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

Case Reference : CHI/29UB/OAF/2013/0009

Property : 112 High Street, Tenterden, Kent TN30 6HT

Applicant : Mr DJ & Mrs IE Bessant

Representative : Chadwick Lawrence LLP

Respondent : None

Type of Application : Section 21(1) of the Leasehold Reform Act 1967
Determination of price for enfranchisement of house

Tribunal Members : Judge A Johns (Chairman)
Mr R Athow FRICS MIRPM (Valuer Member)
Mr A O Mackay FRICS (Valuer Member)

Date of Decision : 17 December 2013

DECISION

Introduction

1. The applicants, Mr & Mrs Bessant, have a long lease of 112 High Street, Tenterden, Kent TN30 6HT (“the House”). They wish to acquire the freehold under the Leasehold Reform Act 1967 (“the Act”), but the landlord cannot be found. The Maidstone County Court therefore made an order on 11 July 2013 that Mr & Mrs Bessant are entitled to a transfer of the House under s.27 of the Act on payment into court of the appropriate sum as determined by the Tribunal.
2. This is Mr & Mrs Bessant’s application for the determination of that sum.

Inspection and evidence

3. The Tribunal directed on 12 September 2013 that the application would be disposed of as a paper determination after an inspection.
4. The Tribunal inspected the House on 21 October 2013, accompanied by Mrs Bessant. The House comprises an end of terrace property immediately facing the High Street in Tenterden, and was probably built of an original timber frame construction. The entrance door to the House is on the side of the property approached over a shared passageway, and behind the House is a small courtyard garden. It is understood that the House is in a conservation area and included on the Statutory List of Buildings of Special Architectural or Historic Interest (Grade II). The accommodation comprises three bedrooms, two bathrooms, two receptions, toilet, kitchen and a basement area. The House has recently been the subject of a programme of extensive repair, refurbishment and modernisation which has been executed to a high standard.
5. No copy of the lease of the House is available. The evidence of its terms comes from the office copy entries of Mr & Mrs Bessant’s title at Land Registry under title numbers K749686 and TT16789 and a 1923 abstract of title. Those documents record the lease as being for a term of 1000 years from 11 October 1820 subject to payment of a peppercorn rent if demanded.

6. The Tribunal had expert valuation evidence from Hugh James surveyors in the form of two reports. The first report dated 4 September 2013 arrived at a value of £200 for the price of the freehold. Such was on the basis that the absence of any current rent, save for a peppercorn, and the very long term (which had over 800 years to run) meant that a nominal sum, being £200, would be paid for the freehold.

7. Whilst the Tribunal could understand the conclusion of the report, its methodology was that under the Leasehold Reform, Housing and Urban Development Act 1993, rather than, as it should have been, under s.9 of the Act.

8. Hugh James therefore produced, at the direction of the Tribunal, a second report dated 24 November 2013; this time correctly under s.9 of the Leasehold Reform Act 1967.

9. That second report gave a value for the freehold of the House in its current state at £475,000 and adopted a percentage of 25 percent for the site value. Given the very long term and the peppercorn rent, Hugh James suggested a nil value under s.9(1) of the Act for the landlord's interest.

Statutory provisions

10. By s.27(5) of the Act, the appropriate sum to be paid into court is such amount as may be determined by the Tribunal to be the price payable in accordance with section 9 (s.27(5)(b) not being relevant in this case).

11. By s.9(1) of the Act, the price payable for a house and premises is the amount which at the relevant time the house and premises, if sold in the open market by a willing seller (with the tenant and members of his family . . . not buying or seeking to buy), might be expected to realise on the assumptions there set out.

12. Section 21(1) of the Act gives the Tribunal the jurisdiction to determine the price under s.9(1) and the appropriate sum under s.27(5).

Decision

13. The Tribunal is satisfied that the second report adopts the correct approach. That approach, whether or not the figures of £475,000 and 25 percent are correct, results by reason of the very long term in a very small sum as a matter of calculation. But the Tribunal does not agree the nil value for the landlord's interest. Hugh James were correct, in the view of the Tribunal, in their opinion expressed in the first report that a nominal sum of £200 would be paid for that interest. In the Tribunal's judgment, something rather than nothing would be paid.

14. Accordingly, the Tribunal determines that the price payable in accordance with s.9 of the Act and therefore the appropriate sum for the purposes of a transfer under s.27 is £200.

15. 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.

16. 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.

17. 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.

18. 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.

Judge A Johns (Chairman)

Dated 17 December 2013