that his original figure of £225.00 as the fair and reasonable figure for the respondent's legal costs should be increased to £250.00 to take into account the extra work for the respondent's solicitors in completing the new stamp duty forms, but that no surveyor's costs should be applicable as no surveyors had been instructed by the respondent.

Decision

13. Using its general knowledge and experience (but no special knowledge) of property prices in the locality of the subject property, and taking into account the positive and negative features of the subject property and all other relevant factors and considerations, the Tribunal determines that the standing house value of the subject property at the relevant date was £140,000.00
14. The Tribunal considered the submission made by Mr Moore that the proportion of the standing house value attributable to the land should be 30%. The Tribunal agrees that the appropriate figure should be 30% to reflect the drawbacks arising from the subject property being on a steeply sloping site. Had it not been for this factor the Tribunal would have considered that the appropriate proportion would have been 33.33%.
15. The Tribunal agrees with Mr Moore that the percentage yield rate to be applied at all stages of the valuation calculation should be 7 per cent.
17. Adopting those figures, and applying figures of Years Purchase from Parry's Valuation Tables, the Tribunal calculates the price payable as follows:

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

Ground rent payable: £25.00 per year
Years Purchase: 59 ½ @ 7%: 14.031
Capitalised ground rent: £25.00 x 14.031 = £350.78

(ii) Modern ground rent

Standing house value of subject property: £140,000

Percentage attributable to site @ 30%: £42,000

Annual equivalent @ 7%: £2,940

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £2,940

Years Purchase at 7% in perpetuity deferred 59 ½ years: 0.255

Capitalised modern ground rent: £2,940 x 0.255 = £749.70

The addition of the capitalised existing ground rent of £350.78 and the capitalised modern ground rent of £749.70 produces a figure of £1,100 rounded down to the nearest ten pounds.

- 18 Accordingly, the Tribunal determines the price payable under section 9 of the 1967 Act for the freehold interest in the subject property at £1,100 and the Respondent's reasonable legal costs under 9(4) of the 1967 Act should be £250.00 plus value added tax.

Summary

- 19 The Tribunal determines the price payable by the tenants for the freehold interest in the subject property at £1,100 plus the freeholder's reasonable costs of £250.00 plus value added tax

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A P Bell
Chairman

Dated

16 FEB 2004

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