



## **2. Events Leading to the Application**

- 2.1 The Applicant wished to exercise his right to enfranchise under the provisions of the Leasehold Reform Act 1967 (the 1967 Act), as amended and with the Landlord or owner of the freehold being unknown it was necessary to make an application in accordance with the provisions of Section 27 of the Leasehold Reform Act 1967 in Yeovil County Court.
- 2.2 The Application was issued on 13 August 2003. On 26 August 2003 the Court considered the Application and ordered that Public Notice advertisements be posted in the London Gazette and the Western Gazette inviting any person being or claiming to be the present owner of the freehold estate of and in the property, or knowing the identity or whereabouts of the present owner, to send full details and documentary proof to the Applicant's Solicitor, Richard P Kemp BA, 31 North Street, Martock, Somerset on or before 30 November 2003.
- 2.3 No response whatsoever was forthcoming and on 16 December 2003, at a further hearing of the Application the Court made a declaration and order that Mr Antell was the tenant of the property and entitled to acquire the freehold estate in it, in accordance with the provisions of the Act. Under the terms of subsection (5) of that section 27, the amount of the price payable for the freehold estate in the property must be determined by a Leasehold Valuation Tribunal in accordance with the terms of section 9 of the Act.
- 2.4 Mr Kemp, on behalf of his client, submitted an Application to the Tribunal dated 26 January 2004 supported by the following:
  - i) Register Entries and Title Plan of the leasehold Title Number DT223232 relating to Homelea, Thornford, Sherborne, Dorset
  - ii) The Part 8 Claim Form for Claim No. YE3 01602 in Yeovil County Court
  - iii) Witness Statement of the Applicant dated 27 July 2003 with Exhibit
  - iv) Court Order of Directions dated 26 August 2003
  - v) Court Order dated 16 December 2003

## **3. Expert Valuer's Report**

Mr Kemp, in a letter to the Tribunal dated 18 March 2004, enclosed a copy of the report and valuation dated 15 March 2004 from the appointed surveyor in this case, Roger S Hayward FRICS. Also included with that letter was a copy of the property details or particulars supplied by Gilyard Scarth, Estate Agents at the time Mr Antell purchased the property on 21 November 1995.

## **4. Inspection**

- 4.1 The Tribunal members inspected the interior and exterior of the property on the morning of 24 March 2004 in the presence of the Applicant, Mr Antell and his solicitor, Mr Kemp.
- 4.2 The property was noted to be constructed principally of solid stonework walls with part exposed stonework and part rendered elevations with the main roof being of a pitched timber design covered with natural slating and incorporating three double glazed velux style windows. The rear single storey section of the building was noted to have a pitched clay tiled roof covering. The recently re-

constructed and larger conservatory at the back of the house was found to be of timber framework construction with a polycarbonate sheeted roof.

4.3 On a room by room basis, the Tribunal members took a careful note of all of the improvement works undertaken by Mr Antell since the date of purchase in late 1995. It was noted in particular, that the original conservatory had been replaced with a larger conservatory, the rear single storey addition had been extended and the Applicant had recently constructed a new detached garage/workshop. Improvement works have also included re-wiring, re-plumbing, fitting out a new kitchen and bathroom, the installation of a central heating system and re-laying of the flagstone floors with damp proof membranes and insulation.

4.4 The Accommodation is outlined as follows:

On the ground floor:

Entrance Hall	
Kitchen/Breakfast Room	5.63m x 3.03m (17 sq.m.)
Lounge	5.4m x 3.82m (20 sq.m.)
Rear Conservatory	6.3m x 4.1m (25.7 sq.m.)
Scullery	2.82m x 1.33m (3.75 sq.m.)
Back Lobby	
Toilet	
Old Bathroom	2.5m x 2.2m (5.5 sq.m.)

First Floor:

Landing	
Bedroom 1	3.38m x 3.17m (10.7 sq.m.)
Bedroom 2	3.2m x 2.36m (7.6 sq.m.)
Bedroom 3	3.73m x 3.04m (11 sq.m.)
Bedroom 4	2.2m x 2.08m (4.5 sq.m.)
Bathroom	2.85m x 2.3m (6.5 sq.m.)

Attic Room 7.15m x 1.66m average (12 sq.m.) Sloping ceilings and three velux windows.

4.5 The property was found to occupy a near level site of about a third of an acre including a long lawned back garden backing on to adjoining farmland, with an electricity cable on poles about two thirds down.

4.6 A gravelled driveway to the side of the property provides access to the new garage.

## 5. Hearing: 24 March 2004

5.1 A hearing was held after the inspection at Sherborne. The hearing was attended by the Applicant, Mr Kemp and Roger S Hayward FRICS, Chartered Surveyor.

5.2 The Chairman first introduced the Tribunal members and referred to the relevant section of the legislation as amended by the provisions of the Commonhold and Leasehold Reform Act 2002.

- 5.3 Mr Kemp presented the Applicant's case and stated, first of all that it appeared that the original leases had long ago been lost or destroyed. The Applicant's leasehold title to the property, however, was registered at HM Land Registry with good leasehold title under Title No. DT223232. It was also confirmed in correspondence that the register entries contain all the known details of the leases and the Applicant's title to the property. Neither the freehold nor the leasehold titles appear to be affected by any mortgages or any similar encumbrances. Mr Kemp therefore concluded that the conveyance or transfer of the freehold estate to his client would therefore be similarly straight-forward, although it would need to comply with the provisions of section 10 of the 1967 Act.
- 5.4 Mr Kemp went on to describe, at the hearing, the measure he had taken on behalf of his client to discover the whereabouts of the freeholder and also referred to the statutory declaration of PSC Ellwood Esq dated 16 March 1995 relating to this property. It would appear that the property has been in the ownership of the Ellwood family since 1895 and had been handed down by inheritance until the date of Mr Antell's acquisition of the leasehold interest in 1995. It was apparent that no ground rents had been paid for well over a hundred years.
- 5.5 Mr Kemp referred to the Court Directions and the adverts in the London and Western Gazettes relating to the whereabouts of the Landlord or Freeholder and confirmed that no responses had been received.
- 5.6 Mr Kemp referred to the Court's declaration of 16 December 2003 that his client was entitled to acquire the freehold estate in accordance with the provisions of the Leasehold Reform Act.
- 5.7 Mr Kemp then referred to the report and valuation dated 15 March 2004 from the appointed surveyor, in this case Mr Hayward.
- 5.8 Mr Hayward was able to assist the Tribunal on his approach to and the methodology employed in assessing an enfranchisement price of £1,045.94, made up as follows:

Ground rent		1p per annum	
YP for 65 years @ 7%		<u>14.11</u>	14p
Reversion to Section 15 rent		£6,300	
YP 50 years @ 7%	13.8		
PV of £ in 65 years @ 7%	<u>.012</u>	<u>.166</u>	£1,045.80
Reversion to standing house value in 115 years – (nominal sum)			=====
Enfranchisement price			<u>£1,045.94</u>

- 5.9 Mr Hayward stated that Homelea was indeed a unique property and it was difficult to find suitable comparables. He had, nevertheless, concluded that the entirety value should be £250,000 as seen, with the site value taken at 40% of the entirety value, therefore amounting to £100,000.

- 5.10 Mr Hayward conceded that there was a shortage of individual building plots in the locality and his enquiries with local agents suggested that only a few individual plots had been sold in the locality over recent years. He cited as evidence, a similar sized plot of about a third of an acre at Kings Stag which had sold at public auction for £110,000 during 2003.
- 5.11 With regard to house comparables, a two bedroomed semi-detached cottage in Church Street, Thornford had been sold for £192,000 with completion of purchase having taken place on 3 February 2004. Blacksmith's Cottage in Thornford, situated within only about 200 yards of the subject property, had been on the market with Greenslade, Taylor, Hunt for £225,000 but had been withdrawn from sale on 12 March 2004. This property was thought to be a good comparable being detached with two reception rooms, three bedrooms and a bathroom, oil fired central heating and a garage. Blacksmith's Cottage did however, occupy a smaller plot.
- 5.12 In response to questions relating to site values generally, Mr Hayward confirmed to the Tribunal that he had decided to adopt 40% as an appropriate percentage in this instance, as he considered this to be reasonable for this particular site with its narrow frontage. The evidence suggested that plot values were in the range of 30 – 50% of entirety values and he had decided to adopt 40%.
- 5.13 With regard to the capitalisation of the terms, Mr Hayward confirmed that he had taken advice from the RICS on the two leases and it was concluded that the simplest way was to take a single lease and take the unexpired term at an average of 65 years. Identical yield rates of 7% had been adopted for the capitalisation of the ground rent, capitalisation of the reversion and deferment of the reversion.
- 5.14 When questioned on the calculation of the modern ground rent, Mr Hayward confirmed that he had deducted 10% to reflect possible repossession rights in accordance with established principals in the Carthew's case. A modern ground rent of £6,300 had therefore been adopted.

## 6. Decision

- 6.1 This Tribunal finds that the Applicant, William James Antell, is a qualifying leaseholder pursuant to the provisions of Section 9 of the Leasehold Reform Act 1967, as amended.
- 6.2 The Tribunal members were impressed by the impartial approach taken by Mr Hayward, in particular that he had taken the trouble to make enquiries through the RICS on the problem of valuing the two leasehold interests for the unexpired terms.
- 6.3 This Tribunal finds that Mr Hayward's calculations are well substantiated by the evidence provided but the members decided to round the enfranchisement price up to the sum of £1,050 (One Thousand and Fifty Pounds).
- 6.4 This Tribunal therefore determines that, having regard to all of the evidence presented, the appropriate sum to be paid into Court for the freehold interest pursuant to Section 9 of the Leasehold Reform Act 1967, as amended, should be in the sum of £1,050 (One Thousand and Fifty Pounds).