



ACQ/304/2008

LANDS TRIBUNAL ACT 1949

COMPENSATION – compulsory purchase – abandoned house in state of disrepair – untraceable owner – cost of repair and refurbishment – valuation - comparable transactions – Housing Act 1985 section 17 and Land Compensation Act 1961 Part 1 – compensation determined at £185,000

IN THE MATTER OF A NOTICE OF REFERENCE

BETWEEN

GRAHAM ALAN CLARKE

Claimant

and

LONDON BOROUGH OF NEWHAM

**Acquiring
Authority**

Re: 44 Atkinson Road, London E16 3LR

Before: P R Francis FRICS

Sitting at: Procession House, 110 New Bridge Street, London EC4V 6JL

on

25 September 2008

The claimant did not appear and was not represented
Ms Michelle Hoque, instructed by London Borough of Newham, Legal Services, for the acquiring authority

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DECISION

1. This is a decision to determine the amount of compensation to be paid into court by the London Borough of Newham (the council) in respect of the compulsory acquisition of the freehold interest in 44 Atkinson Road, London E16 3LR (the subject property) under the Newham (44 Atkinson Road) Compulsory Purchase Order 2005 (the CPO), where the owner cannot be traced.
2. At the hearing, Ms Michelle Hoque, of counsel, set out the steps that the council had taken to trace the owner and called David Drane MRICS, a chartered surveyor and valuer with the London District Valuer's Department of the Valuation Office Agency who gave valuation and background evidence.
3. From the council's statement of case and the evidence presented at the hearing, I find the following facts. The subject property is a mid-terrace 3 storey townhouse believed to have been constructed in 1976 of traditional brick cross-wall construction with uPVC weatherboard cladding on the front elevation under mansard style part tiled and part flat roofs. It is on a large residential development approached off the A13 Newham Way, is within a short distance of Prince Regent DLR and Canning Town stations and convenient for local schools and other facilities. The property contains hall and kitchen at ground floor together with an integral single garage, living room, one bedroom and a bathroom/wc on the first floor and two further bedrooms on the second floor. Outside there is a drive and small garden to the front, and a small enclosed garden to the rear.
4. The property came to the attention of the council's Private Sector Housing Team in December 2003, following a fire to the kitchen area. Despite its attempts to encourage the owner to affect the requisite repairs and refurbishment, the property remained unoccupied and in a state of considerable disrepair. Using its statutory powers under section 17 of the Housing Act 1985, on 20 May 2004, the council's Mayor authorised the making of a Compulsory Purchase Order for the purpose of providing housing accommodation in accordance with its Empty Property Strategy. That strategy was designed to bring long-term empty properties back into beneficial use, and the council's CPO programme is a key component of the required housing regeneration within the borough.
5. The CPO was made on 6 September 2005, and confirmed by the Secretary of State on 16 January 2006. A General Vesting Declaration was made on 12 April 2006, the property vested on 11 May 2006 with possession taken on 12 May 2006, which is the valuation date for the purpose of this reference.
6. Ms Hoque confirmed that the council had taken all possible steps to trace the owner, including the placing of advertisements in the local newspaper and service of documentation either by hand to the property, or by post to Mr Clark's last known place of employment. As no response was received, and no claim for compensation was ever made, the council lodged a notice of reference with the Lands Tribunal on 22 April 2008.

7. Mr Drane is a chartered surveyor, and a District Valuer within the Valuation Office Agency. He has 18 years valuation experience within the VOA, 10 of which have included work in the Newham area. He said that he inspected the property on the date that possession was taken and found it to be in below average condition with a significant number of defects, many of which had been exacerbated by water ingress from holes in the roof. Externally, repairs were required to the main roof covering, flashings and fillets together with replacement of defective rainwater goods, rotten window frames and other external joinery and parts of the cladding. Internally, a number of damaged ceilings needed to be made good, the kitchen and bathroom required completely refitting and new wiring, plumbing and central heating installations were necessary, along with redecoration inside and out. Furthermore, allowance would need to be made for clearance of substantial amounts of rubbish and debris, both from within the house and in the garden.

8. In Mr Drane's view, only a cash purchaser would have been interested in the property in its then condition, as he thought between £35,000 and £40,000 would have to be spent to make it habitable and mortgageable. He considered the sales, at around the valuation date, of 3 comparable properties nearby. 40 Atkinson Road, only two doors away from the subject property, was to all intents and purposes identical although in satisfactory repair. The garage had been converted to provide an additional living room, and the property was sold on 5 July 2005 at £235,000. Allowing two months from the date of agreed sale to that completion date meant that no adjustment for price movements was required. 42 Coleman Road and 9 Nottingham Avenue were again identical in style and accommodation to the subject property, but in saleable order, and sales of those at £225,000 and £230,000 were completed on 29 June 2006 and 4 September 2006 respectively.

9. Had the subject property been in similar condition to the comparables, Mr Drane said that it could have been expected to achieve between £225,000 and £230,000, but allowing about £40,000 for repairs and refurbishment and a small element of profit – say £5,000, he assessed the value in its then condition at £185,000.

Conclusions

10. From the evidence, and the information provided to the Tribunal in preparation for the hearing, I am satisfied that the acquiring authority has taken all reasonable steps, and made sufficiently diligent enquiries to trace the owner, but without success. The provisions of Schedule 2 to the Compulsory Purchase Act 1965 will therefore apply. I am also satisfied that Mr Drane's valuation correctly reflects the open market value of the subject property at 12 May 2005 in its then condition.

11. The amount of compensation payable for the freehold interest in 44 Atkinson Road, London E16 3LR is thus determined at £185,000. The claimant's costs of legal transfer, if any, are to be paid in addition, and all costs in respect of this reference shall be paid by the council in accordance with Schedule 2, para (4) of the 1965 Act.

DATED 25 September 2008

(Signed)

P R Francis FRICS