

LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

BIR/41UK/OAF/2003/0112

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicants: Mr M A and Mrs S L Wilcox (leaseholders)

Respondents: Freehold Managers (Nominees) Ltd (freeholder)

Subject property: 8 Avill
Hockley
Tamworth
B77 5QE

Date of tenants' notice: 5 June 2003

Application to the LVT: 13 August 2003

Hearing: 25 November 2003

Appearances:

For the applicants: Mr A W Brunt FRICS

For the respondent: Ms R Hayes

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 an application under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Mr and Mrs Wilcox, leaseholders of the house and premises at 8 Avill, Hockley, Tamworth B77 5QE ("the subject property"). The application is under section 21(1)(a) for the determination of the price payable under section 9(1) for the freehold interest in the subject property.
- 2 The applicant leaseholders hold the subject property under a lease, dated 23 October 1989, for a term of ninety-nine years from 25 March 1987, at a ground rent of £100.00 per year from 25 March 1987 to 24 March 2012, £134.00 per year from 25 March 2012 to 24 March 2037, £168.00 per year from 25 March 2037 to 24 March 2062 and £200.00 per year from 25 March 2062 to 24 March 2086. The lease was assigned to the applicants on 10 June 1996. The unexpired term at the date of the Notice of Tenant's Claim to Acquire the Freehold ("the relevant date") was approximately eighty-three years.
- 3 The applicants served on the respondent landlord a tenant's notice dated 5 June 2003 claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and they subsequently made the present applications.
- 4 The parties do not dispute and the Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

Subject property

- 5 The subject property is a detached house of brick and tile construction, located on Avill, in a residential development on the outskirts of Tamworth. The accommodation comprises, on the ground floor, an entrance hallway, two reception rooms and kitchen; and, on the first floor, landing, four bedrooms (one with en-suite bathroom) and bathroom/wc. Outside there are gardens to the front and rear of the property. There is a single integral garage. The property occupies a corner plot; the frontage is approximately 10.4 metres and the total site area is approximately 316 square metres.

Inspection and hearing

- 6 The Tribunal inspected the subject property on 25 November 2003 in the presence of Mr Wilcox, one of the applicant leaseholders, and Mr Brunt.
- 7 The subsequent hearing was attended by Mr Brunt (representing the applicants) and by Ms Hayes, of Freehold Managers (Nominees) plc (representing the respondent).

Representations of the parties

- 8 It is appropriate for the Tribunal to record that the respondent freeholder failed to comply with the directions of the Tribunal dated 23 September 2003, requiring the parties not less than fourteen days prior to the hearing to lodge specified documents with the Tribunal, including a statement of the parties' skeleton arguments. Ms Hayes offered no good reason for that non-compliance; and proceeded to make submissions that neither Mr Brunt (nor the Tribunal) could reasonably have been expected to anticipate. Nonetheless, Mr Brunt indicated his willingness to proceed with the hearing without adjournment; but he requested that the Tribunal record in its decision the fact of the respondent's non-compliance.
- 9 Both parties 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).
- 10 It was common ground between the parties that the standing house value of the subject property at the relevant date was £240,000 and that the appropriate percentage to be applied to the standing house value in calculating the site value is 35%. The parties also agreed that the appropriate percentage yield rate to be applied in decapitalising the site value at stage (ii) is 7%.
- 11 The only issue in dispute between the parties was therefore the percentage yield rate to be applied in capitalising the ground rent at stage (i) and recapitalising the site value at stage (iii).
- 12 Mr Brunt, on behalf of the applicant leaseholders, submitted that, in line with the figure adopted in previous decisions of the Leasehold Valuation Tribunal, and in the absence of any reason to depart from that figure, the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7%.
- 13 On the basis of (a) the agreed figures for 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 appropriate the percentage yield rate to be applied at stage (ii) of the valuation calculation and (b) his figure for the percentage yield rate to be applied at stages (i) and (iii) of the valuation calculation, Mr Brunt submitted the following valuation:

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

Ground rent payable (to 24 March 2012): £100 per year

Years Purchase: 9 years @ 7%: 6.51

Capitalised ground rent: £100 x 6.51 = £651

Ground rent payable (to 24 March 2037): £134 per year
Years Purchase: 25 years @ 7%: 11.65
PV £1.00 in 9 years @ 7%: 0.5439
Capitalised ground rent: £134 x 11.65 x 0.5439 = £849.08

Ground rent payable (to 24 March 2062): £168 per year
Years Purchase: 25 years @ 7%: 11.65
PV £1.00 in 34 years @ 7%: 0.1002
Capitalised ground rent: £168 x 11.65 x 0.1002 = £196.11

Ground rent payable (to 24 March 2086): £200 per year
Years Purchase: 24 years @ 7%: 11.469
PV £1.00 in 59 years @ 7%: 0.01846
Capitalised ground rent: £200 x 11.469 x 0.01846 = £42.34

Total capitalised ground rent = £1,738.53

(ii) *Modern ground rent*

Standing house value of subject property: £240,000
Percentage attributable to site: 35%: £84,000
Annual equivalent @ 7%: £5,880

(iii) *Capitalisation of modern ground rent*

Modern ground rent (above): £5,880
Years Purchase at 7% in perpetuity deferred 83 years: 0.052
Capitalised ground rent: £5,880 x 0.052 = £305.76

The addition of the capitalised existing ground rent and the capitalised modern ground rent produced a figure of (say) £2,044.

14 Ms Hayes, on behalf of the respondent freeholder, agreed that the percentage yield rate to be applied in decapitalising the site value at stage (ii) of the calculation is 7%; but she submitted that the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) and recapitalising the site value at stage (iii) is 3.5%.

15 On the basis of (a) the agreed figures for 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 appropriate the percentage yield rate to be applied at stage (ii) of the valuation calculation and (b) her figure for the percentage yield rate to be applied at stages (i) and (iii) of the valuation calculation, Ms Hayes submitted the following valuation:

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

Ground rent payable (to 24 March 2012): £100 per year
Years Purchase: 9 years @ 3.5%: 7.7734
Capitalised ground rent: £100 x 7.7734 = £777.34

Ground rent payable (to 24 March 2037): £134 per year
Years Purchase: 25 years @ 3.5%: 16.8405
PV £1.00 in 9 years @ 3.5%: 0.7337
Capitalised ground rent: £134 x 16.8405 x 0.7337 = £1655.76

Ground rent payable (to 24 March 2062): £168 per year
Years Purchase: 25 years @ 3.5%: 16.8405
PV £1.00 in 34 years @ 3.5%: 0.2636
Capitalised ground rent: £168 x 16.8405 x 0.2636 = £745.64

Ground rent payable (to 24 March 2086): £200 per year
Years Purchase: 24 years @ 3.5%: 16.4081
PV £1.00 in 59 years @ 3.5%: 0.1314
Capitalised ground rent: £200 x 16.4081 x 0.1314 = £431.13

Total capitalised ground rent = £3,609.87

(ii) *Modern ground rent*

Standing house value of subject property: £240,000
Percentage attributable to site: 35%: £84,000
Annual equivalent @ 7%: £5,880

(iii) *Capitalisation of modern ground rent*

Modern ground rent (above): £5,880
Years Purchase at 3.5% in perpetuity deferred 83 years: 1.64393
Capitalised ground rent: £5,880 x 1.64393 = £9,666.31

The addition of the capitalised existing ground rent and the capitalised modern ground rent produced a figure of (say) £13,275.

16 Ms Hayes sought to support her submission that the appropriate percentage yield rate at stages (i) and (iii) was 3.5% by reference to three arguments:

- That the decision of the Leasehold Valuation Tribunal dated 10 January 2003 in respect of the price payable for the freehold interest in 21 Avill, in which the Tribunal had applied a yield rate of 7% (except in relation to the capitalisation of the ground rent to the first rent review), should be disregarded on the ground that the Tribunal had excluded the argument of the freeholder that the appropriate yield rate should be 6%.
- That prices paid for freehold ground rents indicated a percentage yield rate of 5% and support the application of a lower yield rate to the valuation calculation under section 9(1) of the 1967 Act.
- That the new stamp duty land tax system, as it applies to the grant and assignment of leases, adopts a discount rate of 3.5% in order to determine the taxable net present value of the total rental value.