



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

**Case Reference** : BIR/00CT/OAF/2016/0056  
BIR/00CT/OC6/2016/0039

**Property** : 162 Marshall Lake Road Shirley  
Solihull B90 4RH

**Applicants** : Mr and Mrs N Cutler

**Representative** : Lawrence & Wightman  
Chartered Surveyors

**Respondent** : Mr L Ali

**Representative** : N/A

**Type of Application** : Application under Section 21(1)(a)  
and Section 21(1)(ba) Leasehold  
Reform Act 1967

**Tribunal Members** : Judge M K Gandham  
Mr D Satchwell FRICS

**Date and venue of  
Hearing** : 15<sup>th</sup> September 2016  
Centre City Tower, 5 – 7 Hill Street,  
Birmingham B5 4UU

**Date of Decision** : 5 October 2016

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**DECISION**

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## Decision

1. The Tribunal determines that, taking account of the evidence adduced and the Tribunal's own general knowledge and experience, the price payable by the Applicants for the acquisition of the freehold interest in the property known as 162 Marshall Lake Road Shirley Solihull B90 4RH (the 'Property') in accordance with section 9(1) of the Leasehold Reform Act 1967 (as amended) is **£13,272**.
2. The Tribunal determines the Respondent's legal fees at **£500** plus VAT (if applicable) and disbursements (which should not exceed £15); and that no valuation fee is payable to the Respondent.

## Reasons for Decision

### Introduction

3. By Applications received by the Tribunal on 13<sup>th</sup> July 2016, the Applicants, Mr Neil Cutler and Mrs Deirdre Cutler, applied to the First-tier Tribunal, Property Chamber for the determination under section 21(1)(a) of the Leasehold Reform Act 1967 (the 'Act') for the price payable for the Property under section 9, and, under subsection 21(1)(ba) of the Act, for the determination of costs.
4. A Notice had been served by the Applicants on the Respondent, Mr Liaqat Ali, on 29<sup>th</sup> March 2016, but no counter notice had been received.
5. Directions were issued in respect of both matters on 15<sup>th</sup> July 2016 and, in compliance with those Directions, the Applicants' Representative, Mr Keith Chew of Lawrence & Wightman Chartered Surveyors, submitted a report, which was received by the Tribunal on 26<sup>th</sup> August 2016.

### The Law

6. The relevant law in relation to the application is set out in section 9 of the Leasehold Reform Act 1967 as amended by the Commonhold and Leasehold Reform Act 2002.

### Inspection

7. The Tribunal inspected the Property on 15<sup>th</sup> September 2016 in the presence of Mr Cutler, one of the Applicants.
8. The Property is a traditional two storey semi-detached house constructed in brick and tile. It has a relatively large frontage with off road parking, in addition to a purpose built detached garage. The off road parking is particularly useful as the main road has parking restrictions, being part

of a red route. There is a side gate leading to a fair sized garden to the rear, which has a brick patio and lawn. There is also an outside toilet.

9. The ground floor accommodation consists of a hallway, lounge, kitchen and conservatory. On the first floor there are two double bedrooms, a small single bedroom/boxroom and bathroom. The Property is centrally heated, double glazed and in a reasonably good condition.
10. The Property is held under a lease, (the 'Lease'), dated 15<sup>th</sup> December 1952, for a period of 99 years from 24<sup>th</sup> June 1952 at a fixed ground rent of £6.00 per annum. At the valuation date, 29<sup>th</sup> March 2016, there were approximately 35 years and 3 months unexpired.

### **Hearing**

11. Following the inspection, a public hearing was held at the Tribunal's offices in Birmingham. The Hearing was attended by Mr Cutler and his representative, Mr Chew. The Respondent did not attend and was not represented.

### **Applicant's Case**

12. Mr Chew presented his valuation in accordance with section 9(1) of the Act.

### *Entirety Value*

13. Mr. Chew referred to his written submissions in which he had included evidence of the sale of three properties. These properties were within 0.25 miles of the Property and the sales had taken place within the three months prior to the date of the service of the Notice:

**24 Conway Road - £219,950 in December 2015**  
**39 Cranmore Boulevard - £210,000 in March 2016**  
**26 Avon Road - £240,000 in March 2016**

Mr Chew confirmed that none of the properties was directly comparable to the Property in relation to the type of property, but that the accommodation was similar or capable of being similar. As such, Mr Chew considered that a realistic value, having taken in to account the frontage and parking capability, was £230,000.

### *Standing House Value*

14. Mr Chew had adopted the same figure as for the Entirety Value of £230,000, the Property being in generally good order.

### *Site Value Apportionment*

15. Mr Chew confirmed that, in matters of this type, he generally agreed a site value of 33 1/3% of the entirety value; however, in this matter he had adopted a slightly higher value of 34%, having taken in to account: the area, plot size, relatively wide frontage and the fact there was sufficient width to the side of the house to facilitate the erection of a two storey extension (subject to planning consent being obtained).

### *Capitalisation Rate*

16. Mr Chew proposed a rate of 6.5%, as the ground rent was fixed at a yearly rent of less than £40.00 per annum.

### *Deferment Rate*

17. Following the rates determined by the Tribunal since *Zuckerman and Others v Trustees of the Calthorpe Estate* LRA/97/2008, Mr Chew proposed the figure of 5.5% be adopted.

### *Schedule 10 Allowance*

18. Following the decision in *Clarice Properties Limited* [2012] UKUT 4 (LC), Mr Chew submitted that a Schedule 10 deduction was appropriate and applicable in this matter. Taking in to account the length of term unexpired, Mr Chew proposed a figure of 10%.

### *Valuation*

19. Applying those figures to the valuation formula Mr Chew arrived at a value of £13,271.81, which he rounded to £13,272.

### *Legal Costs and Valuation Fees*

20. Mr Chew submitted that, as both the freehold and leasehold title were registered, he believed that the transaction should be fairly straightforward. As such, he submitted that a reasonable figure for legal costs would be £500 plus VAT and reasonable disbursements.
21. Mr Chew confirmed that a counter notice had not been received from the Respondent, but that he had received a telephone call from someone claiming to be speaking on behalf of the Respondent, after the Notice had been served. No valuation had been undertaken pursuant to the Notice and no submissions as to valuation had been received by him. As such, he contended no valuation fee was payable.

### **Respondent's Case**

22. No submission was received from the Respondent and the Respondent did not attend the Hearing.

## **The Tribunal's Deliberations**

23. The Tribunal considered all the written and oral evidence submitted and summarised above.

### *Enfranchisement Price*

24. The valuation exercise under section 9(1) is in three stages:

Stage (1) the valuation of the remainder of the existing term by capitalising the Ground Rent,

Stage (2) Valuing an assumed extension to the lease of 50 years and

Stage (3) Valuing the property with assumed vacant possession after the end of the existing term plus 50 years (subject to tenant's rights under Schedule 10 of the Local Government and Housing Act 1989 Act).

25. The Tribunal, having heard the evidence of Mr Chew and based on its own expert knowledge, was satisfied that the approach taken by Mr Chew was the proper approach to arrive at the enfranchisement price and that his valuation figures fell within a band of reasonableness. Accordingly, the Tribunal, in the absence of any contrary evidence being presented by the Respondent, adopts Mr Chew's valuation as detailed in the Appendix.

### *Legal Costs and Valuation Fees*

26. The Tribunal finds, on the evidence presented, that no valuation was carried by the Respondent '*so far as they are incurred in pursuance of the notice*' under section 9 (4)(e) of the Act.
27. The amount for legal costs proposed by Mr Chew (£500 plus VAT) is not disputed by the Respondent and accordingly the Tribunal, without further investigation in to how that figure is calculated, but with the benefit of the members' knowledge and experience of such matters and in view of the fact that both titles are registered, determine that amount to be reasonable.

## **Appeal Provisions**

28. If either party is dissatisfied with this decision they may apply to this Tribunal 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).

M. K. GANDHAM

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Judge M. K. Gandham

## Appendix

162 Marshall Lake Road, Shirley, Solihull B90 4RH

### Valuation

#### Term

Ground Rent	£6.00	
YP 35.25 years @ 6.5%	<u>13.7135</u>	

£82.28

#### First Reversion

	£230,00	
Entirety Value	0	
Site value @ 34%	£78,200	
Modern Ground Rent @ 5.5%	£4,301	
YP 50 years @ 5.5%	16.9315	
PV £1 35.25 years @ 5.5%	<u>0.1515</u>	

£11,032.5  
9

#### Second Reversion

	£230,00	
Standing House Value	0	
	£207,00	
Reversion to 90% Capital Value	0	
PV £1 85.25 years @ 5.5%	<u>0.01042</u>	

£2,156.94  
£13,271.8  
1

Say £13,272