



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

**Case Reference** : CHI/OOHX/OAF/2020/0006

**HMCTS** : P:Paperremote

**Property** : 26 Broad Street, Swindon, Wiltshire SN1 2DS

**Applicants** : Timothy John Kiteley

**Representative** : Fitz Solicitors

**Valuer** : Mr Nathan Hall, Chartered Surveyor of Kempton Carr Croft.

**Respondent** : William Vilett Rolleston (missing)

**Representative** : None

**Type of Application** : To determine the price to be paid for the Freehold interest pursuant to sections 9(1) and 27 of the Leasehold Reform Act 1967.

**Tribunal Members** : Mr R. T. Brown FRICS (Chairman)  
Mr B. Bourne MRICS

**Date of consideration on paper** : 16th November 2020

**Date of Decision** : 16th November 2020

**DECISION**

1. The Tribunal determines the value of the Freehold interest in accordance with the provisions of the Leasehold Reform Act 1967 at **£38.00.**
2. The Tribunal approves the Draft Form of Transfer (TR1) and the Draft application for First Registration (FR1) as submitted by the Applicant.
3. This decision is referred back to the County Court at Bristol under reference number FOOSN455.

## **Background**

4. Due to the current Public Health Emergency in respect of Covid-19 the Tribunal was unable to carry out an inspection.
5. A Hearing which was available to via Cloud Video Platform (CVP) was not requested by either party and it was agreed that the Tribunal could consider the matters on the papers submitted.
6. The Tribunal met via 'Zoom' on Monday 16th November 2020
7. This application, made on the 7th July 2020, asks the Tribunal to determine the purchase price of the Freehold Interest in a house pursuant to sections 9(1) and 27 of the Leasehold Reform Act 1967 ("the Act").
8. The Applicant holds a long leasehold interest in the subject property. The Applicant wishes to purchase the Freehold but has been unable to trace the Freeholder. Accordingly he applied to Bristol County Court for it to be transferred to him as tenant under section 27 of the Act which sets out the procedure to be followed where a landlord is missing.
9. The Order was granted by Deputy District Judge Moore on 13th May 2020 which requires the price to be paid for the Freehold to be determined by the First-tier Tribunal (Property Chamber). The Order is to be determined under the Leasehold Reform Act 1967 which applies in this case.
10. The Tribunal did not inspect the property and the matter was considered, in accordance with Directions, on the basis of the papers submitted.

## **The Lease**

11. Despite the efforts of the Applicant's solicitors the lease has not been located.
12. Mr Hall by reference to the Leasehold title (NO: WT60369) gave, in his expert report, such details as were available.
13. Essentially the lease is dated 5th March 1906 for a term of 999 years from 24th June 1902 at an annual ground rent of £2.13s.3d which converts to £2.66 per annum.

### **The Law**

14. Section 27 of the Act sets out procedural formalities. Section 9 sets out the valuation criteria to be adopted which are the same for missing landlord cases as cases where a landlord's identity is known.

### **Facts Found**

15. By reference to Google Maps the property is located in an area of similar properties close to the town centre.
16. By reference to the photographs and documents supplied by the Applicants the property is a mid terrace house converted into two flats in 2018, with appropriate planning consent.
17. Mr Hall says that prior to conversion the property comprised a 3 bedroomed mid terrace house with rear garden and vehicular access via a service road to the rear.

### **Basis of Valuation**

18. Section 9 of the Act requires the Valuer to assess the value of the Freeholder's interest. Under Section 9 there are 3 methods of valuation:

9(1) for properties with rateable values on the appropriate date of below £500.00.

9(1A) for properties with rateable values on the appropriate date of above £500.00.

9(1C) not applicable in this case.

### **Consideration**

19. Mr Hall submitted a report and based his valuation of the following factors:

Freehold Vacant Possession Value £175,000.00

Site Value Percentage 40.00%

Capitalisation of Existing Ground Rent 7.00%  
Deferment Rate 4.75%  
Remaining Term of Lease 880.94 years approx at the date of his valuation.  
Marriage Value does not apply in this case as the lease has over 80 years unexpired.  
Date of Valuation 7th July 2020

20. In his report Mr Hall explained why he had adopted these inputs, with supporting evidence, to his valuations.
21. Being unable to establish the correct Rateable Value for the property at the valuation date Mr Hall prepared valuations under both Section 9(1) (without marriage value) and Section 9 (1A) (with marriage value if lease has less than 80 years unexpired).
22. Valuation under Section 9(1) produced the same result as under Section 9(1A).
23. Applying those factors to his valuations Mr Hall calculated the value of the Freehold to be £38.00.

### **Tribunal's Consideration and Determination**

#### **Valuation**

24. The Tribunal considered the information provided including the substantial unexpired term of the lease, Mr Hall's research into the surrounding circumstances and his valuation inputs.
25. The Tribunal did note however that Mr Hall had adopted a valuation date of 7th July 2020 and not the date of the Court Order (13th May 2020) which is the correct date for these purposes. The Tribunal makes no adjustment to reflect this small error as it has no impact on the valuation submitted.
26. In his evidence Mr Hall said that there were three methods of valuation under the Act 9(1), 9(1A) and 9(1C). He did not consider 9(1C) to be applicable.
27. Confusingly his second valuation is headed 9(1C) which the Tribunal interprets to mean his intended second valuation under 9(1A). For reasons not explained in this valuation he applies to the reversion to an 'Estate in Fee Simple' a sum of £400,000.00. The Tribunal had some difficulty understanding this point but suspects it is a typographical error. In any event no adjustment is made because the length unexpired term means that the reversion has nominal value.

28. Mr Hall correctly states that marriage value is not applicable is a valuation under Section 9(1A) because the length of the unexpired term exceeds 80 years
29. The Tribunal noted that Mr Hall had not addressed the question of which valuation method should be used by applying the formula provided in Section 1(1)(a) of the Act (as amended). Had he done so he would have concluded that the valuation should be under Section 9(1) (his first valuation).
30. The Tribunal noted that no proposal or calculation had been made of the amount of outstanding Ground Rent which might be payable. The Tribunal find, given the amount of the Ground Rent (£2.66 per annum), that such arrears would be minimal and therefore makes no decision on this point.
31. The Tribunal confirms Mr Halls valuation (£38.00) as being an appropriate amount to pay for the Freehold interest in the subject property.

### **Draft Transfer of Title**

32. The Freehold title is unregistered. A Draft Form of Transfer (TR1) is found at pages 110 to 114 (including plan) of the Bundle. A Draft application for First Registration (FR1) is found at pages 120 to 126 of the Bundle.
33. The Tribunal has inspected those documents and they are approved by the Tribunal for the purposes of effecting the transfer.

### **Appeal Provisions**

1. If either party is dissatisfied with this decision they may apply to this Tribunal at [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).
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.