

**THM COURTS AND TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Case No: CHI/00HY/OLR/2012/0195

Between:

Christopher David Wraight (Applicant)

and

Heritage Automotives Limited (First Respondent)

and

Julian Charles Baker
Susan Elizabeth Lonsdale and
Christopher Wraight (Second Respondents)

Premises: Flat 3, 61 Trowbridge Road, Bradford-on-Avon, Wiltshire
BA15 1EG ("the Premises")

Hearing: 17th December 2012

Tribunal: Mr D Agnew BA LLB LLM Chairman
Mr J McAllister FRICS
Mr S Hodges FRICS

DETERMINATION AND REASONS

DETERMINATION:

1. The Tribunal determines that the premium for the new extended lease of the Premises shall be £6600.

REASONS:

Background

2. On 13th August 2012 the Applicant's solicitors, Messrs McCloy Legal, applied to the Tribunal for a determination of the amount of the premium payable for a new lease of the Premises extending the term by 90 years under the provisions of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act"). The existing lease dated 29th

January 1988 was for a term of 99 years as from 29th September 1987. On 1st August 1988 a reversionary lease had been granted by the then freeholder to the tenants of the three flats at 61 Trowbridge Road jointly (now the Second Respondents) for a term of 99 years from 29th September 1987 plus 7 days. The current freehold reversioner and competent landlord is the Respondent and the current lessee of Flat 3, the Applicant, took an assignment of the underlease in 2008.

3. The Applicant served a notice claiming the right under the Act to acquire a new lease on 31st March 2012 and this therefore became the valuation date. The Respondent served a counter-notice dated 8th June 2012 in which it accepted that the Applicant had the right to acquire a new lease but objected to the terms proposed by the Applicant. The parties having failed to reach agreement as to the premium to be paid for the new lease, the Applicant made his application to the Tribunal to decide the matter. No counter notice was served by or on behalf of the Second Respondents.
4. Directions were issued by the Tribunal on 15th August 2012 requiring the parties to file and serve their respective valuers' reports. Additional time to do this was requested by the Respondents' solicitors as their client's surveyor had been taken ill. Extra time was granted. The Applicant's valuer duly filed and served his report but no such report was received on behalf of the Respondent. No evidence was filed by or on behalf of the Second Respondents either. The case came before the Tribunal for determination on 17th December 2012. Immediately prior to the hearing the Tribunal inspected the Premises in the presence of the Applicant. The hearing took place at the Leigh Park Hotel, Bradford-on-Avon. Mr Philip Jennings FRICS appeared on behalf of the Applicant and the Applicant was also present at the hearing. Mr Tom Perret, a trainee solicitor with Messrs Kimbells Freeth, the Respondent's solicitors, appeared on behalf of the Respondent. He confirmed that the Respondent was not producing any valuation evidence, that the Respondent accepted the evidence contained in Mr Jennings's report and that the Respondent was content to leave the matter up to the Tribunal to determine.

The Premises

5. The Premises comprise a one bedroom flat in a converted end of terrace house which appears to be over one hundred years old. It is situated next to a petrol filling station and a garage on a busy main road close to the centre of Bradford-on-Avon. It has the benefit of a designated parking space for one vehicle in the tarmaced yard behind the adjacent petrol station. There is no garden.
6. There is a common entrance door with a security entry system, lobby and communal staircase leading to the first floor flat (Flat 2) and the subject property (Flat 3) which is on the second floor. The accommodation for Flat 3 comprises one reasonable sized bedroom to

the front of the flat overlooking the main road, a small kitchen/living room and a bathroom with close coupled wc, wash basin and bath. The property is heated by night storage heaters and there is no gas supply. The ceilings are low. The windows are upvc double glazed units. There is evidence of damp penetration through the gable wall into the living room and near to the window in the bedroom. It was noted that the Assured Shorthold tenant who is currently renting the property has a dehumidifier in the property. Outside there is evidence that at one time there had been a crack in the stone work to the rear corner of the property. As far as the Tribunal could tell the roof that is part tiled and part slate is in a satisfactory condition. The guttering was plastic and appeared not to be in a good condition. The downspouts were partly plastic and partly of iron. The whole property is in need of care and attention.

The valuation evidence

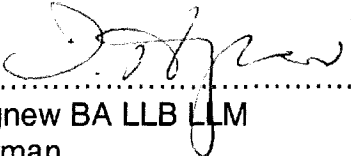
7. Although not contained in his report, Mr Jennings gave several examples of one bedroom flats in the vicinity of the Premises that had been sold during 2012 in order to support his valuation that with the benefit of a new lease the reversionary value of the Premises as at the valuation date would have been in the region of £110,000. He said he had applied a yield of 7% to achieve the capitalised ground rent over 74 years as that was the figure which was commonly used in lease extensions in the area, in his experience. He used the deferment rate approved of in the leading case of Sportelli of 5%. He used a figure of 90% for Relativity as this was the mid point of the range using the graph produced by Beckett and Kay (2009:second revision) which produced a range of between 85% and 95%. Based on the above, he calculated that the appropriate premium for the applicant to pay for a new extended lease under the Act would be £6600. Following questioning from the Tribunal Mr Jennings felt that this figure remained valid. There were no questions from Mr Perret.

The Tribunal's Determination

8. Although the Tribunal might have used slightly different figures from those applied by Mr Jennings the end result would not have been significantly different from that achieved by him. As there was no challenge to Mr Jennings's evidence from the Respondent and no contradictory evidence produced on behalf of the Respondent the Tribunal saw no reason to alter Mr Jennings's rounded down figure of £6,600 as the premium for the new lease. As no counter notice had been served by the Second Respondents and no evidence given by them, the Tribunal found that no premium was payable to the Second Respondents as intermediate landlords. The Tribunal was not asked to make any determination as to the wording of the new lease or the landlord's costs at this stage. Mr Jennings's calculations arriving at the figure of £6,600 are set out in the attached appendix. The Tribunal found one error in Mr Jennings's calculations where he had added £4

instead of deducting this figure, and so this amendment has been made to the appended document.

Dated this 4th day of January 2013


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D. Agnew BA LLB LLM
Chairman

Flat 3 (Top Floor) 61 Trowbridge Road, Bradford on Avon BA15 1EG

Valuation for Lease Extension under Leasehold Reform, Housing and Urban Development Act 1993

Valuation date 27th June 2012

a) Diminution in the value of the landlord's interest

	£	£	£
i) Ground rent now	20		
YP 74 yrs @ 7%	<u>14,1901</u>	284	
ii) Reversion to freehold value	110,000		
Deferred 74 yrs @ 5%	<u>0.0270391</u>	2,974	
Landlord's interest before lease extension		<u>3,258</u>	
iii) Reversion to freehold value	110,000		
Deferred 164 yrs @ 5%	<u>0.00004</u>		
Landlord's interest after lease extension		<u>4</u>	
Diminution in the value of the landlord's interest			3,254 3,262

b) Landlord's share of marriage value

Interests after marriage

Value of extended lease	110,000		
Landlord's interest after lease extension	4		
Value of combined interest after lease extension		<u>110,004</u>	

Interests before marriage

Value of lessee's current interest	100,000		
Landlord's interest before lease extension	3,258		
Value of combined interests before lease extension		<u>103,258</u>	

Marriage value, therefore

Landlord's percentage share

Landlord's share of marriage value

6,746

50%

3,373

PRICE PAYABLE

6627
6,635