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MIDLAND RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION BY THE LANDLORD FOR PERMISSION TO APPEAL

Ref: BIR/00CS/OAF/2005/0129

Premises: 73 Templemore Drive, Great Barr Birmingham B43 5HF

Applicants: Mr. A. Fraser and Ms. M.G. Hammond (leaseholders)

Respondent: Rock One Limited (freeholder)

Date of application for permission to appeal: 17 August 2005

Members of the leasehold valuation tribunal:

Mr. A.P. Bell MA, LLB.
Mr. D. Satchwell FRICS
Mr. G.G.W. Chidlow ACIS

1. Rock One Limited ("the Respondent") has applied under Section 175 of the Commonhold and Leasehold Act 2002 for permission to appeal to the Lands Tribunal from a decision of this Tribunal dated 15 August 2005
2. It can only be assumed from the Respondent's letter of 17 August 2005 that the basis of the appeal of the Respondent is that a valuation was submitted to the Midlands Rent Assessment Office with the Respondent's Witness Statement dated 18 July 2005 since the appeal letter only refers to this while enclosing a copy of this valuation.
3. In its decision dated 15 August 2005 the Tribunal stated in paragraph 12 that no calculation had been supplied by the Respondent in support of its valuation since the Tribunal had not received a copy of the Respondent's valuation with their papers. They checked at the date of the hearing with the Panel Office who confirmed that no valuation had been received with the Respondent's Witness Statement. On receipt of the Respondent's appeal Tribunal double checked to ensure that no valuation had been received by the Panel Office. In consequence the Tribunal first saw a copy of the Respondent's valuation when a copy of this was sent with the Respondent's letter of 17 August 2005 seeking leave to appeal.
4. The only significant valuation point on which the Respondent in its Witness Statement of 18 July 2005 took issue with the Applicants was over the initial and reversionary yield rate to be applied. The Witness Statement of the Respondent referred to a sale to a property investor of fourteen properties in Stonehurst Road in June 2005, which they stated reflected an initial yield of 6% and a reversionary yield of 5.75%. This compared with the yield rate applied throughout by the Applicants of 7%. Having now had a sight of the Respondent's valuation the Tribunal see that the Respondent's valuation was, in fact, based on an initial yield of 6% and a reversionary yield of 5.5%.
5. The Tribunal dealt with the Respondent's submission in respect of yield rates in paragraph 14 of its decision dated 15 August 2005, but by way of further amplification the Tribunal had regard to the fact that 7% is the yield rate very frequently either agreed by valuers appearing before Leasehold Valuation Tribunals or adopted by both the Lands Tribunal and Leasehold Valuation Tribunals in their decisions. In this connection the Tribunal would also refer the Respondent to paragraphs 8-13 and 9-11 of Hague on Leasehold Enfranchisement (4th edition). For these reasons the Tribunal can therefore see no reason to depart from applying a rate of 7% at all stages of the valuation exercise.
6. For these reasons it is the view of the Tribunal that the Respondent has not produced any evidence to undermine the findings and determination of the Tribunal dated 15 August 2005. Therefore permission to appeal is refused, but the application may be renewed before the Lands Tribunal within 28 days of the date when this decision is sent to the Respondent in accordance with

section 175 of the Commonhold and Leasehold Reform Act 2002 and the
Lands Tribunal Rules 1996.

A.P. Bell

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A.P. Bell
Chairman

Dated **15 SEP 2005** 2005.