

MAN/30UF/OAF/2009/0014

RESIDENTIAL PROPERTY TRIBUNAL SERVICE**Leasehold Valuation Tribunal
of the
Northern Rent Assessment Panel****Leasehold Reform Act 1967**

Property: 11 Leach Lane, St Annes on Sea, Lancashire, FY8 3AW

Applicant: Mrs V M Wheeldon

First Respondent: Mrs E M Tomlinson

Second Respondent: Mr C S Shillito

The Tribunal: Mr P J Mulvenna LLB DMA
Mr J Faulkner FRICS

Date of Determination: 1 September 2009

This is the decision of the Tribunal

The Tribunal's determination of the price payable under section 21(2) of the Leasehold Reform act 1967 is £85.00 plus reasonable legal and other costs.

Introduction

1. This is a determination by the Leasehold Valuation Tribunal ('LVT') of the price payable under section 21(2) of the Leasehold Reform Act 1967 (as amended) ('the Act') for the grant of the freehold interest in the premises known as 11 Leach Lane, St Annes on Sea, Lancashire, FY8 3AW ('the Property').
2. By an Order dated 6 February 2009, Deputy District Judge Molyneux sitting at Preston County Court, on the application of the Applicant, vested the freehold of the Property in the Second Respondent and referred the issue of the amount payable by the Applicant for the enfranchisement of the lease for determination by the LVT.
3. The Applicant served a notice dated 8 March 2009 on Mrs E M Tomlinson as the surviving Personal Representatives of John Arnold Ingham (deceased), using Form 1 of the Schedule to the Leasehold Reform (Notices) (Amendment) (England) Regulations 2002, claiming the right to the freehold of the Property.

4. The Second Respondent replied and admitted the Applicant's right to the freehold of the Property by notice dated 23 March 2009 using the Form in the Schedule to the Leasehold Reform (Notices) (Amendment) (No 2) (England) Regulations 2002.
5. The Applicant made an application dated 15 June 2009 to the LVT to determine the price to be paid for the transfer of the freehold interest in the Property. The LVT was not asked to determine any other matter.
6. Directions were given by Mr L J Bennett, procedural chairman of the LVT, on 20 July 2009. The parties have complied with the Directions.

The Law

7. The purchase price is to be determined in accordance with the provisions of section 9(1) of the Act which provides that 'the purchase price payable... shall be the amount which if sold on the open market by a willing seller (but excluding the tenant residing) might be expected to realise'.
8. Under section 9(3) of the Act, the tenant has the right on ascertaining the amount payable for the house (but not more than one month after the amount determined has been determined) to give written notice to the landlord that he is unable or unwilling to acquire the house.
9. The costs to be borne by the tenant by section 9(4) of the Act are the reasonable costs (insofar as they are incurred in the performance of the notice) incidental to the following matters:-
 - a. any investigation by the landlord of the right to acquire the freehold
 - b. any conveyance of the house
 - c. deducing, evidencing and verifying the title to the house
 - d. making out and furnishing such abstracts and copies as the person giving the notice may require
 - e. any valuation of the house

These costs do not include costs incurred by the landlord in connection with a reference to a LVT (Housing Act 1980, Schedule 22(5)).

Inspection

10. The LVT inspected the Property on 1 September 2009 in the presence of Mrs Wheeldon.
11. The Property is a semi-detached house built in the 1930s of brick with a tile roof, comprising hall, two reception rooms (one with sun lounge) and kitchen on the ground floor and two double and one single bedrooms and bathroom on the first floor, together with garage and gardens at front and side.

12. The Property was in a good predominantly residential area with reasonable access to shops and other facilities and amenities.

The Lease

13. The leasehold interest in the Property is held for a term of 998 years from 1 November 1933 created by an Underlease made on 2 February 1939 between John Arnold Ingham (1) and Harry Batty (2). The Underlease reserved a yearly ground rent of £5.50.
14. The Underlessor's interest was created by a Lease dated 15 October 1934 by a Lease dated 15 October 1934 and made between Henry Talbot de Vere Clifton (1) and John Arnold Ingham (2).
15. The freehold interest in the Property was vested in the Second Respondent by the Order made by Deputy District Judge Molyneux on 6 February 2009 (see paragraph 2 above). The leasehold interest was vested in the Applicant by an Assignment dated 5 March 1992 made between Keith Stewart (1) and Vivienne Mary Stewart (2). The Applicant changed her name by Deed dated 17 March 2006. The Applicant's title is registered at HM District Land Registry, Lancashire, under title number LA706087.

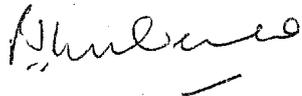
The Decision

16. Neither party requested a hearing at which oral evidence and submissions might be presented. Accordingly, the LVT considered the position on the basis of the documentary evidence before it and its inspection of the Property.
17. The Lease has no provisions which might impact on the market value of the Property.
18. In view of the length of the term still unexpired, the LVT considered that the value of the reversion was nil.
19. The LVT considered that it was likely that the rent reserved exceeded the costs of collection as evidenced by the demand of the ground rent on an annual basis rather than the twice yearly basis reserved in the underlease.
20. The above factors will have an impact on the market perceptions of the ownership of the freehold interest in the Property and this will influence the return required by an investor as the sale of a single ground rent that is relatively dear to collect and will get dearer is not an attractive proposition. The LVT determined that the capital value to be determined equated to the amount required to yield the annual ground rent of £5.50 without addition or deduction.
21. The method of calculating the capital value for an annual yield of £5.50 is provided for in section 9 of the Act. The LVT considered that a willing buyer and a willing seller would adopt the number of years purchase formula to the right to receive £5.50

per annum payable in two half yearly portions for the remainder of the very long unexpired term. The yield would be related to that payable on 2.5% undated Government Stock (Gilts) which on 31 August 2009, the latest available date before the day of the determination, was given in The Times as 4.35%. The LVT decided that, for the various reasons given above, the yield required for the purchase of the freehold will be approximately 2% higher than the yield on Gilts at around 6.5%. This gives a value for the freehold interest of £85.00.

The Determination

22. For the above reasons, the LVT's decision is that the reasonable market value for the purchase of the freehold interest in the Property is £85.00 plus reasonable legal and other costs.



P J Mulvenna
Chairman
1 September 2009