

REF: BIR/00CN/OAF/2005/0073

LEASEHOLD VALUATION TRIBUNAL OF THE MIDLAND RENT ASSESSMENT PANEL

Decision on an application for determination of the price payable under Section 21(1)(a) Leasehold Reform Act 1967

Applicant:

Mr S D Lightwood

Mrs G S Lightwood

Respondent:

Missing Landlord

Property:

25 Geraldine Road

Yardley Birmingham B25 8BE

Date of Notice Exercising the Right

to Acquire the Freehold

10 September 2004

Hearing:

31 May 2005

Appearances:

Mr H Barber FRICS for the applicant Respondent did not appear and was not

represented.

Members of the Leasehold Valuation

Tribunal:

Miss T N Jackson BA Law (Hons) Chair

Mr Ravenhill MA; FRICS; ACIArb

Mr D Underhill

Date of Determination:

19 JUL 2005

1. Background

- 1.1 This is a decision on an application under Section 21(1)(a) of Leasehold Reform Act 1967 for the determination of the price payable under Section 9 of the 1967 Act for the freehold interest in the subject property.
- 1.2 The subject property is held under a lease dated 22 April 1907 for a term of 99 years from the 24 June 1906 at an annual ground rent of £3 per annum.
- 1.3 The applicant applied to the Court under Section 27 of the Leasehold Reform Act as amended by Section 149 of the Common hold and Leasehold Reform Act 2002 to initiate the missing landlord procedure contained within those statutory provisions. On 8 March 2005 Birmingham County Court ordered that:

'The claimants being tenants of the property at 25 Geraldine Road, Yardley, Birmingham, pursuant to an under lease date 19 January 1921, have a right under Part 1 of the Leasehold Reform Act 1967, to acquire the freehold thereof and are prevented from giving notice in accordance with the said Act of their desire to have the freehold because the identity of the person to be served with notice cannot be ascertained'.

1.4 Section 27(1) of the 1967 Act provides that:

'Where a tenant of a house having a right under this Part of this Act to acquire the freehold is prevented from giving notice of his desire to have the freehold because the person to be served the notice cannot be found, or his identity cannot be ascertained, then on an application made by the tenant the High Court may...make such order as the Court thinks fit with a view to the house and premises being vested in him.....as if he had at the date of his application to the High Court given notice of his desire to have the freehold'.

1.5 The Tribunal determines that the 10 September 2005, being the date of the application to the Court, is to be treated as the date on which the applicant gave notice of his desire to have the freehold ('the relevant date'). The unexpired term of the lease at the relevant date was approximately three quarters of a year.

2. Subject Property

- 2.1 The property comprises a traditional style, 6 roomed terrace house, of brick and composition slate construction and set back from the pavement behind a short foregarden. It occupies a gently sloping and rectangular plot of land having a depth of approximately 134 feet 6 inches and a width measured at 14 feet 7 inches. The property is situated in a neighbourhood of similar style and class houses just off Deakins Road, Hay Mills and close to the Coventry Road (A45), about 3 miles south east of the city centre.
- 2.2 The site area is approximately 208 square yards.
- 2.3 The accommodations comprises on the ground floor; vestibule, half hall, front living room, rear living room and kitchen. To the first floor there is a landing, 3 bedrooms, and a shower room. Outside there is a short foregarden, rear garden, usual outbuildings and rear party pathway.

3. Inspection and Hearing

- 3.1 The Tribunal inspected the subject property on 31 May 2005 in the presence of the applicants.
- 3.2 The subsequent hearing held on the same day was attended by Mr Barber representing the applicants. The freehold respondent did not appear and was not represented.

4. Evidence and Submissions on Behalf of the Applicant Leaseholder

4.1 Mr Barber submitted that the entirety value of the subject property was £115,000. In valuing the subject property, Mr Barber had assumed it to be in a fair and reasonable condition. He was aware that the tenant had carried out improvements over the last 3 to 4 years to the property and in his opinion this reflected the tenants'

obligation to maintain the property and therefore he submitted that the entirety value of £115,000 reflected those improvements. Mr Barber stated that the housing market in that particular area had taken a dip in the last 6 months since the relevant date and that a value of £115,000 in today's market would be optimistic. It was understood that 19 Geraldine Road was currently on the market at £120,000 and that offers had been made of £108,000 and £110,000.

- 4.2 Mr Barber submitted that the appropriate percentage yield rate to be applied for the , purposes of the valuation formula should be 6 ½ % to reflect that the unexpired term of the lease was so short namely three quarters of a year. He had personal experience of this rate as being acceptable in similar circumstances.
- 4.3 Mr Barber submitted that the appropriate site apportionment was 30% which reflected that although the site was in a popular area, the site was narrow and had limited development potential.

5. **Determination**

- 5.1 The Tribunal gave full consideration to the evidence and submissions on behalf of the applicant. Using its general knowledge and experience (but no special knowledge) of property prices in the locality of the subject property, taking into account the positive and negative features of the subject property with all other relevant factors and considerations, the Tribunal determines the standing house value of the subject property at the relevant date was £112,500.
- 52. The Tribunal accepts the submissions in respect of the yield rate and site apportionment at 6 ½ % and 30% respectively.
- 5.3 Adopting the figures in relation to the entirety value and the respective percentage yield rates, and applying figures of years purchase from Parry's valuation tables, the Tribunal calculates the price payable as follows:

i) Capitalisation of existing ground rent

Ground rent payable £3 per annum

Years purchase Three quarters of a year at 6 ½ % = .70 = £2.10

ii) Modern ground rent

Standing house value of the subject property	£112,500
Percentage attributable to site at 30%	£33,750
Section 15 annual equivalent at 6 ½ %	£2,193.75

iii) Capitalisation of modern ground rent

Modern ground rent (above) £2,193

Years purchase at 6 ½ in perpetuity deferred for three quarters of a year = 14.67290

£32,188.67 £2.10 £32,190,77

SAY

£32,190

5.4 The addition of a capitalised existing ground rent of £2.10 and a capitalised modern ground rent of £32,188.67 produces a figure of £32,190 rounded down to the nearest pound.

Accordingly the Tribunal determines the price payable under Section 9 of the 1967

Accordingly the Tribunal determines the price payable under Section 9 of the 1967 Act for the freehold interest in the subject property at £32,190.

N Jackson

Chair

19 111 2005