

NORTHREN RENT ASSESSMENT PANEL
AND LEASEHOLD VALUATION TRIBUNAL

Ref:MAN/00BM/OAF/2005/0022

Leasehold Reform Act 1967 Section 21
Housing Act 1980 Section 142 and Schedule 22

This document records the decision of the Leasehold Valuation Tribunal in respect of an application for enfranchisement in respect of:

**36 Redcot Court
Old Hall Lane
Whitefield
Manchester
M45 7JV**

Chairman: G C Freeman
Valuer: J Shaw JP FRICS (Valuer Member)
Lay Member: Mrs S Burden JP BA

Application: By notice served on 01 October 2004 on Langsams Estate Agents of 18 Bury New Road Sedgley Park Prestwich Manchester M25 0LD and on Britannia Hotels of Hale Croft 253 Hale Road Hale Cheshire WA15 8RI Jennifer Lee of 36 Redcot Court Whitefield Manchester M45 7JV sought to exercise her right to acquire the freehold of her residence. The Notice was acknowledged by the Landlord's agent Mrs S Ashton Group Solicitor Britannia Hotels, on 25 February 2005. An application for determination by a Leasehold Valuation Tribunal dated 10 May 2005 was submitted to the Tribunal by Miss Lee's solicitors, Messrs Berry & Berry of 174/6 Bury New Road Whitefield Manchester M45 6QF on 12 May 2005.

Inspection: The Tribunal inspected the property during the morning of 11 July 2005. The Tribunal was unable to gain access to the interior of the property and inspection was limited to the external parts only. It comprises an end-of-terrace town house in good decorative order externally. The elevations are cement rendered with a small rear garden and front garden and a garage to the side. Access is obtained from Old Hall Lane over a communal forecourt area to an adjacent flat development. The property is of modern construction consistent with the date of the Lease.

Hearing: A Hearing took place later the same morning at the Tribunal's offices at First Floor 26 York Street Manchester. Neither of the parties nor their solicitors attended. The Applicant's Solicitors had previously submitted a copy of the Lease which is dated 01 June 1977 and is made between

Cormorant Building Contractors Limited of the one part and Andrew Haslam of the other part. The lease of the property is for a term of 999 years from 25 December 1973 and reserves an annual ground rent of £40.00 which is to be paid in advance without any deduction on 01 January each year.

The Applicant submitted no further evidence as to the value of the ground rent save for copies of correspondence with the Respondent's solicitor suggesting that a figure of £400.00 would be appropriate for the freehold interest.

The Respondent submitted a letter dated 08 July to the Tribunal indicating that the Respondent would accept a valuation of £1,050.00 and enclosing a copy of a valuation from the Respondent's property consultants, Walker Sutton, of £1,142.00. The Tribunal noted this evidence but rejected it because it did not disclose any valuation principles on which it was based, nor did it take into account the valuation principles noted below.

Valuation Principles:

In assessing the value of freehold reversion under the 1967 Act the Tribunal took account of the following:-

- (i) That there was nothing in the statute which would restrict their determination to the limits indicated by the prices considered appropriate by the parties;
- (ii) That it would not be consistent with the verbal definition of the price in Section 9(1) of the 1967 Act or with the circumstances of the case to apply the algebraic formula prescribed by Parliament for the redemption of rent charges (Rent Charges Act 1977, s10);
- (iii) That they were entitled to rely on their general knowledge and experience whatever the evidence or representations (or the absence of such) submitted by the parties;
- (iv) That the statutory wording involved envisaged the sale on its own as one lot, ie not as included in a parcel of ground rents;
- (v) That the possibility of bids from the sitting tenant which might push up the open market price had been expressly excluded by the 1967 Act;

- (vi) That the Seller (although not also the Buyer) had been statutorily described as "willing" so that any policy or practice of the Landlord restricting sales had to be disregarded;
- (vii) That the resultant loss of income to the Landlord/Seller was not comprehended by the statutory formula for determining the price payable;
- (viii) That the hypothetical and potential buyers in the market would have in mind their own conveyancing costs (although not also those of the Seller under Section 9(4) of the 1967 Act and any covenants which would be continued in the conveyance (see Section 9(1)(c) and Section 10(4) of the 1967 Act) and most important the length of the term and the amount of ground rent under the lease; and
- (ix) That the costs of collection of the ground rent, which might involve agents, the giving of receipts and proceedings for recovery of arrears must be taken into account as a yearly matter strictly in accordance with the terms of the lease notwithstanding any practice of less frequent payment;
- (x) In many cases in the open market tenants anxious to purchase the freehold of their properties often without valuation advice put forward sums which include in the Tenant's bid, an element which the Tribunal has to exceed (*DeLaforce V Evans* 1970 215 EG 31).

Interests to be Enfranchised:

Miss Lee wishes to acquire the Freehold and Britannia Hotels accept her entitlement so to do having admitted Miss Lee's claim.

Award: The Tribunal using its local knowledge and experience and assessing on the required statutory and case law basis set out above decided that the compensation payable to the Freeholder for the Freehold interest in the property should be £360.00 (Three hundred and sixty pounds).

Costs: The above award is exclusive of costs as set out in the Leasehold Reform Act 1967 section 9(A).

An appeal may be made from this Decision to the Lands Tribunal by leave of the Leasehold Valuation Tribunal or the Lands Tribunal. Such appeal must be made within 28 days of the issue of reasons (Lands Tribunal Act 1949 section 6/3 and the Lands Tribunal Rules 1975 as amended).

G C Freeman
Chair – Leasehold Valuation Tribunal

11 July 2005