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HM COURTS AND TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL

Case No: CHI/00HN/OCE/2011/0027

Between:

Mr R Bourton, Mrs W Bourton, Ms V Comber (Applicant/Tenants)

and

Ms V Comber & Mr & Mrs Gomes (Respondent/Landlords)

In the Matter of Section 24(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the 1993 Act")

Property: 17 Luther Rd, Winton, Bournemouth, BH9 1LJ

Date of Hearing: 10th January 2012

Tribunal: Mr A.J. Mellery-Pratt FRICS Chairman
Mr K Lyons FRICS

Decision Issued: 3rd February 2012

REASONS AND DETERMINATION

Introduction

1. This matter arises from an application under s24 (1) of the Leasehold Reform, Housing and Urban Development Act 1993 to determine:-
 - a) the amounts payable as the purchase price for the freehold interest under s 32 and schedule 6 of the 1993 act.
 - b) the provisions of the conveyance.
2. The application follows a judgement in the Bournemouth County Court which dispensed with the requirements of s13 of the 1993 Act, to serve an initial notice on Mr and Mrs Gomes as co-owners of the property, on the grounds that their whereabouts could not be established.
3. Provisional directions were issued by the tribunal on 14th October 2011 ,

and they became substantive directions on 25th October 2011 in the absence of any written objection or request for amendment by any party.

4. Representations were made on behalf of the applicant/tenants and copied to the other party.
5. An inspection of the property was made on the morning of the 10th January 2012 before the hearing which was held at the Bournemouth County Court, Deansleigh Rd, Bournemouth.

Documents

6. The documents before the Tribunal are those mentioned in these reasons

Inspection

7. The tribunal, accompanied by Mrs Bourton, Ms Comber and Mr Wetherall of House and Son, all inspected the property and in particular were shown:-
 - a. the ground floor flat, a one-bedroom flat as described in Mr Wetherall's report
 - b. the first floor flat, a 2 bedroom flat, also as described in Mr Wetherall's report
 - c. the exterior which included a very small front garden, which was included within the demise of the first floor flat, and a narrow unpaved drive along the left-hand boundary (when viewed from the road), leading to the rear where there were 2 parking spaces, one for each flat
 - d. the area immediately behind the building comprised a small paved patio accessed by a patio door leading from the lounge of the ground floor flat, and behind that a further area of garden at a higher level, which was also demised with the ground floor
 - e. behind that area of garden was a further small area of garden demised to the first-floor flat on which was situated a shed
 - f. the rear boundary was not clearly defined as it appeared that an area of ground which had formerly comprised part of the property had been sold off, possibly to the local authority, and no fence had been erected. The dimension for the depth of the plot was clearly shown on the title plan as 100 feet.

The hearing

8. A hearing was held at the Bournemouth County Court, Deansleigh Road Bournemouth on 10 January, 2012, and Mr Wetherall appeared at that hearing.
9. There was an adjournment initially when it was realised that one of the pages of the initial notice had been omitted and Mr Wetherall arranged for a complete copy to be faxed to the court by the applicant/tenants' solicitors
10. Mr Wetherall took the tribunal through his valuation report, which had previously been provided with the tribunal's papers
11. Under section 10 of his report. The tribunal was asked to correct the plot depth from 24.5 m to the figures shown on the title plan of 100 feet. There were also 2 other typographical corrections to be made which did not affect the figures of his valuation

The applicant/tenants' case

12. Mr Wetherall confirmed his use of 7.5% as the appropriate figure on which to base his valuation because of the small amount of the ground rents and that there was only a set increase in that ground rent at 33 year intervals.
13. For the valuation of the reversion he had used 6% and this figure was based upon the decision in *Zuckerman v Trustee of Calthorpe estate*.

The capitalisation of the ground rents and the reversion on this basis provided a valuation for the freehold of £4564
14. In considering the values of the 2 flats, when based upon a lease of 999 years, he had used the figure of £95,000 for the ground floor flat and £105,000 for the first-floor flat. He further estimated figures of £5000 less for each flat on the basis of their present leases.
15. He deducted 1.5% of their value to allow for the loss of rights under the 1993 act and this calculation resulted in a marriage value of £8286, which when divided equally between landlord and tenant gave figures of £4143
16. Adding the freehold value to the 50% share of the marriage value gave enfranchisement price of £8707.
17. Mr Wetherall referred the tribunal to the draft of form TR1, a land registry form for transferring a registered title, and advised that he was not aware

of any controversial items within that form and requested the tribunal to approve the provisions of the conveyance

18. The tribunal queried the date of the initial notice as the copy in the papers appeared to be undated. However, the tribunal did note that the counter notice signed by Mrs Comber was dated 26 September, 2011 which was 2 months and 2 days prior to the stated time limit for serving the counter notice, and therefore accepted that this matter was not in dispute and that sufficient notice had been given to the freeholder

The respondent/landlords' case

19. No case had been put by the respondent landlords as the remaining co-owner, Mrs Comber, had accepted the figures put forward by Mr Wetherall

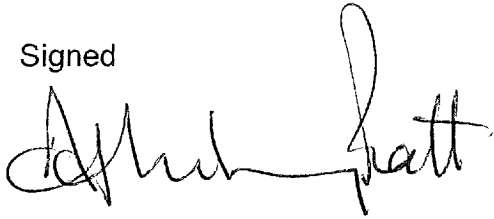
Consideration

20. The tribunal considered all the points that had been raised, and considered that:-
 - a. The basis of Mr Weatherall's valuation complied with the requirements of the 1993 act and that the figures used were on a fair basis
 - b. the official copies of the register of title for the freehold land and for the 2 flat leases, which were included in the tribunal's papers, did not contain any onerous restrictions
 - c. The draft form of transfer was in standard terms and that there was nothing that needed amendment

The determination

21. The tribunal determines that the amount payable for the freehold interest in the property, subject to the two leases, and in accordance with section 32 and schedule 6 of the 1993 act is £8707 (Eight thousand seven hundred and seven pounds)
22. The tribunal determines that the draft form of transfer for the freehold title, included in the papers in respect of title number DT92020, is acceptable.

Signed

A handwritten signature in black ink, appearing to read 'AJ Mellery-Pratt'. The signature is fluid and cursive, with a large loop at the end of the last name.

AJ Mellery-Pratt. FRICS. Chairman

A member of the Tribunal
appointed by the Lord Chancellor