

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE****LEASEHOLD VALUATION TRIBUNAL**

**The Property** : **Pond House,  
13A School Lane,  
Aston,  
Stevenage,  
Herts. SG2 7HA**

**Applicants** : **(1) Peter William Robinson  
(2) Christine Susan Robinson**

**Respondent(s)** : **none**

**Case number** : **CAM/26UD/0AF/2004/0011**

**Tribunal** : **Bruce Edgington (lawyer chair)  
Marina Krisko B Sc (EST MAN) FRICS  
G Rodney C Petty FRICS**

---

**DECISION**

---

1. The Applicants have a Good Leasehold title to the property and wish to convert this into a freehold title.
2. As the lease would appear to be for a term of 500 years from 20<sup>th</sup> October 1564, it is not surprising that the present landlord and/or freehold owner cannot be found. The Applicants are therefore unable to serve a notice to commence the enfranchisement procedure.
3. The Applicants are therefore using Section 27 of the Leasehold Reform Act 1967 ("the 1967 Act"). They have applied to the court for an order vesting the freehold in their names. In accordance with the procedure set out in Section 27(5) as amended by the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act"), the court has referred the matter to this Tribunal for a determination of the amount to be paid into court.

4. The Applicants have to pay a sum into court in accordance with Section 27(3) of the 1967 Act which is the aggregate of:-
  - “(a) such amount as may be determined by ..... a leasehold valuation tribunal to be the price payable in accordance with section 9 (of the 1967 Act) and
  - (b) the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid”
5. Once the freehold of the house and premises are vested in the names of the Applicants, the sum which is paid into court will be taken to have satisfied any claim against them.
6. The basic valuation method is to ascertain what the freehold would realise on the open market if sold by a willing seller subject to the lease, to any rentcharge and to any other burden on the freehold title. In some cases there will also be a marriage value and this is discussed below.
7. In this case the lease has 60 years to run. There are no known rentcharges and as the Applicants have not produced any up to date Land Charges Searches giving details of any covenants on the freehold title, the determination has been undertaken on the basis that there are none. If there are any unduly onerous covenants subsequently discovered, the court will no doubt be asked to refer the matter back to this Tribunal for a further determination.
8. The Tribunal inspected the land in question. It is a small plot of land on which is built a 4 bed roomed house. It is said to have been built about 20 years ago. Aston is small village a few miles south east of Stevenage. The land is served by a small private lane and the registered leasehold title refers to the property having the benefit of a right granted by a 1978 conveyance “to the extent that the vendor can grant the same to pass with or without vehicles from Aston End Lane over School Lane to and from the property”. As there was

no evidence that such right had been challenged in the past, the determination is on the basis that there is a valid right of way.

9. The evidence produced by the Applicants in accordance with the Tribunal's directions is not, with the greatest of respect, very helpful. It consists of a valuation report from D.M. Evans MRICS (assumed to be Mr. although this is not clear from the report). The report describes the property and then simply gives a certificate that the value is £3,000 without any details of the basis on which the figure in the certificate is calculated.
10. At the time of the hearing, Mr. Evans was away and could not attend to answer questions as to how he arrived at his figure of £3,000. The person who did attend the hearing was the Applicants' solicitor, Mr. Matthew Timmis. He tried to be as helpful as he could and did inform the Tribunal that he had been involved in 2 of these cases last year before the implementation of the 2002 Act when the method of valuation was different. In those cases the valuation was provided by the Lands Tribunal who in fact appointed Mr. Evans to provide the valuations.
11. Although these could have been useful comparables because they were both 4 bed roomed detached houses in the same locality, it seems that Mr. Evans' valuations were much the same as his present valuation (being £2,750 and £3,000 respectively) and presented in the same way. In other words, one could not glean anything from any of the valuations which would suggest how Mr. Evans arrived at his figures. The Tribunal therefore had to use its own expertise and start from scratch.

### **Method of Valuation**

12. The first fact to establish is the rateable value of the property because there are different Statutory provisions which apply depending on whether the rateable value is more or less than £500. At the Tribunal's request, Mr. Timmins attempted to obtain this from the local authority but without success. As water rates are based upon rateable value, the Tribunal chair therefore

contacted Three Valleys Water PLC who stated that the rateable value for this property is £384.

13. In these circumstances, the Tribunal is not concerned with marriage value.
14. The next matter for the Tribunal to determine is the value of any tenants' improvements because they should be disregarded. The problem faced by the Tribunal is that the house it saw was modern and could not possibly have been the house on the site in 1564, if indeed there was a house on the site. The present house must have been built by the then tenants at their expense. The question to decide is whether this amounts to a tenants' improvement. Without knowing what was on the site in 1564, it is impossible to say. However, in **Rosen v. Trustees of the Camden Charities** [2001] 10 EG 159 CA it was held that the erection of a house where no house had existed previously cannot be an improvement for these purposes.
15. It was also said by Lord Hoffman in **Shalson v. John Lyon's Free Charity Grammer School** [2003] 3 AER 975 that in order to rely upon any improvement disregard, the tenant had to identify any such improvement(s). There was no suggestion in this case that the Applicants were relying on the improvement disregard.
16. It was therefore left to the Tribunal to ascertain the open market value for the property and undertake the usual valuation exercise in these matters taking into account the Statutory framework. Mr. Timmins was asked whether he had any open market values of comparables to provide to the Tribunal but he had none. He was also asked whether he wanted to address the Tribunal at all about this subject. He candidly, and quite properly, said that he did not see how he could assist the Tribunal.
17. The Tribunal had therefore collected together a number of up to date local newspapers and saw properties for sale with asking prices as follows:-
  - (a) modern 4 bed roomed house in Oaklands, Welwyn - £475,000
  - (b) older 3 bed roomed house in Oaklands - £459,950

- (c) two 4 bed roomed houses in Knebworth - £454,950 and £499,950
- (d) 3 bed roomed house in Knebworth - £399,500
- (e) smaller 2 bed roomed converted period semi-detached property in Aston - £329,995
- (f) 4/5 bed roomed house in Mardley Heath, large garden - £595,000
- (g) 4/5 bed roomed larger house in Benington, large garden and double garage - £575,000
- (h) smaller 4 bed roomed house in Cottered - £420,000
- (i) large 5 bed roomed house in Cottered, large garden, double garage - £650,000

18. The property in this case is fairly small and just about fits on the plot of land. It is presumed that the owners will be responsible for part of the cost of maintaining School Lane. On the other hand, the back garden is next to a pond and the house is an attractive property in an attractive setting. Allowing for the differences in location, type and size of properties above and using it's own knowledge and experience the Tribunal's view of the open market value of this house is that it is the region of £460,000 and this is the figure upon which the valuation is based.

**Valuation under Section 9(1) of the 1967 Act**


Valuation date: 18<sup>th</sup> January 2005  
 Relevant date: 17<sup>th</sup> March 2004  
 Ground Rent: unknown  
 Capitalisation value: 7%  
 Freehold value: £460,000  
 Remaining Term: 60.5 years

Term - nil

Reversion

Standing house full value	£460,000.00
Site value 1/3 <sup>rd</sup>	£153,332.00
Yield 7%	
Section 15 modern ground rent	£10,733.00 pa

YP for 50 yrs. @ 7% - 13.8007	
PV £1 60.5 years @ 7% - 0.0167	£2,474.00
Reversion to open market value £460,000	
PV £1 110.5 years @ 7% - 0.001	<u>£460.00</u>
Enfranchisement price to be paid into court	<u>£2,934.00</u>

  
.....  
**Bruce Edgington,**  
**Chair,**  
**25/01/05**