

345

**BIR/47UD/OAF/2005/0064**

## **Decision**

**of the Leasehold Valuation Tribunal  
in respect of applications for:**

- (i) a determination of the price payable upon enfranchisement under Section 9 of the Leasehold reform act 1967 ('the Act'), and**
- (ii) a determination of the freeholder's costs under Section 21(1)ba of the Act**

**Property: 80 Malvern Road, Headless Cross, Redditch. Worcs. B97 5DP**

**Mr. I. N. KLOETZLI**

**(Applicant)**

**and**

**MANSAL SECURITIES LIMITED**

**(Respondent)**

### **DETERMINED:**

**(1) That the price to be payable by the Applicant to the Respondent for the freehold under Section 9 (1) of the Act is £1955.00.**

**(3) That the sum of £275.00 plus V.A.T. and reasonable disbursements be allowed in respect of the Respondent's conveyancing costs under Section 9 (4) (b) of the Act.**

**Date of Decision: 10 2 JUN 2005**

## **REASONS FOR THE TRIBUNAL'S DECISION**

### **BACKGROUND**

1. On 27<sup>th</sup> October 2004 the Applicant served a Notice of his claim to acquire the freehold of the subject property upon the Respondent under Part 1 of the Act.
2. On 22<sup>nd</sup> December 2004 the Respondent served a Notice in Reply to the Applicant's Notice stating that the respondent did not admit the Applicant's right to enfranchise because the applicant had failed to show proof of ownership in accordance with the terms of the Act and that the statutory deposit had not been paid. The Notice also stated that in the opinion of the Respondent the house should be valued in accordance with section 9(1A) of the Act.
3. On 12<sup>th</sup> January 2005 the Applicant forwarded a copy of the Assignment by which the Applicant deduced title to the property and the statutory deposit to the Respondent.
4. On 24<sup>th</sup> February 2005 Midland Valuations Limited, on behalf of the Applicant, submitted an application to the Leasehold Valuation Tribunal for a determination as to the price payable for the freehold under Section 9 of the Act and as to the amount of the freeholder's costs under Section 21(1)(ba) of the Act.

### **WRITTEN SUBMISSIONS**

1. The Applicant's Case as to the price payable is as follows:

Lease:		
99 years from 25.03.1956 ground rent		£16.00
Ground Rent Valuation:		
Years Purchase for 50.5 years at 7% (13.83)	£221.12	
Reversion:		
Standing House Value:	£160,000.00	
Site Value (33%):	£52,800.00	

S.15 Rent: at 7%	£3,696.00
Years Purchase in perpetuity deferred 50.5 years at 7% 0.469	£1733.42
Price	<u>£1954.54</u>
Say	£1955.00

As to costs the Applicant did not consider a valuation fee was payable as there is no evidence of any formal valuation of the freehold interest conducted either by the freeholder or their agent between the date of the Applicant's notice of claim and the date of the Application to the Tribunal

2. The Respondent did not make any written submissions.

## **INSPECTION**

1. The Tribunal inspected the property on the 3<sup>rd</sup> May 2005 in the presence of the Applicant's wife. It is a semi-detached house of traditional construction located in an established residential area near Redditch. The accommodation comprises on the ground floor an entrance hall, through lounge and kitchen. On the first floor are two double bedrooms, a single bedroom and a bathroom. The house stands on medium to small plot with gardens to front and rear. There is a garage at the side of the property. The house is in reasonable repair, both inside and out, it has no central heating and the site is fully developed.

## **HEARING**

1. Mr. Moore of Midland Valuations Limited attended the hearing on behalf of the Applicant. The Respondent was neither present nor represented.
2. Mr. Moore opened his submission by referring the Tribunal to his written submission and confirming that in making his valuation he had used the 'standing house' method. This involves valuing the house as if it were freehold, in good condition and assuming the site is fully developed. He had looked at nearby properties such as 216 Mason Road which might need some work but which was on the market at £164,000. He had also been involved in the negotiated settlement of another property in Mason road in

respect of which the agreed entirety value was £170,000. The subject property does not have central heating or double glazing and is perhaps not quite as good as the Mason Road properties. Accordingly he believed £160,000 is the appropriate figure.

3. Mr. Moore considered the site apportionment for this type of property was 33%. He referred the Tribunal to other cases determined by the Leasehold Valuation Tribunal in Streetley and Hollywood in which a uniform percentage of 33% had been applied. All of these were similar properties. The reversionary yield of 7% had also been applied in almost all cases he was aware of.

4. On the question of costs Mr. Moore considered £275 plus office copies of the Register (which he believed to cost £8.00) should be allowed, and that no other costs under Section 9 should be awarded for the reasons set out in his written submission.

## **DECISION OF THE TRIBUNAL**

### **1. THE PURCHASE PRICE**

The Tribunal note that the respondent considered that the proper basis for valuation was under Section 9 (1A) of the Act. However, the Tribunal find as a fact that the price to be payable for the freehold falls to be determined under Section 9 (1) of the Act and that the proper basis for such determination is to:

(a) value the ground rent of £16 pa for the unexpired term (50.5 years) at 7%

They agree with the Applicant that this sum is £221.12

(b) ascertain a modern ground rent under Section 15 of the Act by valuing the entirety, apportioning the entirety between the site and the building and calculating the rent at 7% of the site value. The entirety value is the freehold value of the house assuming it to be in good condition and that the site is fully developed.

Taking into consideration the comparables put forward by Mr. Moore and using their own knowledge and experience (but not any secret knowledge) as an expert Tribunal, they determine the entirety value at £160,000.00. They agree with Mr. Moore that the correct site apportionment is 33% which gives a site value of £52,800.00. Seven percent (7%) of this sum give the modern ground rent of £3696.00 per annum

(c) value the modern ground rent in perpetuity but deferred for the unexpired term of the lease (50.5 years) at 7 %. This produces a figure of £1733.42.

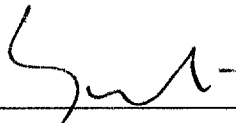
(d) add the existing ground rent value of £221.12 under (a) above to the modern ground rent value of £1733.42 under (c) above which gives a total of £1954.54. The Tribunal round this to £1955.00 and determine this sum as the price payable for the freehold under Section 9 (1) of the Act

## **2. SECTION 9 (4) COSTS**

(a) The Tribunal determine the conveyancing costs under section 9 (4) (b) of the Act at £275.00 plus V.A.T. and reasonable disbursements

(b) The Tribunal accept the submission of Mr. Moore that there is no evidence of valuation and in the absence of any submissions on this point or upon any other Section 9 costs determine that no valuation or other section 9 costs are payable.

Signed \_\_\_\_\_



**(W. J. Martin – Chairman)**

Dated 10<sup>2</sup> JUN 2005

**Members of the tribunal:**

**W. J. Martin  
S. J. Berg F.R.I.C.S.  
D. Underhill**