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**FIRST - TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : BIR/00CN/OAF/2013/0042

**Property** : 68 Golden Hillock Road, Small Heath, B10 OLG

**Applicant** : Family Housing Association (Birmingham) Ltd.

**Representative** : J. Moore M.A. of Midland Valuations Ltd.

**Respondent** : Unknown

**Type of Application** : Application to determine the price payable for the Freehold interest pursuant to s.9(1) of the Leasehold Reform Act 1967 ('the Act') following an application to the County Court under s.27(5) of the Act where the landlord's identity is unknown.

**Tribunal Members** : I.D. Humphries B.Sc.(Est.Man.) FRICS  
D.R. Salter LL.B (Hons)

**Date and Venue of Hearing** : 13th January 2014 at the First-tier Tribunal Office, 35 Bull St. Birmingham

**Date of Decision** : **29 JAN 2014**

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**DECISION**

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- 1 The price of the Freehold interest is determined at £22,166 (Twenty Two Thousand One Hundred and Sixty Six Pounds) and the Applicant is also required to pay into Court the sum of £60 (Sixty Pounds) comprising six years' ground rent.

## **REASONS**

### **Introduction**

- 2 The Applicant holds a lease of the subject property granted for a term of 52 years from 1st September 1971 at £10 p.a. ground rent and wishes to acquire the Freehold interest. It was unable to locate the landlord to negotiate terms and applied to the County Court under s.27(5) of the Leasehold Reform Act 1967 ('the Act') for the Freehold to be transferred to it subject to payment of costs into Court.
- 3 The Court subsequently issued Directions dated 9th August 2013 requiring the Applicant to apply to the First-tier tribunal to determine the price and any contractual provisions to be included in the conveyance. (Birmingham County Court Claim No. 3BMO1606).
- 4 The Tribunal received the application on 22nd October 2013, inspected the property and held a Hearing on 13th January 2014 and having considered the application determines as follows.

### **The Law**

- 5 The Tribunal has considered the submitted documents and is satisfied that the price of the Freehold interest is to be determined in accordance with s9(1) of the Act.
- 6 In addition, s.27(5)(b) of the Act requires the Applicant to pay into Court any ground rent that remains unpaid up to the date of the conveyance.

### **Facts Found**

- 7 The Tribunal inspected the property on 13th January 2014 in the presence of Mr Moore, the Applicant's Valuer, and a representative of the Applicant.
- 8 It comprises a two storey Victorian terraced house adjoining a shop near the junction of Golden Hillock Road and Wordsworth Road, Small Heath, Birmingham. There is no street parking available as there are restrictions outside the property and no means of parking or building a garage elsewhere on the plot as there is no rear access. There is a small yard to the rear but no means of access other than through the house.
- 9 The accommodation has been divided to form two self-contained flats, one on the ground floor and one on the first that have been sub-let. The ground floor flat has a hall, lounge, bedroom, kitchen and bathroom. The first floor has a landing, lounge, two bedrooms, kitchen and bathroom.

### **Submission and Tribunal Determination on Valuation Points**

- 10 Mr Moore attended the Hearing and provided a written submission to support his valuation of £22,168 for the Freehold. The elements of the valuation and the Tribunal's decision on each point is summarised below:

11 **Valuation Date**

Applicant

Mr Moore valued the Freehold at the date of application to the County Court, 11th June 2013, at which point the unexpired term was 10.25 years.

Tribunal

The Tribunal agrees that this is the correct valuation date.

12 **Ground Rent**

Applicant

Mr Moore advised that the ground rent was £10 p.a.

Tribunal

The Tribunal was provided with a copy of the lease dated 20th October 1971 between Mr Mohammed Morsolin (Landlord) and Mr Mohammed Ibrahim (Tenant) granted for a term of 52 years from 1st September 1971 at a ground rent of £10 per annum fixed for the term. Accordingly £10 p.a. is the correct figure.

13 **Capitalisation Rate**

Applicant

Mr Moore valued the ground rent at 7% due to the short unexpired term of 10.25 years. To support this, he cited three cases where 7% had been determined by the Tribunal:

Address	Case Ref.
84 Southcrest Road, Redditch	BIR/47UD/OLR/2010/0111
97A Hednesford Road, Brownhills	BIR/00CU/OLR/2010/0115
55 Anson Road, Great Wyrley	BIR/41UF/OAF/2010/0049

Tribunal

The Tribunal agrees that this is a fair capitalisation rate to apply in this case.

14 **Entirety Value**

Applicant

Mr Moore cited the sales of three houses in the same area as comparable evidence:

Address	Price £	Date
42 Golden Hillock Road	180,000	11.05.12
38 Golden Hillock Road	178,500	30.11.10
70 Golden Hillock Road	125,000	20.12.07

He distinguished the evidence and considered that the Freehold vacant possession value of a fully developed house on the subject plot would have been £120,000 at the valuation date.

### Tribunal

The Tribunal inspected all three comparables externally and identified their locations on the Ordnance Survey plan submitted with the application. Nos. 42 and 38 appear similar from the road frontage but unlike No.68, they have reasonable back gardens with vehicular access. This would make them substantially more attractive to purchasers than No.68 that has a far smaller plot. Furthermore, they are in better positions away from the busy Wordsworth Road junction without the disadvantage of the neighbouring shop that in the Tribunal's opinion would down value No.68.

No.70 is quoted as sold on the internet but while it is the neighbouring property, it is a shop and it appears from the submitted papers that it may have been sold as a house in 2007 before being converted to commercial use. As the date of sale was six years before the present valuation date and there is some doubt as to its condition and development potential at the time, the Tribunal applies little weight to its price for comparable purposes.

The Tribunal finds that the plot of No.68 is fully developed with no realistic prospect of further development.

It is divided into two flats but the Tribunal finds that it would make no difference to the overall value of the building if converted back to a single home.

Bearing these points in mind, the Tribunal finds the value of the Freehold interest in the subject property with vacant possession, fully developed at the date of valuation, to be £120,000 as submitted by Mr Moore.

## 15 **Site Apportionment**

### Applicant

Mr Moore referred to five Leasehold Valuation Tribunal decisions where the Tribunal had determined the value of an under developed plot relative to the value of a fully developed house on the plot ('entirety value'):

Address	Case Ref.	Plot %
61 Abbey Road., Erdington	BIR/OOCN/OAF/2011/0045	28
7 Brook Cottages, Hay Mills	BIR/OOCN/OAF/2011/0045	27.5
530 Warwick Road, Tyseley	BIR/OOCN/OAF/2011/0015	30
12 Broadfield Close, West Bromwich	BIR/OOCS/OAF/2013/0006	28
45 Vista Green, Kings Norton	BIR/OOCN/OAF/2010/0094	28

Taking an overall view and the fact that the house occupies virtually all of the plot with no means of accessing the back garden or any off road parking, Mr Moore proposed 27%.

### Tribunal

The Tribunal agrees. The object of carrying out this type of valuation is to assess the value of the plot to a potential developer as if it were advertised vacant and to let, but without any means of access to the rear of the house and parking restrictions to the front it would be very difficult to off load building materials. This is compounded by the proximity of the road junction. In these circumstances, the Tribunal agrees that 27% is fair for the plot.

16 **Deferment Rate**

Applicant

Mr Moore adopted a deferment rate of 5.25% reflecting Lands Tribunal guidance in the *Sportelli* case (LRA/50/2005) and subsequent court and tribunal decisions to calculate the rate as follows:

	Risk free rate	2.25%
Less	Real growth rate	2.00%
Plus	Risk premium	4.50%
Plus	Additional risk premium to reflect the difference between a s.9(1) and s.9(1A) valuation per <i>Mansal Securities</i> (LRA/185/2007)	0.25%
Plus	Additional risk premium to reflect lower growth outside prime central London	0.50%
Less	Reduced risk premium for short unexpired term	0.25%
		_____
	Net Adjusted Rate	5.25%
		_____

Tribunal

The Tribunal considered the authorities and Lands Tribunal guidance and agrees with a deferment rate of 5.25% for this valuation.

17 **Reversion**

Applicant

Mr Moore adopts a 20% discount from the entirety value to assess the Standing House value on expiry of the 50 year hypothetical lease.

Tribunal

The Tribunal agrees this to be a fair reduction from the entirety value to reflect the security of tenure available to a hypothetical tenant on expiry of the 50 year extended lease.

## Decision

18 Based on the inputs above, the Tribunal assesses the price of the Freehold interest under s.9(1) of the Act as follows:

### Term 1

Ground Rent	£	10	
Years Purchase 10.25 years @ 7%		<u>7.143</u>	71

### Term 2

Freehold Entirety Value (EV)	£120,000		
Site Apportionment x	<u>0.27</u>		
Site Value	£ 32,400		
S.15 Modern ground rent@5.25%		1,701	
Years Purchase 50 years @ 5.25%		17.5728	
Present Value £1 10.25 years @ 5.25%		<u>0.59201</u>	17,695

### Reversion

Standing House value @ 80% x EV	£96,000		
Present Value £1 60.25 years @ 5.25%		<u>0.04584</u>	4,400

s.9(1) Price £ 22,166

19 The Tribunal therefore determines the price of the Freehold interest under the Act at £22,166 (Twenty Two Thousand One Hundred and Sixty Six Pounds).

20 Mr Moore advised that his client had received no demands for ground rent for at least the last six years. Accordingly, the Tribunal determines that in addition to the price of the Freehold interest, the Tenant is required to pay into Court the sum of £60 representing unpaid ground rent for a period of six years leading up to the date of the conveyance.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman

Date **29 JAN 2014**