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BIR/00CN/OAF/2005/0181

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**DECISION OF THE MIDLAND LEASEHOLD VALUATION TRIBUNAL ON
AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Property: 35 Farquhar Road, Edgbaston, Birmingham B15 3RA

Applicant: Mrs S J Burton (tenant)

Respondent: Mr A A Haynes (landlord)

Date of hearing: 28 November 2005

**Appearances: Mr Anthony Brunt, of Anthony Brunt & Co, valuers
for the applicant**

**Mr A I Shepherd FRICS IRRV, of Bigwood, chartered surveyors
for the respondent**

Members of the leasehold valuation tribunal:

Lady Wilson
Mr J E Ravenhill FRICS
Mrs C L Smith

Date of the tribunal's decision:

27 January 2006

Background

1. This is an application under section 21 of the Leasehold Reform Act 1967 ("the Act") to determine the price to be paid for the freehold of 35 Farquhar Road, Edgbaston. The property is a substantial two storey detached house with an entrance hall, two living rooms, kitchen and living room on the ground floor, and four bedrooms and two bathrooms, one *en suite*, on the first floor. The house is well set back from a quiet road of substantial houses, and there is a large secluded garden at the rear. The property is held on a lease dated 14 September 1979 for a term of 99 years from 25 March 1979 at an annual rent of £90, rising at 33 year intervals to £120 and £150. Approximately 73 years remained unexpired on the lease on the valuation date, which is 10 May 2005. The rateable value of the property is such that the valuation falls to be made under section 9(1A) of the Act.
2. The tribunal inspected the property on 28 November 2005, before the hearing, in the presence of the tenant, Mrs Burton, her representative, Mr Anthony Brunt, and Mr Shepherd FRICS IRRV of Bigwood, chartered surveyors, who represented the landlord. At the hearing Mr Brunt and Mr Shepherd appeared for the tenant and the landlord respectively, and each gave expert evidence. Although Mr Brunt is not a chartered surveyor, he is very experienced in the field of leasehold reform, and we were happy to accept his evidence as expert.
3. It was agreed that the freehold value was £800,000. The issues were the value of the 73 year lease and the deferment and capitalisation rates. The landlord's recoverable valuation fee was agreed and it was considered likely that the recoverable legal fees would be agreed, but they will be determined on the basis of written representations if necessary.

The value of the lease

4. Mr Brunt proposed a value of £768,000, which is 96% of the freehold value, and Mr Shepherd a value of £725,000, which is 90.625% of the freehold value. Both valuers agreed that there was no helpful market evidence available on this issue.

5. Mr Brunt referred to and relied on a tribunal determination in respect of *19 Euan Close, Edgbaston* (BIR/00CN/OAF/2004/0008), where a relativity of 93.95% for a 70 year lease was agreed between the parties' valuers. He said that evidence was given in that case by the valuer instructed by the landlord, the Calthorpe Estate, of relativities agreed in relation to 14 other properties with leases of between 92 and 94.74 unexpired, all of which was consistent with the relativity he proposed in this case.

6. Mr Shepherd said that his approach had been not to consider relativities, but to look at the likely value of this lease on the basis of his extensive experience of the local market. He said that in Edgbaston, and in prestigious roads such as Farquhar Road in particular, purchasers were nervous of leases of the length of that of this property. Particularly in the no-Act world in which the statutory valuation had to be made, a substantial discount from the freehold value was appropriate for a lease of this length, and he was satisfied that his proposed value of £725,000 was by no means too low.

7. We have come to the conclusion that Mr Shepherd's proposed relativity is correct. In *Arbib v Earl Cadogan* (LRA/23/2004) the Lands Tribunal warned of the danger of over-valuing leasehold interests because of a failure to appreciate the value of rights under the Act. We accept Mr Shepherd's evidence that an unenfranchiseable lease of 73 years would be unattractive in the market, and we determine that the value of the lease is £725,000, equivalent to a relativity of 90.625% of the freehold value.

Deferment rate and capitalisation yield

8. Mr Brunt proposed a deferment rate and capitalisation yield of 7%. He said that he had settled 15 leasehold reform cases for tenants in respect of properties in the area at that rate since *Arbib*, in each case the landlord being professionally represented. He agreed that the conclusions of the Lands Tribunal in *Arbib* had to be taken into account, although he was not convinced that they were correct. However they were, he said, not binding and related to properties in central London where growth rates were higher and the market differed from that in Edgbaston. He said that in the Birmingham area people tended to “shy away from leaseholds”, and purchasers did not always seek professional advice.

9. Mr Shepherd had, in his valuation prepared before the hearing, contended for rates of 6%, but at the hearing he conceded that 6.5% was appropriate for this investment. He accepted that the property was one of the least valuable houses in Farquhar Road and that the central London market, considered in *Arbib*, differed from the local market, which was somewhat less sophisticated and less international.

10. We are satisfied that, in the light of the general guidance of the Lands Tribunal in *Arbib*, the quality of this investment and its prospects of long term growth justify a yield of no higher than 6.5%, which we adopt. Neither valuer argued for a capitalisation rate which differed from the deferment rate and we therefore apply 6.5% as the rate both for deferment and capitalisation.

11. Accordingly we accept Mr Shepherd’s valuation and determine that the price to be paid for the freehold is £42,350, in accordance with the following valuation:

Term

Ground rent £90 for 7 yrs @ 6.5%	5.845	say £494
£120 for 33 yrs @ 6.5%	13.4591	
PV in 7 yrs @ 6.5%	0.6435062	say £1040
	8.661	
£150 for 33 years @ 6.5%	13.4591	
PV in 40 yrs @ 6.5%	0.0805408	
	1.840	say £163

Reversion

Freehold value £800,000		
PV in 73 years @ 6.5%	0.1008	say £8000

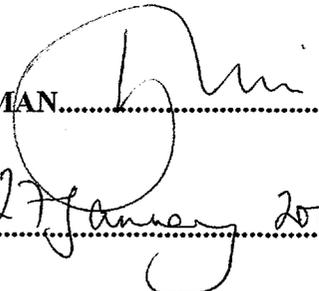
Total say £9700

Marriage value

Freehold value	£800,000
Less: £9700	
<u>£725,000</u>	
£734,700	<u>£734,700</u>
	£65,300

50% £32,650

Total £42,350

CHAIRMAN.....

DATE.....27 January 2006