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IN THE DUDLEY COUNTY COURT  
MIDLAND RENT ASSESSMENT PANEL

CLAIM NO: 4DD05462

Case No: BIR/00CR/OAF/2005/0091

Leasehold Reform Act 1967

Commonhold and Leasehold Reform Act 2002

DETERMINATION OF LEASEHOLD VALUATION TRIBUNAL

On an application under s.21 1967 Act to determine the price payable on enfranchisement by the tenant under s.9(1) 1967 Act

Pursuant to the Order of District Judge Morton in the Dudley County Court 3 March 2005

Applicant Tenants: Bernard Rogers and Joyce Sheila Rogers  
Respondent Freeholder: Person or Persons unknown  
Property: 29, Tamar Drive, Woodsetton, Dudley, West Midlands DY3 1DA  
Date of Court Order requiring this determination: 3 March 2005  
RV on 31 March 1990: Less than £500  
Application dated: 14 April 2005  
Heard at: The Panel Office  
On: 18 May 2005

**APPEARANCES:**  
For the Tenants: Mr J Moore, Midlands Valuations Limited  
For the Freeholder: No appearance

Members of the Leasehold Valuation Tribunal:

Mr T F Cooper BSc FRICS FCI Arb (Chairman)  
Professor N P Gravells MA  
Mr M H Ryder

Date of Tribunal's decision: **23 MAY 2005**

**Background:**

- 1 Bernard Rogers and Joyce Shiela Rogers are the **Tenants** by a 380 year lease from 1712 of the dwelling house and premises at 29, Tamar Drive, Woodsetton, Dudley, West Midlands DY3 1DA (the '**Property**'). The person to be served with a Tenants' notice claiming the right to acquire the freehold cannot be found or his identity ascertained.
- 2 By the order (the '**Order**') of District Judge Morton in the Dudley County Court 3 March 2005 the Leasehold Valuation Tribunal is directed to determine the price payable by the Tenants for the purpose of section 27 Leasehold Reform Act 1967 (the '**Act**') in respect of the Property.
- 3 By an application 14 April 2005 the Tenants apply to us to determine the price payable on the acquisition of the freehold of the Property under s.9(1) of the Act. We inspected the Property on 18 May 2005 and a hearing was held on the same day.
- 4 The Tenants hold the Property by a lease (the '**Lease**') for a term of 380 years from 1712 at a £Nil ground rent throughout the term. The relevant date for our determination is, by s.27(1), the date of the Tenants' application to the County Court; other than saying the date was late 2004, the actual date has not been disclosed to us. The Tenants adopt the date of the Order, March 2005, as the relevant date (the '**Date**') but we find that the effect on the price payable of the difference (late 2004 and March 2005) is a negligible amount and we hold that, applying the *de minimis* rule, we take no account of the difference.
- 5 The unexpired term of the Lease on the Date - which is the relevant date for the determination of the price payable - was about 87 years.
- 6 The Property comprises a detached house and attached double garage of traditional brick and tile construction in an established residential area of similar properties. The accommodation includes: on the ground floor – porch, hall with cloakroom and wc off, lounge, dining room, conservatory, kitchen, utility room; on the first floor - 4 bedrooms (one with en suite shower and wc), bathroom with wc. There is gas fired central heating to radiators. The site is a corner site and is roughly rectangular with a frontage of about 24.8m and an area of about 466m<sup>2</sup>.
- 7 **Mr J Moore** of Midland Valuations Limited appeared for the applicant Tenants. With Mr Moore's approval we consolidated two other similar cases at the hearing (for which Mr Moore appears), namely 12 and 23, Tamar Drive, to the effect that all evidence adduced is taken into account and weighed in all three cases. Our determinations of the prices payable for nos. 12 and 23 Tamar Drive are contained in two separate determinations.

THE PRICE PAYABLE UNDER S.9(1) 1967 ACT

**The valuation method:**

- 8 Mr Moore adopts, and we accept, the generally recognised valuation method to derive the price payable for the freehold interest, namely: (i) capitalise the ground rent (£Nil pa) from the Date for the unexpired term of the Lease (87 years) – resulting in a £Nil value of the term in this case; (ii) capitalise the modern ground

rent (s.15 of the Act), as at the Date, as if in perpetuity but deferred for the unexpired term of the Lease - 'as if in perpetuity' because, although the value of the modern ground rent is for a term of 50 years (as the extension to the Lease), the value of the freehold reversion in possession at the end of the fifty years' extension is ignored as being too remote to have a separate material value for it (namely no *Haresign* addition - see below). As no evidence of cleared sites is adduced, the modern ground rent is derived by the standing house method: by decapitalising the site value, as a proportion of the entirety value. The entirety value is the value of the freehold interest in the Property with vacant possession assuming it to be in good condition and fully developing the potential of its site provided always that the potential identified is realistic and not fanciful.

9 Mr Moore's valuation does not include a *Haresign* addition - recognised in *Haresign v St John The Baptists' College, Oxford* [1980] 255 EG 711 when specific account was taken of the reversion to the full value of the dwelling after the expiration of the assumed fifty years' extension of the Head Lease. We accept his approach.

10 **Mr Moore's valuation and evidence:** For the freehold interest - £185

More specifically:

Term (Ground rent £Nil)		£Nil	
Reversion			
Entirety value	£230,000		
Site value at 37%	£85,100		
Sec. 15 ground rent at 7%	£5,957 pa		
YP deferred 87 years at 7%	<u>0.03967</u>		
		£236.31	
		Say	£236

11 Adopting 7% as the yield rate in his valuation, Mr Moore says 7% is consistent with previous decisions of this tribunal when the unexpired term of the lease is relatively long - relative to the assumed 25 year rent review in the assumed 50 year lease extension. We agree.

12 In support of his entirety value (£230,000) he refers us to the sale of 6 Tamar Drive at £230,000 in September 2004; saying no. 6 is identical to the Property and, therefore, it is persuasive evidence supporting £230,000 as the entirety value. We agree and adopt £230,000.

13 As to the site apportionment - Mr Moore says 35% would be the 'usual' percentage but, reflecting the larger than usual size of the site, that it is a corner site and scope for further development, 37% is more realistic. At the hearing we indicated to Mr Moore that, mindful of likely building lines (restricting further building development on the site) and in the absence of reliable evidence that further building could, in fact, take place, 35% would be more realistic. On consideration of our comments Mr Moore says he is minded to agree.

#### **Our Decision:**

14 Despite the 'absent freeholder', Mr Moore clearly recognises his duty to us, to provide truly independent evidence to assist us to achieve a fair and just result. As an expert tribunal, relying on our general knowledge but not on any special knowledge, we find that Mr Moore's valuation overstates the amount of the site apportionment but otherwise we accept his valuation.

**Our valuation:**

15	Term (Ground rent £Nil)		£Nil	
	Reversion			
	Entirety value	£230,000		
	Site value at 35%	£80,500		
	Sec. 15 ground rent at 7%	£5,635 pa		
	YP deferred 87 years at 7%	<u>0.03967</u>		
			£223.54	
				£223.54
		Say		£224.00

**Conclusion on the price payable:**

- 16 We determine that, taking account of the evidence adduced, our evaluation of it, using our general knowledge and experience but not any special knowledge and our inspection, the sum to be paid by the Tenant for the acquisition of freehold interest in the Property in accordance with section 9(1) of the Leasehold Reform Act 1967, as amended, is £224 (Two hundred and twenty four pounds).

Date: **23 MAY 2005**

T F Cooper  
CHAIRMAN

