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(115)

Eastern Rent Assessment Panel
Great Eastern House Tenison Road Cambridge CB1 2TR
Telephone: 0845 1002616 Facsimile: 01223 505116



REASONS FOR DECISION OF LEASEHOLD VALUATION TRIBUNAL
Leasehold Reform Act 1967 Sections 1 and 27

Premises: 156 and 158 High Street, Chesterton, Cambridge CB4 1NS

Our ref: CAM/12UB/OAF/2004/0006

Hearing: 27 September 2004

Applicants: No 156 – John Scott Christie
No 158 – Natalie Louise Adams and Vincent Peter Smith

Respondent: Persons Unknown

Members of Tribunal:

Mr G M Jones - Chairman
Mr J R Humphrys FRICS
Mr W J Tawn FRICS FBEEng FNAEA

0. BACKGROUND

0.1 The Property

These two properties are very small terraced houses in an area within Cambridge, adjacent to the River Cam. Chesterton was formerly a separate village and still retains a village atmosphere. The houses were built in around 1905 and have small gardens. Each has two bedrooms. Substantial extensions were added at the rear in the 1980's, providing modern bathrooms and kitchens of reasonable size. Both properties are in reasonable structural condition and in good order internally. They have gas-fired central heating. No 156 has wooden windows and No 158 UPVC. No 158 is significantly larger because the main (original) section is a bit wider than No 156, the latter also being built on a tapering plot, which reduces the size of the rear extension.

0.2 No 156 is registered with good leasehold title under title number CB 79334. No 158 is registered with leasehold title absolute under title number CB80773. Little is known about the history of the site. The Land Register indicates that the leases were granted on 21 November 1588 for a term of 500 years at a peppercorn rent. There are other properties nearby which were subject to similar leasehold terms. Presumably, there was originally a single lease governing all these properties. The lease itself has been lost and no-one can now recall who was the original lessor. Who the current freeholder may be is also unknown.

1. THE APPLICATION

- 1.1 The Applicants are the current leaseholders. They applied to the Cambridge County Court for orders under section 27 of the Leasehold Reform Act 1967 (as amended) to enable them to acquire their respective freeholds. The only issue for the Tribunal is the ascertainment of the purchase price.

2. THE ISSUES

- 2.1 It seems clear that this process must be undertaken in accordance with section 9(1) of the Act. The method of valuation is clearly set out in section 9(1) and the methodology adopted by the Tribunal can be seen in the valuation schedules appended hereto. The Tribunal must ascertain the value being transferred from landlord to tenant. This is intended to represent the lost ground rents and the loss of the right to recover vacant possession in due course.
- 2.2 The method prescribed by section 9(1) requires the Tribunal to ascertain the site value and the modern ground rent and then apply these figures to the remaining term of the lease on certain assumptions set out in the Act. The basic parameters are the open market value of the properties as they stand; the percentage representing site value; and the yield.
- 2.3 Sums payable in the future must then be discounted in accordance with generally accepted valuation tables in order to produce a figure sufficient to compensate the landlord as provided by the Act. This is a rather artificial process, which does not necessarily reflect market forces.

3. THE EVIDENCE

- 3.1 The Applicants rely upon the witness statement of Fay Angela Howard, Assistant Solicitor of Ginn & Co and expert reports from Valerie Roper FRICS MCI Arb of Lawrence Roper Ltd (trading as Lawrence Roper Chartered Surveyors). Of course, the Tribunal is an expert tribunal and is able to apply its own skill, judgment and local knowledge to the valuation process.
- 3.2 Ms Roper sets out her valuation method and, by her own account, adopts generous figures, favourable to the landlord, for the various elements which go to make up the final figures. She concludes that a reasonable price for No 156 would be £315 and for No 158 £320.
- 3.3 These modest figures reflect the fact that the leases have 84 years to run and the Tribunal must assume that the tenants will apply for 50-year extensions. For the next 84 years, no rent will be payable. Thereafter, the tenants would have to pay a modern ground rent. The landlord is thus giving up the right to receive a modern ground rent from 2088 until 2138 and then to recover vacant possession.

4. THE LAW

- 4.1 **The Leasehold Reform Act 1967** enables tenants of long leases at low rents to enfranchise their properties – in other words to acquire the freehold on terms set out in the Act.

Recent amendments introduced by Part 4 of the Commonhold & Leasehold Reform Act 2002 have expanded the scope of the 1967 Act. If the price is not agreed between the parties, there is provision under section 21 for an application to the Leasehold Valuation Tribunal to determine the price. The valuation methods are set out in section 9 of the Act. The method of determination depends upon which category the property and the lease fall into.

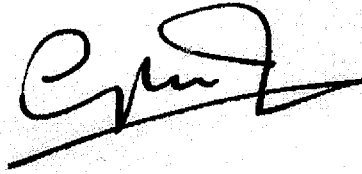
- 4.2 **Section 27** of the 1967 Act provides for an application to the Court and sets out the procedure to be followed in cases where the landlord cannot be found. One part of this procedure requires the Leasehold Valuation Tribunal to determine the price, in accordance with the appropriate valuation method set out in the Act.
- 4.3 In the case of a very old lease at a peppercorn rent, the appropriate valuation method is that set out in section 9(1). Once the price is determined, the money is to be paid into Court.

5. CONCLUSIONS

- 5.1 The Tribunal sympathises with the wish of Ms Roper to be as fair as possible to the absent landlord. However, in the judgment of the Tribunal, she has been too generous. She is not based locally, though she has some local knowledge. Her initial reaction was that the open market value of No 156 is £180,000 and of No 158 £185-190,000. She uprates these figures in the light of a single transaction, namely, the recent sale of a three-bedroom house in Chesterton with a more secluded garden at a price of £220,000.
- 5.2 The duty of the Tribunal is to strike a fair balance between landlord and tenants. The Tribunal is entitled to and does employ the local knowledge of its members for this purpose. The Tribunal agrees with the initial assessment of Ms Roper (adopting the higher figure in the case of No 158). In the judgment of the Tribunal she has not allowed a sufficient differential between her comparable and these very small two-bedroom houses with small overlooked gardens. The Tribunal points out that No 156 is next to commercial premises and a shared right of way runs from No 156 across the rear of No 158 to an alleyway between No 164 and the adjoining flats.
- 5.3 Moreover, Ms Roper considers that the site values represent 40% of OMV; but she adopts a figure of 45%. The Tribunal accepts that in some cases the figures mentioned by Ms Roper would be appropriate.
- 5.4 However, site value depends upon the possibilities for development offered by the site, were it to be cleared. In the judgment of the Tribunal, these sites are so small and awkward that they would be difficult to develop in accordance with modern planning criteria and building regulations, bearing in mind the proximity of the site to a cherished conservation area. The existing buildings represent the most one could do with these sites, possibly more than could be done within the modern statutory framework. Moreover, the practical difficulties of redevelopment include the busy road and parking problems in the locality. Accordingly, in the judgment of the Tribunal the site values (which must be considered separately) should be taken as 30% of OMV.

- 5.5 Finally, Ms Roper has adopted a yield of 7% per annum. She says that this is a figure generally applied to this type of valuation, though the figure is "not set in stone". In this respect, much depends upon location. In the experience of the Tribunal 7% is a fairly low rate of yield, perhaps more appropriate to more substantial sites let in strong market conditions. In this location and for these sites at the valuation date, the Tribunal adopts a figure of 9%.
- 5.6 The Tribunal concludes that the price for each of the two properties, ascertained in accordance with section 9(1) is **£40.00**. Bearing in mind the sums involved, the Tribunal can find no reasonable basis to differentiate between the two properties. The Tribunal's calculation is set out in the Schedule annexed hereto.

Geraint M Jones MA LLM (Cantab)
Chairman
12 October 2004



LEASEHOLD VALUATION TRIBUNAL'S VALUATION
in accordance with The Leasehold Reform Act 1967 Section 9(1)

156 High Street, Chesterton, Cambridge

Assessment of Modern Ground Rent
Section 15 Rent
Standing House Approach

Entirety Value	180,000
Site Value 30%	54,000
Section 15 Rent @ 9%	4,860

Valuation

1st Term		
Rent	assume peppercorn	
84 years	value	NIL
2nd Term		
Section 15 Rent	4,860	
YP 50 yrs @ 9%	10.9617	
PV £1 in 84 yrs @ 9%	.0007	37.29
Reversion		
Entirety Value	180,000	
Value in 134 yrs @ 9%, say		<u>1.00</u>
Total		<u>38.29</u>
Enfranchisement Price	say	<u>£40.00</u>

LEASEHOLD VALUATION TRIBUNAL'S VALUATION
in accordance with The Leasehold Reform Act 1967 Section 9(l)

158 High Street, Chesterton, Cambridge

Assessment of Modern Ground Rent
Section 15 Rent
Standing House Approach

Entirety Value	190,000
Site Value 30%	57,000
Section 15 Rent @ 9%	5,130

Valuation

1st Term		
Rent	assume peppercorn	
84 years	value	NIL
2nd Term		
Section 15 Rent	5,130	
YP 50 yrs @ 9%	·10.9617	
PV £1 in 84 yrs @ 9%	.0007	39.36
Reversion		
Entirety Value	190,000	
Value in 134 yrs @ 9%, say		<u>1.00</u>
Total		<u>40.36</u>
Enfranchisement Price	say	<u>£40.00</u>