

RESIDENTIAL PROPERTY TRIBUNAL SERVICE LEASEHOLD VALUATION TRIBUNAL

Property : 3 Salisbury Road,
St. Leonards on Sea
East Sussex TN37 6RY

Applicants : (1) James Kerry De Courcy
(2) Janet Elizabeth Paterson

Respondent : John Louis Singer

Case number : CHI/21UD/OCE/2006/0064

**Date of Transfer from
Hastings County Court** : 13th December 2006

Type of Decision : to determine the terms of transfer of
the property following the making of a
Vesting Order (Section 27 of the
Leasehold Reform, Housing and Urban
Development Act 1993 ("the Act"))

Tribunal : Bruce Edgington (lawyer Chair)
Mr. J.N. Cleverton FRICS
Mr. C.C. Harbridge FRICS

Date of Hearing : 2nd March 2007

Venue of Hearing : The Long Room, Hornbye Park Sports
Complex, Bohemia Road, Hastings TN34
1EX

DECISION

1. The price which the Applicants shall pay into court for the freehold title is £4,650.00
2. The remaining terms are as set out in the TR1 drafted by the Applicants as annexed to this decision save that the signature block for a judge to sign shall be in such terms as are approved by HM Land Registry.

Reasons

3. This is a case where the Applicants have leasehold interests in the property and wished to acquire the freehold interest. They attempted

to serve a Notice to Enfranchise under Section 13 of the Act but failed because it appears that the landlord freehold owner is missing. The Applicants therefore applied to the Hastings County Court for a Vesting Order. The case was prematurely transferred to this Tribunal for directions on the 2nd August 2006, but later the Court made a Vesting Order on the 13th December 2006.

4. The Court then immediately transferred the matter to this Tribunal to determine the terms of the transfer.
5. The Applicants supplied a draft TR1 and the Tribunal accepts that draft save for the signature block for signature by the judge which seems somewhat perfunctory and its terms should be checked with HM Land Registry to ensure that it is acceptable to them.
6. The only other matter for determination is therefore the price to be inserted in the draft and paid into court.
7. Section 27(5) of the Act says that the amount to be paid into court is:-

The aggregate of-

- (a) such amount as may be determined by a leasehold valuation tribunal to be the price which would be payable in respect of that interest in accordance with Schedule 6 if the interest were being acquired in pursuance of such a notice as is mentioned in subsection (1)(b); and*
- (b) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of the conveyance, due to the transferor from any tenants of his of premises comprise in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto)*

8. Schedule 6 states, in essence, that the purchase price shall be the aggregate of (a) the price which a willing seller would obtain from a willing buyer at the relevant date (b) 50% of any marriage value and (c) any compensation arising from the acquisition e.g. loss of development value. The relevant date is that of the Notice under Section 13 of the Act i.e. 24th November 2004 in this case. There are no intermediate leases and, thus, no valuation considerations relating thereto.
9. In this case the first Applicant's existing interest arises from a lease of the 1st and 2nd floors for a term of 99 years from 18th September 1987. the second Applicant's interest in the ground floor arises from a lease for a term of 99 years from 25th March 1987. The relevance of this is that as at the relevant date i.e. the date for valuation purposes, each lease had over 80 years to run and the marriage value must therefore be assessed at nil (paragraph 4(2A) of Schedule 6 to the Act).

The Inspection

10. Mr. De Courcy attended the inspection and allowed the Tribunal access to the 1st and 2nd floors of this 3 storey mid-terraced house of

faced brick construction under a tiled roof which the Tribunal estimate was built in the late 1800's. This was his flat or maisonette and was sublet.

11. There were replacement double glazed UPVC windows at the front. The window frames to the rear appeared to be in reasonable condition as did the property generally. There is a small garden area at the front and a relatively small back garden which tapered to a point. There is only on street parking which appeared to be in short supply.
12. Heating to at least the 1st and 2nd floors was central heating with radiators and, as with many terraced properties of that age, the staircases were narrow and steep with the rooms being of limited size.

The Hearing

13. Despite having been ordered to file a valuation report by 2nd February, one was only sent to the Tribunal with the bundle on the 28th February. This was regrettable because it did not assist the Tribunal members with any reasoning for the opinion reached. For example no comparables were given or any explanation for the assertion that "the values of the leaseholders' existing interests are taken as 96% of the improved values". There was also no mention of a valuation date which, in this particular case, was extremely important.
14. At the hearing, the Applicants were represented by Ms. Sothern and a colleague from solicitors Menneer Shuttleworth. The author of the valuation report, Mr. Colin Stutely FRICS did not attend the hearing.
15. This was all very unsatisfactory and it was necessary for the Tribunal to ask Ms. Sothern to telephone Mr. Stutely to put these matters to him. There were no representations made as far as the valuation date was concerned.
16. As far as valuation was concerned Mr. Stutely instructed Ms. Sothern to say that he had used other settlement values including one in the same road and one in an adjoining road. He had also looked at the result of local sales at HM Land Registry, had made enquiries with local selling agents and used his own knowledge and experience.
17. As far as the 96% was concerned, he was basically relying on his own knowledge and experience including an analysis of leases in that area with a similar length, and previous Tribunal decisions.


Conclusions

18. The way in which this case was presented was unsatisfactory, to say the least. Fortunately, the Tribunal members, using their own knowledge and experience, agreed with the basic valuation of £200,000.00 for the flats and also the percentage calculations. However, in view of the valuation date, it was clear that the marriage value, if any, should be assessed at 'nil' for the reasons set out above. The valuation date of November 2004 also affects the calculations.

Calculation of Price Payable

	£
Present value of ground rent income	
Flat & Maisonette approx. 82 yrs remaining £50 for 16 yrs at 7% YP 9.447	472.35
Increase to £100 pa for 33 yrs @ 7% Deferred for 16 yrs PV £1 @ 7% 0.3387	431.97
Increase to £200 pa for the last 33 yrs Deferred for 50 yrs PV £1 @ 7% 0.03394	86.57
Value of reversion	
Flats total value of £200,000.00 Present value in 82 yrs @ 5% 0.01830	<u>3,660.00</u>
Marriage value	
Nil	
Compensation for other losses	
Nil	
	<u>4,650.89</u>
<u>Total sum payable, say</u>	£4,650.00

19. There was no evidence that any further monies were due to the landlord and a nil determination is therefore made in respect of any amount payable pursuant to Section 27(5)(b) of the Act.


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Bruce Edgington
Chair
6th March 2007