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**LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL**

BIR/OOCU/OAF/2003/0065
BIR/OOCU/OC6/2003/0044

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

ON APPLICATIONS UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicants: Mr S W and Mrs S E Hodges (leaseholders)

Respondent: Mr R F Whitehouse (freeholder)

Subject property: 50 Brabham Crescent
Streetly
Sutton Coldfield
B74 2BN

Date of tenant's notice: 11 April 2002

Applications to the LVT: 21 May 2003 (price payable)
20 May 2003 (reasonable costs)

Hearing: 25 November 2003

Appearances:

For the applicants: Mr A W Brunt FRICS

For the respondent: Not represented

Members of the LVT: Professor N P Gravells MA
Mr S Berg FRICS
Mrs C L Smith

Date of determination:

Introduction

- 1 This is a decision on two applications under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Mr and Mrs Hodges, leaseholders of the house and premises at 50 Brabham Crescent, Streetly, Sutton Coldfield, B74 2BN ("the subject property"). The two applications are, first, under section 21(1)(a) for the determination of the price payable under section 9(1) for the freehold interest in the subject property; and, secondly, under section 21(1)(ba) for the determination of the reasonable costs payable under section 9(4).
- 2 The applicant leaseholders hold the subject property under a lease, dated 17 December 1964, for a term of 99 years from 24 June 1962 at a ground rent of £20.00 per year. The lease was assigned to the applicants on 29 May 1991. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was approximately fifty-nine years.
- 3 The applicants served on the respondent landlords a tenant's notice dated 11 April 2002, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and they subsequently made the present applications.

Subject property

- 4 The subject property is a semi-detached house of brick and tile construction, located on Brabham Crescent in a residential area of Streetly on the edge of Sutton Coldfield. The accommodation (which has been extended) comprises, on the ground floor, entrance lobby, hall, sitting rooms and dining kitchen; and, on the first floor, three bedrooms, bathroom and separate wc. The property is double-glazed. Space heating is by gas-fired central heating (with radiators in all rooms). There is an integral garage. Outside there are gardens to the front, side and rear of the property. The frontage of the property is approximately 7.6 metres and the total site area is approximately 230 square metres.

Inspection and hearing

- 6 The Tribunal inspected the subject property on 25 November 2003 in the presence of Mr and Mrs Hodges, the applicant leaseholders, and Mr Brunt.
- 7 The subsequent hearing was attended by Mr Brunt. The respondent freeholder did not attend and was not represented.

Representations of the parties

The price payable for the freehold interest in the subject property

- 8 Mr Brunt, on behalf of the applicant leaseholders, adopted as the basis of valuation under the 1967 Act the generally recognised three-stage approach normally attributed to *Farr v Millerson Investments Ltd* (1971) 22 P & CR 1055. That approach involves (i) the capitalisation of the ground rent payable under the existing lease for the remainder of the unexpired term; (ii) the identification of a modern ground rent (by decapitalising the site value); and (iii) the capitalisation of the modern ground rent as if in perpetuity, deferred for the remainder of the unexpired term. The price payable on this basis is the sum of the capitalisations at stages (i) and (iii).
- 9 Mr Brunt gave evidence of asking prices in relation to a number of similar properties in the locality of the subject property. He also drew attention to a number of decisions of the Leasehold Valuation Tribunal in relation to the price payable for the freehold interest in other properties on Brabham Crescent. Mr Brunt acknowledged that the passage of time since the relevant date for the valuation rendered the determination of the value of the subject property at that date more difficult; but, on the basis of his evidence, he submitted that the Tribunal should adopt the figure of £120,000 as the standing house value of the subject property at the relevant date. He further submitted that the Tribunal should apply a 33 1/3 per cent figure in calculating the site value on the standing house basis, resulting in a site value of £40,000; and that the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) and decapitalising and recapitalising the site value at stages (ii) and (iii) is 7 per cent.
- 10 On the basis of those figures, he submitted the following valuation:

(i) Capitalisation of existing ground rent to termination of lease

Ground rent payable: £20.00 per year
Years Purchase: 59 years @ 7%: 14.022
Capitalised ground rent: £20.00 x 14.022 = £280.44

(ii) Modern ground rent

Standing house value of subject property: £120,000
Percentage attributable to site: 33 1/3%: £40,000
Annual equivalent @ 7%: £2,800

(iii) Capitalisation of modern ground rent

Modern ground rent (above): £2,800
Years Purchase at 7% in perpetuity deferred 59 years: 0.264
Capitalised modern ground rent: £2,800 x 0.264 = £739.20

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say) £1,020.

Reasonable costs

- 11 In relation to legal costs under section 9(4) of the 1967 Act, Mr Brunt submitted that, in the absence of any evidence of actual costs incurred by the respondent, the reasonable costs payable by the applicants should be limited to £250 (plus VAT if applicable). He submitted that that figure was in line with recent determinations of the Leasehold Valuation Tribunal.
- 12 In relation to valuation costs under section 9(4)(e), Mr Brunt submitted that, in the absence of evidence of any valuation carried out by the respondent between the relevant date and the date of the leaseholders' application to the Tribunal, no valuation costs were payable by the applicants.

Determination of the Tribunal

The price payable for the freehold interest in the subject property

- 13 The Tribunal holds that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.
- 14 The Tribunal holds that the basis of valuation adopted by Mr Brunt properly reflects the principles of the 1967 Act applicable in the present case.
- 15 In the absence of any evidence from the respondent, the Tribunal examined the figures submitted by Mr Brunt in respect of the standing house value of the subject property, the percentage to be applied to the standing house value in calculating the site value and the percentage yield rate to be applied at all stages of the valuation calculation. The Tribunal considered whether those figures were open to challenge on their face or in the light of the evidence of Mr Brunt in response to questions from the Tribunal.
- 16 The Tribunal acknowledges (as had Mr Brunt) that the passage of time since the relevant date for the valuation renders the determination of the value of the subject property at that date more difficult. The Tribunal considered the evidence submitted by Mr Brunt; but the Tribunal was of the view that the figure suggested by Mr Brunt was marginally low. Using its general knowledge and experience (but no special knowledge) the Tribunal finds that the standing house value of the subject property at the relevant date was £125,000.
- 17 Bearing in mind previous practice of Leasehold Valuation Tribunals in the Midland Rent Assessment Panel area, and in the absence of any circumstances suggesting a departure from that practice, the Tribunal holds that the appropriate percentage to be applied to the standing house value in calculating the site value is 33 per cent; and that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7 per cent.

- 18 Adopting those figures, and applying figures of Years Purchase from Parry's Valuation Tables, the Tribunal calculates the price payable as follows:

(i) *Capitalisation of existing ground rent to termination of lease*

Ground rent payable: £20.00 per year
Years Purchase: 59 years @ 7%: 14.0219
Capitalised ground rent: £20.00 x 14.0219 = £280.44

(ii) *Modern ground rent*

Standing house value of subject property: £125,000
Percentage attributable to site: 33%: £41,250
Annual equivalent @ 7%: £2,887.50

(iii) *Capitalisation of modern ground rent*

Modern ground rent (above): £2,887.50
Years Purchase at 7% in perpetuity deferred 59 years: 0.26379
Capitalised modern ground rent: £2,887.50 x 0.26379 = £761.70

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of £1,042.14.

- 19 Accordingly, the Tribunal determines the price payable under section 9(1) of the 1967 Act for the freehold interest in the subject property at £1,042.

Reasonable costs

- 20 In the absence of any evidence of actual costs incurred by the respondent, the Tribunal accepts the submissions of Mr Brunt and holds (i) that the legal costs payable to the respondent by the applicants should not exceed £250 (plus VAT if applicable); and (ii) that no valuation costs are payable to the respondent by the applicants.

Summary

- 21 The Tribunal determines that the price payable by the applicant leaseholders for the freehold interest in the subject property is £1,042; that the respondent freeholder's reasonable legal costs are £250 (plus VAT if applicable); and that no valuation costs are payable.

Nigel Gravells

NIGEL P GRAVELLS
CHAIRMAN