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

Case Reference : CHI/00HC/OAF/2014/0013

Property : 55 Blackthorn Gardens, Worle, Weston-super
-Mare BS22 6SA

Applicant : Gladys Minnie Rosina Phillips

Representative : Berry Redmond Gordon & Penney, solicitors

Respondent : The successors in title of Catherine Wallop

Representative :

Type of Application : Leasehold Reform Act 1967 (Missing
Landlord)

Tribunal Member : Mr D Banfield FRICS

:

Date of Decision : 2 January 2015

DECISION

Summary of Decision

The Tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion of the property is to be the sum of £3,384 and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

Background

1. Following an application of Gladys Minnie Rosina Phillips, by her Attorney Jennifer Ann Metcalfe, District Judge Cope sitting at the County Court at Weston-super-Mare made an order dated 2 December 2014 directing that the First-tier Tribunal (Property Chamber) assess the appropriate sum in accordance with S27(5) of the Leasehold Reform Act 1967 (The Act).
2. Directions were made by this Tribunal on 15 December 2014 indicating that the matter would be dealt with on the papers unless an objection was received within 28 days. No objection was received and the matter is therefore determined on the basis of the written information supplied with the application and the valuation report of Mr M.T.Ripley FRICS dated 15 December 2014.
3. An inspection of the property has not been made.

The Lease

4. A small area of the site is held freehold the remainder being held by way of a lease for a term of 500 years from 1 September 1557 and made between Catherine Wallop and John and Isabel Thomas. The lease is subject to a yearly rent in respect of the whole of the premises of £1 6s 9d.
5. In a witness statement dated 18 June 2014 Mrs Metcalfe states that the property was purchased by her parents in or about 1985 and that no payment of rent had been made during their ownership.

The Law

6. Section 27(5) of the Act provides:
The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:
 - a. *Such amount as may be determined by (or on appeal from) the appropriate Tribunal to be the price payable in accordance with Section 9 above; and*
 - b. *The amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the Conveyance which remains unpaid.*

7. 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) is that the valuation date is the date on which the application was made to the Court. This date is not known by the Tribunal but is presumed to be shortly after the date of the statement made by Mrs Metcalfe on 18 June 2014.
8. There are various bases set out in Section 9 of the Act and the Tribunal determines that the appropriate basis is in Subsection 9(1) being that on 31 March 1990 the Rateable value of the house and premises was not above £500.
9. The Tribunal has been referred to and takes account of the following decisions: *Arbib v Cadogan* (2005), *Cadogan Estates Limited v Sportelli* (2006) and *Clarice Properties Limited Appeal* (2012).

The Premises

10. The property comprises a two storey mid terrace house constructed in the early 1970s.
11. The accommodation comprises a hall, lounge/dining room and kitchen on the ground floor with three bedrooms, a landing, bathroom and separate WC on the first floor. The property has not been improved since its construction and the warm air central heating is said to be unusable. There are gardens front and rear and in a separate compound at the rear a parking space and garage.

Evidence and Decision

12. In a valuation report dated 15 December 2014 Mr M T Ripley FRICS determined that the value for the purposes of Section 27 of The Act as at December 2014 is £1,700.
13. Mr Ripley made his determination on an open market value of the property of £127,500, a site value proportion of 27.5% (£35,000) a modern ground rent at 7% (£2,450) and a YP in perpetuity at 7% deferred 43 years. This produced the sum of £1,900 from which he deducted 10% (£200) being the proportion of the site that he estimated to be held freehold.
14. Mr Ripley bases his open market value on the sale of four similar houses at prices between £130,000 and £137,500. He considers the most helpful comparable to be the sale of 18 Silverberry Road, Worle for £133,000 on 3 December 2014. He has made deductions for the differences in condition and modernization to arrive at his figure of £127,500.
15. Whilst it seems likely that the appropriate valuation date is some 6 months before the date of Mr Ripley's valuation the Tribunal considers

that there has been little movement in property values in that period and accepts £127,500 as the appropriate figure at the date of valuation.

16. Mr Ripley considers that the deferment rate should be 7% and justifies the departure from the 4.75% rate determined in Sportelli on the grounds set out in paragraphs 1 to 5 on page 3 of his report. The Tribunal accepts that there are grounds to depart from the generic deferment rate of 4.75% but considers that a rate of 6% is more appropriate to reflect the differences and therefore applies that figure to the valuation below.
17. For the reasons set out in paragraph 6 of his report Mr Ripley considers that the staged approach adopted in Clarice is inappropriate and therefore adopts a single reversionary basis. The Tribunal disagrees and sees no justification for departing from the 3 stage approach.
18. The Tribunal accepts Mr Ripley's application of 27.5% as the site value proportion and his deduction of 10% to reflect the freehold proportion of the site.
19. In order to reflect the assumption that Schedule 10, paragraph 4 of the Housing Act 1989 applies to the tenancy and that it will continue until the appropriate notice is served a deduction of 3.85% is made to reflect the possibility that the tenant may obtain an assured tenancy at a market rent.
20. The Tribunal's valuation is therefore;

Value of current term with no rent payable, £00.00

Value of first reversion;

Entirety value £127,500

Site value @ 27.5% £35,062

Less 10% for freehold area

£31,556

S.15 modern ground rent @7%

£2,209

Years purchase 50 years @6% = 15.762

= £34,818

Present value of £1 in 43 years deferred

@6% = 0.0816 =

£2,841.00

Value of second reversion:

Entirety value £127,500

Deduct 3.85%, £122,591

Present value of £1 in 93 years deferred

@ 6% = 0.00443 =

£543.00

Total sum payable:

£3,384.00

21. The Tribunal determines that the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

D Banfield FRICS

2 January 2015

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking