

SOUTHERN RENT ASSESSMENT PANEL AND LEASEHOLD VALUATION
TRIBUNAL

Case No: CHI/00HC/OAF/2010/0012

In a matter under Sections 9 and 27 of the Leasehold Reform Act 1967, as amended, ["the Act"] and :-

In the matter of 17 Saxby Close, Worle, Weston Super Mare, BS22 6RZ ["the property"].

Upon the application of Victor James Willett, [the Applicant].

Inspection - 16th. December 2010.

Determination – 16th. December 2010

The matter was considered in the light of written representations without a hearing.

Tribunal Mr. J.S. McAllister F.R.I.C.S. [Valuer Chairman]
Mr.M. J. Ayres F.R.I.C.S. [Valuer Member]

Decision issued – 23rd. December 2010

DETERMINATION AND REASONS

SUMMARY DECISION

1. The Tribunal has determined, for the reasons set out below that the price payable by the Applicant for the freehold reversion in the property is in the sum of £2,075.00 and that the amount of unpaid pecuniary rent payable for the property up to the date of the conveyance is nil.

REASONS

2. The Tribunal inspected the property on the above date. Briefly it is a terraced 2 storey house traditionally built of brick walls under a concrete tile covered roof. It is described in more detail in a valuation report from M.T. Ripley esq. F.R.I.C.S. of Stephen & Co. dated 18th. October 2010, which referred to the property as having been built around 1982 by Comben Homes Ltd., later Ideal Homes Ltd.

The accommodation is, on the ground floor, hall/utility room, lounge/kitchen and conservatory. On the first floor there is a bedroom, bathroom, and landing. Outside there is an enclosed garden with pedestrian access via a footpath to the Close. There is a separate car space with shared vehicular access off the Close. A plan is attached

showing the property edged red, the plan being a copy of the Land Registry title no. AV78950. The property does not have direct frontage to the road, and the Tribunal have assumed that it has a proper legal pedestrian access over the footpath referred to above.

Apparently all main services are connected, with space heating by a gas fired central system. There are modern double glazed windows to the house.

The rateable value of the property in the 1973 Valuation List was £94

The Applicant did not seek a hearing before the Tribunal.

3. The property is built upon land that was part of that demised by a 16th.Century lease, of which the Tribunal has been informed that no copy now exists. The demise was in favour of John and Isabel Thomas for a term of 500 years from 1st September 1557 at an annual rent of £1.6s.9d. The Tribunal is told that the applicant pays no ground rent and that the whereabouts of the lessors or beneficiaries are unknown.

4. The Applicant's solicitors have submitted to the Tribunal various copy documents, under cover of letters dated 4th, 25th, and 28th, October 2010. These include the above valuation report and an undated "Order for Enfranchisement where Landlord cannot be Found" [Matter No. OWM00611]. A copy of this Order is attached. It was made by the Weston Super Mare County Court and directs that the enfranchisement price payable for the freehold interest is to be determined by the Leasehold Valuation Tribunal under Section 9[i] of the Act under the "original valuation" basis together with the estimated amount of unpaid rent payable by the Applicant.

5. The amount that the Tribunal is to determine is the "appropriate sum" defined in Section 27[5] of the Act as follows:-

"The appropriate sum is to be the aggregate of :-
[a] such amount as may be determined by [or on appeal from] a Leasehold Valuation Tribunal to be the price payable in accordance with Section 9 above, and
[b] the amount or estimated amount so determined of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid"

6. Section 9 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation. The effect of Section 27[1] [2] [a] is that the valuation date is the date of the application to the Court. This date is not entirely clear from the papers submitted to the Tribunal. Mr. Ripley's valuation was carried out on the 18th, October 2010 and the Tribunal has adopted this date as the valuation date in this case.

7. The Tribunal accepts the "standing house" basis of valuation submitted by Mr. Ripley as being compatible with the basis ordered by the Court. The Tribunal is aware that the expression "original valuation basis" does not appear in "Hague on Leasehold Enfranchisement", the leading textbook on the subject. The expression does appear in a paper on the website of "Lease", [the Leasehold Advisory Service] which explains leasehold valuations and which adopts the "standing house" method of valuation. The question whether or not a Court can instruct an expert Tribunal to adopt a particular method of valuation is not settled. However the Tribunal in this case is minded as

above, as to the basis of valuation, as it appears to the Tribunal that it is also the method envisaged by the Court.

8. Furthermore there is not likely to be any evidence of sales of vacant sites as the locality has been developed for some years etc. Accordingly the Tribunal took into account the comparables submitted and cases referred to in Mr. Ripley's report.

9. The Tribunal also carefully considered Mr. Ripley's detailed valuation report which gave a valuation of £885.00 and an opinion that the unpaid rent can be regarded as "negligible". The Tribunal did not agree with most of the valuation including the entirety value of £95,000. We also did not accept the site value of 22.5% of the entirety value put forward by Mr. Ripley, considering that the relevant factors referred to would result in a fair and reasonable site value of 27.5% of the entirety value. We did however agree that the modern ground rent is correctly calculated at 7% of the site value.

10. With regard to the deferment rate the Tribunal adopted 6%, having carefully considered the appeal decision in *Earl Cadogan and others v Sportelli* [2007] EWCA Civ. 1042].in which, inter alia, the methodology employed by the Lands Tribunal to calculate the generic deferment rates was endorsed. The Tribunal accepted Mr. Ripley's opinion that the rate should be different from the 4.75% adopted in *Sportelli*. We considered that there should be some adjustment to take into account the limited prospect of future growth, deterioration etc. However we considered that 6% was the appropriate rate in this particular case, not agreeing with Mr. Ripley's view "..... that, in the present climate it is reasonable to revert to a rate of 7% as previously agreed prior to the *Sportelli* case.....".

11. Accordingly the Tribunal's valuation is:-

Ground rent reserved	Nil
Reversion	
Estimated site value [27.5 % of entirety value of £100,000]	£ 27,500
Modern ground rent @ 7 %	£1,925 p.a.
Years purchase in perpetuity @ 6% deferred 47.06 years	1.0776
Total	£2,074.38
	but say £2,075.00

12. The Tribunal accepts that the amount of unpaid ground rent in this case is nil. The Tribunal notes that the Court Order states that "..... upon such lodgement being made

the District Judge do execute or do nominate someone to execute in favour of the Applicant the said conveyance and the Applicant is at liberty to apply.”

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J.S. McAllister F.R.I.C.S.
Chairman

Dated 23rd. December 2010