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HM COURTS AND TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

Leasehold Reform Act 1967

DECISION AND REASONS

Case Number: CHI/29UQ/OAF/2012/0010

In the matter of Portobello, Holly Bank, Brenchley,
Nr Tonbridge, Kent, TN12 7PG

Applicant: Mr & Mrs Chapman
c/o Warner's LLP

Respondent: Absent Landlord

Date of Application: 12th October 2012 date of application to the County Court,
by order of District Judge Hebblethwaite referred to the LVT on 30th October
2012.

Date of Hearing: 13th February 2013

Tribunal Members: Mr S Lal LLM, Barrister (Legal Chairman)
Mr R Athow FRICS MIRPM
Mr N Robinson FRICS

Date of Decision :17th February 2013

Background

1. The matter comes before the Tribunal by virtue of a referral from Tunbridge Wells County Court dated 30th October 2012. The Court was satisfied that the Applicants have the right to acquire the freehold of the subject premises pursuant to the Leasehold Reform Act 1967 (the "Act") and that they were prevented from giving notice under the Act because the identity of the person to be served could not be identified.
2. The Court dispensed with the need for enquiries by advertisement or otherwise as to the whereabouts of any successor in title.
3. The matter was referred to the LVT for the LVT to ascertain the correct basis of valuation under s.9 of the Act; the terms of the transfer; and the price to be paid under the Act.

Representation

4. The Applicant, Mr Chapman attended the Tribunal. Mr Jeffrey C Moys FRICS the expert appointed by Mr and Mrs Chapman was also in attendance.

The Inspection

5. The Tribunal inspected the subject premises on the morning of the hearing. The subject premises comprises a Grade II listed detached house of stuccoed construction to brick elevations below a slate roof. The house has been recently extended and sits in a slightly elevated position on the plot. The house is decorated and finished to a high standard. There is a 19th Century cottage within the main grounds very near the main house. The cottage is in a poor state and is presently used for storage purposes only.

The Hearing

6. Mr Moys on behalf of his Client agreed that the best way forward was for him to give evidence as to his Report. This is contained in the Bundle of papers before the Tribunal and the Tribunal has had regard to the contents of the same. In summary he confirmed his recognition of his duties as an expert and detailed the correct basis of valuation under the Act and the valuation date as being 12th October 2012, which was the date of the original application to the County Court.
7. He confirmed that the plot of land has on it a building that has been known as Portobello and is held under the terms of a lease originally granted for 500 years expiring on 24 March 2069, the rent being one Primrose payable at Easter. He described the nature of his valuation evidence. He adopted 33% to represent the site value percentages that he had used in previous Tribunal cases under the Act.
8. By adopting the above approach he set out his calculation at paragraph 11.22.2 of his Report and ended up with an amount payable of £38,372.
9. He quite properly highlighted an alternative valuation method as described in 11.27 of his Report if a combined rateable value exceeded £500 as at March 1990. This produced a higher figure but the Tribunal was directed to the Skeleton Argument provided by Counsel that suggested that the proper approach to take was that described in paragraph 8 above.

The Tribunals Decision

10. The Tribunal is an expert Tribunal. Having regard to the expert Report and the oral evidence of Mr Moys the Tribunal is satisfied that he has adopted the correct approach in respect of his valuation. The Tribunal was able to test this evidence and were satisfied that his approach, property values and yields, which he had adopted, were in the circumstances appropriate. The Tribunal was impressed by the thoroughness of his Report and the way he approached the valuation evidence. The Tribunal is satisfied that the amount payable for the freehold interest in accordance with Section 9 (1) of the Leasehold Reform 1967 is £38,372.
11. Furthermore the Tribunal notes the Draft Transfer (TR1) drafted by Warner's and it approves the same in the terms listed therein.

Chairman..... *See*

Date..... *17/2/13*