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RESIDENTIAL PROPERTY TRIBUNAL SERVICE LEASEHOLD VALUATION TRIBUNAL

Property: Harmony House, High Street, Dereham, Norfolk NR20 5RT

Applicant(s): Janet Clement-Shiplee

Respondent(s): Unknown (missing landlord)

Case number: CAM/33UC/OAF/2009/0006

Date of Application: 16 October 2009

Type of Application: Enfranchisement
Leasehold Reform Act 1967 sections 1 and 27

Hearing: Friday 12 February 2010 at Foulsham Village Hall

Tribunal Members: Mr G M Jones (Chairman)
Mr E A Pennington FRICS
Mr G J Dinwiddy FRICS

REASONS

The Property

1. The subject property is a charming old semi-detached cottage with more modern extensions located near the centre of Foulsham, an attractive Norfolk village, in a conservation area. Accommodation currently extends to living room, breakfast room, cloakroom, kitchen, three bedrooms and bathroom, as shown in sales particulars before the Tribunal. The property is mostly double-glazed and heated by oil-fired central heating radiators. The plot is relatively small and the present dwelling represents, in the judgment of the Tribunal, full development of the plot.
2. As sales particulars produced to the Tribunal describe, Foulsham is a popular village some 10 miles north of Dereham and 20 miles west of Norwich which has a thriving community, post office and village shop. Unfortunately, the High Street suffers from fairly heavy traffic as a result of nearby industrial activity.

The Application

3. The Applicant is leaseholder under a lease for a term of 500 years from 16 May 1602. As explained by solicitor John Riddett in his affidavit of 3 April 2009 in case number 9NR01797 in the Norwich County Court, the property is one of a number of houses in the village affected by leases granted by Sir Thomas Hunt, then Lord of the Manor, and his son William Hunt between 1602 and 1604. The original leases (known locally as the Foulsham Leases) have been lost and the identity of the current freeholder is unknown.

4. The Applicant claims to enfranchise under section 1 of the Leasehold Reform Act 1967 and applied to the Court under the procedure laid down in section 27. By order of District Judge Rutland dated 10 July 2009 the Applicant was required to advertise for the freeholder in the usual way and, in default of any appearance by the freeholder, was given permission to apply to the Tribunal for a determination of the price. The advertisement was placed, no freeholder appeared and the Applicant duly applied to the Tribunal on 16 October 2009.

The Evidence

5. The Applicant did not instruct a valuer. Fortunately, her solicitor Mr Riddett lives in the village and has considerable local knowledge of property transactions and expertise in dealing with the Foulsham Leases. He is involved with a group of residents affected by the Foulsham Leases, who are using this case as a test case in the hope of enfranchising en bloc in the near future. They are concerned that, in the current financial climate, their unusual title may be having a significant effect on the value of their properties. Mr Riddett did not, however, profess any in-depth knowledge of the Act or any valuation expertise, leaving such matters to the good sense and expertise of the Tribunal (in particular its two valuer members).
6. Mr Riddett explained that the subject property has pedestrian access to the rear but no vehicular access. Because of the layout of the neighbouring property, the neighbour parks in the driveway and thus would be unlikely to grant vehicular access at any price. The property was advertised for sale in 2009 at an asking price of £169,995 but no offers were received. The price was reduced to £165,000 but in a period of more than a year no buyer has come forward. Mr Riddett felt that £165,000 was probably a fair price for the property. His experience was that there might be an element of price reduction by reason of the title defect in that some purchasers might be put off. Nevertheless, this does not prevent sales from taking place. For the subject property title indemnity insurance of £200,000 could be obtained for around £170.
7. There is not a great deal of evidence available of recent sales of similar properties in the village. However, a number of properties currently for sale can be found on the popular website rightmove.com. As the village is quite small, the Tribunal was able to make external inspections of properties that appeared relevant. The relative merits of various properties were discussed.

The Decision

8. The valuation date is 16 October 2009, at which date the lease had rather less than 93 years to run. The Tribunal used the figure of 93 years for calculation purposes rather than attempting interpolation in the valuation tables, the error having only minimal effect on the outcome. In order to carry out the statutory calculation the Tribunal must then value the plot. In the judgment of the Tribunal, the existing dwelling ought properly to be disregarded for this purpose owing to the extreme length of the lease and the fact that the house post-dated the lease.

9. In the absence of any evidence of actual plot sales, the Tribunal took the view that the most effective approach to this exercise would be to consider the value of a property newly-built on the plot so as to maximise the development potential. The existing house extends to about 100 square metres and, in the judgment of the Tribunal, it would not be reasonably practicable to increase the value of the plot by building a larger house. Building costs in the locality are currently in the region of £1350 per square metre, giving a new-build cost of £135,000. In the judgment of the Tribunal, such a property freehold would sell for around £180,000.
10. The Tribunal assesses the plot value at 25% of the new-build value i.e. £45,000. If any more was paid for the plot, there would be little point in undertaking the development. It appears that the rent under the existing lease must have been nominal; certainly, there is no evidence that there was a substantial rent or that any rent at all was ever paid. Thus there is no loss of rent to the landlord until after the expiry of the lease.
11. The Tribunal has then to assess a modern ground rent in order to calculate the value of the lost rent during a 50-year extension period under the Act. The Tribunal considers that this should be capitalised at 7% per annum, giving a figure of £3,150 per annum (on a capital value of £45,000).
12. There are two accepted methods of valuing the freehold reversion. One is to consider the freehold value after the expiry of the existing lease and the supposed 50-year extension i.e. in 143 years and then calculate the current capital value of that deferred reversion using standard tables. This method is useful where the house is likely still to be standing at the end of the term.
13. Where the period of deferment is very long and the house is unlikely to be standing at the end of the period the alternative method is to value the modern ground rent in perpetuity, commencing at the end of the existing term.
14. The Tribunal considers that it would be just and equitable to use the first method in this case. The Courts have decided that, save in exceptional circumstances, the deferment rate for houses should be 4.75%. On this basis, the loss to the landlord (again calculated using standard tables) is **£817** and that is the price assessed.
15. The Schedule hereto shows the calculation used by the Tribunal to reach this figure. The Applicant must pay that sum into Court in order to obtain an order for the transfer to her of the freehold.
16. It is not generally the function of the Leasehold Valuation Tribunal to provide certificates of value. Directions in this type of case require the parties to adduce expert evidence. Although the Tribunal made an exception in the unusual circumstances of this case, it should not be assumed that this requirement can be lightly ignored in the vast majority of cases.

Geraint Jones
Chairman
9 March 2010



SCHEDULE

Harmony Cottage, High Street, Foulsham, East Dereham, Norfolk NR20 5RT

4-Mar-10

Leasehold Valuation Tribunal's Valuation

as at 16-Oct-09

Lease from 15 May 1602 for 500 years

Ground rent: not known

Lease Expiry

Valuation Date

Unexpired Term

May 14, 2102

October 16, 2009

92.6

years say 93 years

Value of
Modern Freehold House

£ 180,000

Site Value as a proportion of House Value taken at ~

25% £ 45,000

Value of Ground Rent

Ground rent: not known, but taken to be nominal

£ nil

Value of Reversion to Modern Ground Rent

Site Value

£ 45,000

at 7.0%

Modern Ground Rent p.a.

£ 3,150

Years Purchase for 50 years @ 7%

13.801

Present Value of £1 @ 4.75% deferred 93 years

0.01336

0.18438

£581

Value of Reversion to Freehold

Modern Freehold House

£ 180,000

Present Value of £1 @ 4.75% deferred 143 years

0.0013125

£236

Enfranchisement Price

£817

GMJ 5.3.10