

MIDLAND RENT ASSESSMENT PANEL**Leasehold Reform Act 1967****Housing Act 1980****DECISION OF LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER S21 OF THE LEASEHOLD REFORM ACT 1967****Applicant: Surjit Kaur Atwal****Respondent: The Trustees of the Calthorpe Estate****Re: 17 Crookham Close, Harborne, West Midlands B17 8RR****Date of Tenants Notice: 31st January 2009****Application dated: 3rd April 2009****Heard at: The Tribunal's Offices in Birmingham****On: 18th June 2009****APPEARANCES:****For the Tenant: Mr A W Brunt FRICS****For the Landlord: Mr K F Davis FRICS****MEMBERS OF THE LEASEHOLD VALUATION Tribunal:****Mr W J MARTIN (Chairman)****Mr J TURNER FRICS****Date of Tribunals decision:****DETERMINATION**

- (1) That the price payable to the Respondent by the Applicant under Section 9 (1) of the Leasehold Reform Act 1967 ('the Act') is £6580.00**
- (2) The Respondent's conveyancing costs under section 9(4) of the Act are £350 plus VAT**
- (3) The Respondent's valuation costs under section 9(4) of the Act are £350 plus VAT**

REASONS FOR THE TRIBUNAL'S DECISION

BACKGROUND

- 1 On 31st January 2009 (the '**valuation date**') Surjit Kaur Atwal (the '**Applicant**') served a Notice of Claim (the '**Notice**') on the Trustees of the Calthorpe Estate (the '**Respondent**') to acquire the freehold of 17 Crookham Road, Harborne, B17 8RR (the '**Property**') under Part 1 of the Act.
- 2 On 3rd April 2009 Anthony Brunt and Co, on behalf of the Applicant submitted an application to the Leasehold Valuation Tribunal for a determination as to the price payable for the freehold under Section 9 of the Act.
- 3 The Applicant is the current leaseholder of the property which is held under an underlease (the '**Lease**') dated 16th January 1967 and made between Sunley Homes Limited (1) and Stanley Wilson Greene and Dorothy Mary Greene (2) whereby the Property was demised for a term of 99 years (less the last 10 days) from 25th March 1964 at a ground rent of £15 per annum.
- 4 The unexpired term of the Lease for valuation purposes is therefore 54.12 years.
- 5 The Property comprises an end modern terraced house in the residential area of Harborne. It is situated at the end of a cul-de-sac, so the plot is a triangular shape. The Applicant has constructed a very large extension to the left hand side of the original house, converting it from a traditional three bedroom property to one with five bedrooms, two bathrooms, two living rooms and two kitchens. There is also an integral garage. The Property is in good condition.

AGREED MATTERS

- 6 Prior to the hearing the parties had agreed the following matters:
 - The value of the existing term rent at £224
 - That the valuation method should be the 'standing house' approach.
 - That there should be no separate valuation of the ultimate reversion (the so called 'Haresign' addition).

Accordingly, the following matters remained to be determined:

- The entirety value of the Property
- The site value percentage.
- The section 9(4) conveyancing and valuation costs.

THE ENTIRETY VALUE

- 7 Mr Brunt's valuation of the entirety is £230,000. He points out that the effect of the extension is to bring the Property into close proximity to 19 Crookham Close, and that although the plot widens because of its position in the cul-de-sac, its depth is rather shallow. Additionally, it is overlooked by a window of a house on the main Hagley road and there is traffic noise from this road.
- 8 A number of comparables were provided by Mr Brunt. The nearest is the adjoining property number 15 Crookham Close. This property is an inner modern terraced house which was sold in January 2008 for £160,000. The purchaser has extensively refitted it and it is now back on the market at an asking price of

£230,000. Other comparables include 39 Minley Road, which was sold one month before the valuation date for £159,000 and 23 Minley Road, which is a true semi-detached house, was sold on 1st December 2008 for £233,000. This property does not have a window overlooking or any of the other disadvantages of the Property. In May 2008 number 37 Minley Road was sold for £190,500. Taking all the above factors into consideration, Mr Brunt arrived at his valuation of £230,000 for the entirety interest in the Property at the Valuation date of £230,000.

- 9 Mr Davis values the entirety at £275,000. He points out that this is an 'oddball' case because of the very large extension. He believes the Property is now 1.75 times larger than the adjoining properties, and whilst it is true that the Applicant may not get back all of the money spent on the extension, it must clearly be worth more than the adjoining houses. It is of course true that the Property has the disadvantages pointed out by Mr Brunt, but they are of the type suffered by many properties and do not have a major impact upon the value. A detached house of this size in a good residential area of mixed house types would be worth £425,000 at least. Accordingly, his valuation of £275,000 is a very reasonable figure.

SITE APPORTIONMENT

- 10 Mr Brunt has adopted a site value percentage of 35% and Mr Davis one of 37%. Mr Davis informed the Tribunal that Developers, in general, look to about one third of the value of a house to be in the plot. This is adjusted downwards for terraced properties to perhaps 30%; semis are 33 to 34% and detached properties perhaps 38%. In the present case Mr Brunt has adopted 35% because of the extension.
- 11 Mr Davis, by using 37% has arrived at a site value of £101,750 based upon his entirety value of £230,000. He introduced land sale evidence to back his figure up. A piece of land at the rear of numbers 10 – 24 Hagley Road West was sold by public auction in June 2006 for £141,000. In October 2007, 9 Woodbourne Road, Warley Woods was sold with planning permission for two semi-detached houses for £89,000 per plot. In addition the LVT determined the site value of 19 Ingham Way on the cleared site basis at £85,000. Applying that figure to the tenant's valuer's entirety value of £230,000 produces a site percentage of 36.95%.

THE TRIBUNAL'S DETERMINATION OF THE SITE VALUE

- 12 The Tribunal are grateful to both advocates for the clear way they have set out their differing positions on the entirety value and the site apportionment. The valuation of the Property produces a most unusual problem because of the large extension, and there is no direct evidence available to assist in arriving at a just and equitable determination of the site value.
- 13 The Tribunal agree with the parties that the standing house method is the most appropriate, but are also grateful to Mr Davis for the evidence of cleared site values, which provides a useful cross check. The Tribunal found the evidence more persuasive towards a higher entirety value than Mr Brunt's. The adjoining property, although not sold, is on the market for £230,000. It is clearly in good condition and has been improved. The condition of the Property was similar. The extension to the Property is of a high standard, and the remainder of the house has been upgraded. The Tribunal agree with both valuers that the Applicant would be unlikely to recoup the cost of the extension, but nevertheless feel that the substantial additional accommodation which has been provided must command a premium as against the comparables provided, of which they found the most compelling the neighbouring property number 15 Crookham Close, and the sale of 23 Minley Close for £230,000 within two months of the valuation date. Bearing these factors in mind, the Tribunal value the entirety of the Property at the valuation date at £270,000.

14 However, as to the site apportionment, the Tribunal differ from both valuers. The effect of the extension is that the site is overdeveloped for the type of property (modern end terrace) and because of this the site percentage should be nearer the lower end of the scale. The Tribunal consider that the appropriate rate is 33% which produces a site value of £89,100. The Tribunal find that this figure sits comfortably with the cleared site evidence referred to in paragraph 11 (allowing for the relevant market movements since those sales and the determination) and accordingly determine that the site value at the valuation date is £89,100.

THE TRIBUNAL'S VALUATION

15 Applying their determinations as above the Tribunal's calculation of the amount payable by the Applicant is as follows:

Term:	(agreed by parties)	£224.00
Reversion:		
Entirety:	£270,000	
Site Value:	33%	£81,900
S.15 Modern Ground Rent: at 5%		£4455 pa
YP in perpetuity deferred 54.12 years at 5% (1.42673)		<u>£6356.08</u>
		£6580.08
Rounded to		<u>£6580.00</u>

SECTION (9) (4) COSTS

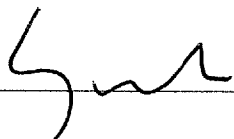
16 Mr Brunt considered that the valuation costs should be in the order of £200 to £300 plus VAT. His firm would do a section 9(1) valuation for £150 plus VAT and he is aware of others that will. Mr Brunt sees the figures charged by many other landlords' surveyors as part of his professional work and considers that £300 plus VAT ought to be the maximum.

17 Mr Davis considered that the work in the present case justified a fee of £425 plus VAT. He believed the sum of £200 - £300 derisory and has put in three to three and a half hours work, excluding the Tribunal hearing.

18 The Tribunal considered that the present case has presented both valuers with extra work because of its nature and the difficulty of finding suitable comparables. They determine that a reasonable fee for the valuation is £350 plus VAT and determine accordingly.

- 19 As to legal fees, Mr Brunt sees a pattern of falling fees because of the current recession. Once again, he deals with many different firms acting for landlords and has found recently that the cheapest are £250 plus VAT and the more expensive £325 plus VAT. He therefore urges this sum as the amount which the Tribunal should award.
- 20 Mr Davis informed the Tribunal that the Calthorpe estate has now employed a different firm, namely Shakespeare Putsman, and that their fees will be £500 plus VAT. The work is highly specialised, and whilst it may be true that the purchaser must prepare the transfer, as argued by Mr Brunt, his client's solicitors often had to redraft it because each sale is of a part of the estate only. The Landlord is entitled to use the firm of his choice and accordingly considers that the sum of £500 plus VAT should be awarded for the conveyancing costs.
- 21 In general, the Tribunal agree with Mr Brunt that the conveyancing work in respect of a section 9 (1) case is relatively straightforward. In the absence of any direct, persuasive evidence from the solicitors concerned in justification of the claimed fee of £500, the Tribunal determine that a reasonable sum for the section 9 (1) conveyancing costs is £350 plus VAT.
- 22 In reaching their determinations the Tribunal had regard to the evidence and submissions of the parties, the relevant law and their own knowledge and experience as an expert Tribunal, but not any special or secret knowledge.

Signed



(W. J. Martin – Chairman)

13 JUL 2009

Dated