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LVT 9

Our Ref: BIR/00CU/0AF/2003/0167

MIDLAND RENT ASSESSMENT PANEL

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967

Applicant: Mr & Mrs A J Holden

Respondent: DD Properties

Re: 20 Lowlands Avenue, Streetly, Sutton Coldfield, West Midlands, B74 3BQ

Date of Tenants Notice: 3rd October 2003

RV as at 1.4.73: Less than £500

Application dated: 28th October 2003

Heard at: Midland Leasehold Valuation Tribunal Offices in Birmingham

On: 20th January 2004

APPEARANCES:

For the Tenant: A W Brunt FRICS of Anthony Brunt & Co

For the Landlord: None

Members of the Leasehold Valuation Tribunal:

NR Thompson (Chairman)
Mrs A Bartram
P J H Waller

Date of Tribunals decision: 12 FEB 2004

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER SECTION 21 AND 21 (1) (ba) OF
THE LEASEHOLD REFORM ACT 1967**

**IN THE CASE OF
HOLDEN v DD PROPERTIES**

**20 LOWLANDS AVENUE
STREETLY
SUTTON COLDFIELD
WEST MIDLANDS
B74 3QN**

References : BIR/00CU/0AF/2003/0167

Background

This a determination under Section 9 of the Leasehold Reform Act 1967 (as amended) as to the price to be paid for the freehold interest in respect of 20 Lowlands Avenue, Streetly, Sutton Coldfield, West Midlands B74 3QN. (Terms had already been agreed between the parties regarding the acquisition of the intermediate headleasehold interest.) The lessees, Mr & Mrs A J Holden hold the property by way of an underlease dated 2nd January 1956 for a term of 99 years (less 3 days) from 25th December 1954 at a fixed yearly ground rent of £13. The tenants' Notice of Claim to acquire the freehold interest was dated 3rd October 2003, when approximately 50 years of the term remained unexpired. The Tribunal accepted that the qualifying conditions for entitlement to enfranchise under the Act had been fulfilled.

Property

The Tribunal inspected the property on 20th January 2004 in the presence of Mr & Mrs Holden and found it to comprise a two storey semi detached house of brick and interlocking tile construction with a side garage. It forms part of a substantial development of similar houses constructed some forty five years ago.

The centrally heated and double glazed accommodation comprises an hall, through living room with rear conservatory, kitchen and utility room on the ground floor, with three bedrooms, and combined bathroom and W.C. on the first floor. Externally the property has front and rear gardens. The frontage is 8.08m (26.5 feet) and the site area is 341.14 square metres (408 square yards).

Hearing

At the Hearing, the lessees were represented by Mr. A W Brunt FRICS of Anthony Brunt & Co., Chartered Surveyors of Birmingham. The landlords were not present or represented.

The Hearing commenced with Mr. Brunt introducing his case on behalf of the lessees by submitting details of the property and the following valuation:-

Term

Annual Ground Rent : £ 7.34*
YP 50 years @ 7% 13.8

£ 101.29

Reversion

Entirety Value : £160,000
Site Value @ 35% : £ 56,000
Sec.15 Rent @ 7% : £ 3,920
YP deferred 50 years @ 7% : 0.4849

£ 1900.81

Say £ 2,002

(* The apportioned ground rent had been calculated by dividing the total ground rent reserved under the headlease by the number of houses (103) contained in the three parcels within the Title.)

In support of his Entirety Value, Mr. Brunt referred the Tribunal to illustrated sale particulars of several freehold semi detached properties in the area of the subject premises being offered for sale around the date of valuation (3rd October 2003):

Lowlands Avenue, Streetly - asking price £159,950
Planetree Road, Streetly - asking price £162,950
Egerton Road, Streetly - asking price £165,000
Yewtree Road, Streetley - asking price £167,500
Oakwood Drive, Streetly - asking price £154,995

He also referred to three recent decisions by the Tribunal involving 36 Brabham Crescent (BIR/00CU/OAF/2003/0104), 15 Brabham Crescent (BIR/OOCU/OAF/2003/0118) and 48 Fordwater Road (BIR/OOCU/OAF/2003/0141) where the dates of valuation were 30th May 2003, 26th June 2003 and 17th July 2003 respectively, and the Tribunal had adopted an Entirety Value of £145,000 in each case.

In addition, Mr Brunt tabled particulars of 8 Lowlands Avenue, Streetly (six doors away from the subject property) which had only come to his attention on the day of the hearing, and had recently been offered for sale at "Offers in the region of £184,950". The agents had confirmed that a sale had now been agreed at a figure of £183,000 subject to the prospective purchaser selling their existing property. Mr Brunt pointed out that while this potential transaction was three months after the date of valuation in the present case, it nevertheless provided a degree of guidance to the possible value of the subject property. It had to be borne in mind however that there was considerable scope for the proposed sale not to proceed, given that it was conditional on the prior sale of the purchaser's existing house.

In conclusion, Mr Brunt emphasised the very poor condition of the adjoining house (22 Lowlands Avenue), which had been drawn to the attention of the Tribunal at the time of the inspection, and he suggested this would have a significant and depressing effect on the value of number 20.

Taking into account therefore all the available information, Mr Brunt considered that the (No: 8) Lowlands Avenue, Egerton Road and Yew Tree Road premises provided the most useful comparables for the purposes of ascertaining the Entirety Value of 20 Lowlands Avenue, and as such, he was of the opinion that this should be taken at £170,000 to £175,000.

In relation to his adopted yield of 7%, Mr Brunt submitted that this was a generally accepted rate in cases such as this, and had been widely adopted by the Tribunal and the Lands Tribunal.

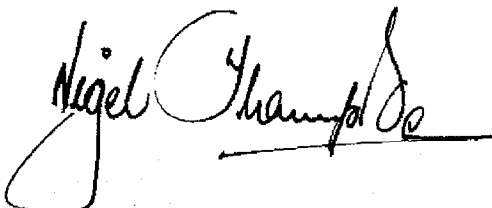
Mr Brunt felt that the adoption of a Site Value based on 35% of the Entirety Value was fair and reasonable, given the nature and characteristics of the plot.

Decision

The landlords not having submitted any written representations to the contrary, the Tribunal saw no reason to disagree with the broad thrust of Mr. Brunt's revised valuation, which conformed in all material respects with the principles laid down by the Leasehold Reform Act (as amended). The Tribunal considered however that the correct proportion of the Entirety Value to be taken in arriving at the Site Value should be 33.3%.

As a consequence, the Tribunal determined the price to be paid for the freehold of the subject property at £2,025 on the basis of the following valuation:

Ground Rent	£ 7.34	
YP 50 years @ 7%	<u>13.8</u>	£ 101
Entirety Value	£170,000	
Site Value @ 33.3%	£ 56,667	
Sec 15 Rent @ 7%	£ 3,967	
YP in perp. @7% def.50 yrs	<u>0.485</u>	£1,924
Price:		<u>£2,025</u>



Nigel R Thompson
Chairman

12 FEB 2004