

323

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

BIR/OOCT/OAF/2005/0012

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT
1967*

Applicant: Mr K F Critchley (leaseholder)

Respondent: Fell Estates Ltd (freeholders)

Subject property: 149 Longdon Road
Knowle
Solihull B93 9HY

Date of tenant's notice: 18th October 2004

Application to the LVT: 7th January 2005

Hearing: 15th March 2005

Appearances:

For the applicant: Mr. J H Cranmer FRICS of John H Cranmer & Co
Miss. J M Hunt of Standley & Co

For the respondents: Mr A I Shepherd FRICS of Bigwood

Members of the LVT: Mr. D.B. Power FRICS
Mr. W Hatcher
Miss B Granger MBE

Date of determination: 15th March 2005

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 K. F. Critchley, the leaseholder of the house and premises at 149 Longdon Road Knowle Solihull (" the subject property"). The applications are under section 21(1)(a) of the 1967 Act for the determination of the price payable under section 21(1)(ba) for the amount of any costs payable under section 9(4)
2. The applicant leaseholder holds the subject property by virtue of a lease for a term of 99 years from the 25th December 1940 at a ground rent of £6.00 per annum without review. The leasehold interest was assigned to the applicant on the 8th of May 1953. The unexpired term at the date of the claim to acquire the freehold interest was approximately 35 years.
3. The applicant served a tenant's notice dated 18th October 2004 on the respondent landlord to acquire the freehold interest in the subject property under the terms of the 1967 Act and the present applications were made on behalf of the applicant by John H. Cranmer and Co, chartered surveyors.
4. No acknowledgement of the claim has been made by the freeholders or on behalf of the freeholder but the freeholder was represented at the hearing.

Subject property

5. The subject property comprises a semi-detached house standing in a larger than average garden. It is located in a pleasant residential area in which there is a mixture of detached, semi-detached and terraced housing, built at different times. The house was built approximately 60 years ago and is of brick under a tiled roof. The accommodation comprises on the ground floor an entrance porch, entrance hall, two living rooms a breakfast kitchen off which is a covered store or veranda with a translucent roof. On the first floor, there are two double bedrooms, a single bedroom and bathroom combined with a WC. Outside there is a built on brick garage which is larger than a single garage.

Inspection and hearing

6. The Tribunal inspected the property on the day of the hearing in the presence of the applicant leaseholder and his surveyor. The freeholder did not attend and was not represented
7. The hearing was attended by Mr J. H. Cranmer and Miss J. M. Hunt (of solicitors Standley & Co) acting for the applicant leaseholder and Mr A I Shepherd of Bigwood acting for the freeholders. Mr Shepherd had only been instructed by the freeholder in early March

Representations of the parties

8. Written representations had been received from surveyors acting for both parties prior to the hearing. That from the applicant proposed an enfranchisement price of £5442.33 based upon an entirety value of £195,000, applying a site value of 30%. The original application had proposed £4800. The application for legal costs had proposed an amount of £200. The representation on behalf of the

freeholder proposed an enfranchisement price of £11,500 based upon an entirety value of £325,000, applying 37½% to the site.

9. There was no dispute that the qualifying conditions for the enfranchisement under the 1967 Act had been met.
10. Both parties had adopted the generally recognised approach to the valuation of the enfranchisement price and the only matters of contention were the assessment of the entirety value of the house and the percentage to be adopted as applicable to the site. Neither written representation had provided any evidence of comparable transactions in the vicinity.
11. At the hearing, Mr Cranmer said he has arrived at his valuation of the house by using his knowledge of transactions in the vicinity. He had considered Mr Shepherd's submission and noted that the property at 20 Acacia Road Bournville to which he had referred was an exceptional site because of its location. Mr Shepherd was seeking to value the site serviced and ready for development with a detached four-bedroom house but he had concerns that because of changes in planning guidance, and after discussion with the local planning officer, it was possible that the site could not be developed in this way. He had reflected the proportion of the site to the entirety value as a semi-detached house.
12. In questioning by Mr Shepherd, he acknowledged that there was a scarcity of single building plots in this vicinity but would not suggest a value.
13. On being asked by the Tribunal for comparative evidence, Mr Cranmer quoted details of 121 Longdon Road, a three-bedroom semi-detached house with no garage sold at £215,000 12 months ago, 87 Longdon Road, two bedroom semi-detached house with a garage, sold at £185,000 in late 2003, 67 Longdon Road a three-bedroom semi-detached house, no garage but parking, sold for £187,500 at about the same time. He agreed that he would reflect the potential for enlargement in his valuation as most of the properties in the vicinity had been extended.
14. He could give no reason to adopt a smaller percentage than normal for the ratio between the entirety value and the site value and agreed there was scope for a different percentage to be applied.
15. Mr Shepherd, in his submission, had cited the Leasehold Valuation Tribunal case of 20 Acacia Road Bournville where it had been accepted that for the purposes of any hypothetical valuation under the Act, the site must be valued as a cleared site serviced and ready for development, assuming that the property to be constructed would be built to maximise the potential of the site and the eventual selling price. He drew the attention of the Tribunal to an extract from Hague, which said, "what has to be valued is the site as it is (i.e. with the existing buildings on it), but disregarding the value of the buildings, as opposed to a new development site. So the letting value should reflect the cost of all site works and be on the basis that all the available services have been brought to the site and, generally, that no road charges are payable."
16. He contended that the percentage of the entirety value which should be used to arrive at the site value should be 37½%. He could quote many decisions of Leasehold Valuation Tribunals where, for a terraced house, 33/34% had been adopted and 35% for traditional detached houses. However in this case, because there was the potential for a four-bedroom house, a higher percentage was justified. He provided details of a property at 40 Monmouth Drive Sutton

Coldfield where a tribunal, within the last three years, had applied 38% on a site of similar size to the subject property.

17. He asked the Tribunal not to fall into the trap of approaching the assessment of the site value simply by mathematical formula but to consider whether the end result was reasonable. He suggested that a single site would be in great demand if available, particularly as land values had increased materially in the last 12 months, increasing at a greater rate than that of developed properties, to the extent that he could now be looking for 40%
18. He provided details of properties at 94 Longdon Road which was currently on offer at £242,500, comprising a semi detached house similar to the subject property and 91, a four-bedroom semi-detached house, where the asking price was £275,000 and considered that Mr Cranmer's valuation was very low and should be in the area of £225,000 /£250,000 as at the date of the notice.
19. Mr Shepherd had no evidence of any sales of individual sites in the locality.
20. In respect of the issue of legal costs payable by the applicant, Mr Cranmer proposed £200 as being reasonable based upon his past experience. Mr Shepherd however believed it impossible to find a solicitor who would undertake the work for this fee and considered a range of £300 - £350 as normal in these types of cases.

Determination of the Tribunal

21. The Tribunal carefully considered all the evidence which had been presented by both parties. On the proposition put forward by Mr Shepherd, that the interpretation of the section quoted from Hague indicated that the value of the site should be that of a cleared site available for development, without regard for the existing buildings, the Tribunal disagrees. The site is to be valued as a site with the existing buildings on it, but disregarding the value of those buildings. That value should take into account any available development potential. Further, Mr Shepherd asks the Tribunal to consider the selling value of the land as a single building plot rather than seek to value it by reference to the entirety value. Whilst this may be so, neither he nor Mr Cranmer could provide any evidence of any such sales but agreed that there would be a high demand for such a site. Therefore the Tribunal must resort to the accepted approach to the value of the site by reference to the entirety value. Whilst an earlier tribunal had accepted the proposition that the value of the site should be that of a cleared site available for development, this Tribunal is not bound by that decision.
22. The Tribunal examined the rather limited evidence of asking prices and achieved prices for sales in the vicinity as provided by the parties and using its own knowledge and experience, concluded that the entirety value in the property as it is, was materially more than that proposed by Mr Cranmer. His figure was lower than that applicable for inferior properties and did not take into account the potential for enlargement, even though planning guidelines might inhibit this. The Tribunal concurred with the view expressed by Mr Shepherd and finds that the value of the subject property as it is, with the potential for enlargement is £240,000.
23. On the evidence provided by Mr Shepherd, the Tribunal notes that both 20 Acacia Road and 40 Monmouth Drive are in localities which differ materially from that of Longdon Road. Acacia Road is on the Bournville Estate, and is described in the Leasehold Valuation Tribunal reasons as being 'exceptional' because of

the size and position. 40 Monmouth Drive is similarly in an exceptional location, backing onto parkland and in a frontage of similar large properties as evidenced by the site plan provided. In contrast, whilst the subject property is on a larger than average site, the locality is not exceptional – a frontage of mixed terraced, semi-detached and detached houses, with no outstanding aspect and fully built up. Accordingly, the arguments for a materially higher percentage allocated to the site value to apply in this case are not accepted. The Tribunal finds that the 30% proportion proposed by Mr Cranmer is not justified. Whilst a semi-detached house would normally attract 34%, in this case, because of the larger than average site, a proper proportion should be 35%.

24. Accordingly, the Tribunal determines that the following valuation of the leasehold enfranchisement price should be:

Term		
Ground rent receivable	£6.00 p.a.	
Years purchase (single rate) 7%		
35 years unexpired	12.95	£78
Reversion		
Value of house (entirety value)	£240,000	
Site value 35%	£84,000	
Ground rent equivalent @7%	£5,880	
Years purchase @7%		
deferred 35 years	1.34	£7,879
Total value		£7,957
Say		£8,000

25. Taking into account the submissions of the parties on the issue of costs and using its own knowledge and experience, the Tribunal determines that a reasonable assessment of the freeholders legal costs payable by the leaseholder is £300 plus VAT if applicable, together with any necessary Land Registry fees.

Summary

26. The Tribunal determines that the price payable by the leaseholder for the enfranchisement of the freehold interest is £8,000 together with freeholders legal costs amounting to £300 plus VAT if applicable together with any necessary Land Registry fees.

David B Power
Chairman

Dated.....