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Case Ref. BIR/00CN/OAF/2007/0110

MIDLAND RENT ASSESSMENT PANEL

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

Leasehold Reform Act 1967

On an application under Section 21(1)(a) to determine the price payable for the Freehold interest and Section 21(1)(ba) to determine the landlords' costs under Section 9(4)

11 BAYFORD AVENUE, SHELDON, BIRMINGHAM, B26 3LB

Applicants Divinder Singh and Fahmida Ismail, Executors to the Estate of Winifred Woodman deceased

Respondents Davinder Singh Sokal (Freeholder) and Douglas Edward Burden (Head Leaseholder)

Date of Notice 10th July 2007 (served 26th July 2007)

Date of Application to Tribunal 5th November 2007

Heard at The Panel Office

On 27th February 2008

Members of the Leasehold Valuation Tribunal:

Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr A.P. Bell MA LL.B.
Mr D. Underhill

Date of Tribunal Determination: **5 MAR 2008**

Determination:	Freehold Premium	£11,550 including £75 for Head Leasehold Interest
	Legal Fee	£600.00 plus VAT and disbursements
	Valuation Fee	Nil

1 Introduction

- 1.1 This is an application by the Executors to the Estate of Winifred Woodman (deceased) to determine the price payable for the Freehold and Head Leasehold interests in property at 11 Bayford Avenue, Sheldon, Birmingham and landlords' costs in accordance with the Leasehold Reform Act 1967.

2 Legal Provisions

- 2.1 The deceased held a long leasehold interest in the subject property for a term of 99 years from 29th September 1937 less 3 days at a ground rent of £15.00 p.a. fixed for the term.
- 2.2 On 27th July 2007 the Executors served Notice on the Freeholder, Davinder Singh, and Head Leaseholder, Douglas Edward Burden, to acquire the Freehold interest in accordance with s.9(1) of The Leasehold Reform Act 1967. The Notice was dated 10th July 2007 but served on 27th July 2007 and the parties' representatives agreed at the Hearing that the latter date should be treated as the date of valuation.
- 2.3 The Freeholder did not serve Notice in reply.
- 2.4 On 5th November 2007 the Under Leaseholder's agent, Anthony Brunt Chartered Surveyor, applied to the Leasehold Valuation Tribunal (LVT) to determine the price payable for the Freehold and Head Leasehold interests under sections 21(1)(a) and 9(1) of the Leasehold Reform Act 1967 and landlord's costs under s.21(1)(ba) and 9(4).
- 2.5 On 9th November 2007 the LVT received a letter from H.R. Barber Chartered Surveyor advising that he represented the Head Leaseholder and that terms were likely to be agreed. The LVT received no further correspondence from Mr Barber although he was advised of the date and time of Hearing.
- 2.6 The LVT issued Directions on 13th November 2007 and a Hearing was held at the Midland Panel Office on 27th February 2008.

3 Facts Found

- 3.1 The Tribunal inspected the property on 27th February 2008 with Mr N.Plotnek Surveyor representing the Freeholder and Mr M.Matthews representing a Beneficiary to the Deceased's Estate. The applicants' Surveyor Mr Brunt did not attend.
- 3.2 The property is a typical 1930s semi-detached house in a road of similar houses in a residential area of Sheldon, Birmingham. It is within walking distance of local shops and facilities on the A45 Coventry Road and about 6 miles east of Birmingham city centre.
- 3.3 It is of traditional two storey construction with brick elevations and a pitched tile roof.

3.4 The accommodation comprises a recessed porch, entrance hall, living room, kitchen and conservatory on the ground floor with a landing, three bedrooms and bathroom on the first floor. The property was being renovated at the time of inspection. Outside there is a paved front garden, average size back garden and detached concrete garage with access to a private right of way along a track to the rear of neighbouring houses.

3.5 The plot is rectangular with a measured frontage of 18'10" to Bayford Avenue.

4 Hearing

4.1 A Hearing was held at the Midland Rent Assessment Panel offices in Birmingham on 27th February 2008 at which Mr A.W. Brunt FRICS appeared for the applicant Under Lessees and Mr N.Plotnek Surveyor for the respondent Freeholder. The Head Lessee was not represented.

4.2 The Tribunal would like to thank Mr Brunt and Mr Plotnek for the professional way they presented their cases, the research carried out and assistance given to the Tribunal by providing their true and honest opinions.

4.3 The parties had helpfully agreed the following points prior to the Hearing:

- i the valuation should be in accordance with s.9(1) of the Leasehold Reform Act 1967;
- ii the appropriate basis of valuation was that set out in *Farr v Millerson Investments* (1971) P&CR 1055;
- iii the unexpired term was 29 years;
- iv the value of the Head Lease was agreed at £75 and the value of the Freeholder's ground rent capitalised for the term was £119.

4.4 The disputed points related to the reversion:

- i the value of the Freehold interest with vacant possession (entirety value);
- ii the site value as a percentage of vacant possession value;
- ii the deferment rate;
- v the landlords' costs.

The parties' submissions on each point and our determinations are set out below.

4.5 Value of the Freehold Interest with Vacant Possession (Entirety Value)

Submissions

Mr Brunt provided evidence of three sales of similar houses in the area, 22 Bayford Avenue which sold for £140,000 in January 2007 (6 months before the valuation date), 46 Coalway Avenue sold for £164,950 in November 2007 (4 months after the valuation date) and 22 Coalway Avenue sold for £153,000 in July 2007, the same month as the subject valuation. He also provided sales particulars of several houses on the market in June 2007 printed from the internet which although carrying less weight in terms of evidence are nevertheless indicative of asking prices in the area at the time and which the Tribunal considered as part of the overall tone. Having assessed the range of values, Mr Brunt valued the subject property at £150,000 at the valuation date.

Mr Plotnek carried out a similar exercise advising the LVT of 6 sales of similar houses in nearby roads Corville Gardens, Goldthorne Avenue and Trysull Avenue ranging from £155,000 to £172,000 over a period from May to October 2007 and details of asking prices for 3 others in Bayford Avenue and Goldthorne Avenue. In his written submission Mr Plotnek considered the entirety value to be £158,000 but during the course of the Hearing revised this to £161,000.

Determination

The Tribunal inspected all the properties referred to in written submissions externally prior to the Hearing.

We appreciate the range of evidence but in assessing the capital value of the site have to assume it would be developed to its maximum potential. The most relevant comparables are those houses that have been extended or improved (assuming the plots are otherwise similar) and properties sold for lower prices may be less relevant if unimproved or not extended. Although some of the comparables occupy better plots with wider frontages and corner positions, the subject plot has rear vehicular access with room for a garage which are attractive features and there is ample evidence of similar houses in the area selling for around £160,000 in 2007. On balance, we consider Mr Brunt's value to be at the lower end of the spectrum and prefer Mr Plotnek's valuation.

Bearing this in mind, we find the value of the Freehold interest with vacant possession (the entirety value) to be £161,000 (One Hundred and Sixty One Thousand Pounds) at the agreed valuation date of 26th July 2007.

4.6 *Site Value as a percentage of Vacant Possession Value*

Submissions

There was virtually no difference between the parties on this point; Mr Brunt submitted for a site value of 33.33% of vacant possession value and Mr Plotnek for 34%, both of which reflecting the relatively narrow plot.

Determination

The Tribunal considered the point but were unable to say with certainty that the figure should be fine tuned to less than 1% and on balance preferred Mr Brunt's approach of adopting a simple one third of entirety value representing the capital value of the plot.

4.7 *Deferment Rate*

Submissions

Mr Brunt advised the Tribunal that in recent weeks he had settled 10 cases with Chartered Surveyors and others familiar with Leasehold Reform Act valuations where the parties had agreed a deferment rate of 5.5% for valuations under s.9(1) of the 1967 Act which in his view was fair and reasonable.

Freeholder's Legal Fee

Mr Plotnek said that under normal circumstances he would request £425- 450 plus VAT and disbursements for a straightforward case but in this case the Freeholder's Solicitors were London based and would have to deal with two transactions, the surrender of the Head Lease and sale of the Freehold, effectively doubling the work involved. He was happy to leave it to the LVT to determine a reasonable figure for the legal fee.

Mr Brunt agreed that there would be more work in this case and offered £400 plus VAT and disbursements at the Hearing.

On balance, we find for the Freeholder's legal fee in the sum of £600 plus VAT and disbursements to include conveyance of the Freehold and the surrender or transfer of the Head Leasehold interest to the Applicant.

Head Leasehold Interest

No application for costs was made by the Head Leaseholder or his Agent.

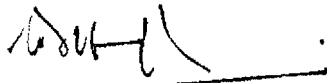
Accordingly we find that no costs are payable.

5 Determination

Premium

Applying the points above we determine the premium at £11,550 (Eleven Thousand Five Hundred and Fifty Pounds) as follows:

Term			
	Agreed Freeholder's share	£ 119	
	Agreed Head Leaseholder's share	<u>£ 75</u>	
			£ 194
Reversion			
	Entirety Value	£161,000	
	Site apportionment @ 33.33%	£ 53,666	
	Section 15 rent @ 5.5%	£ 2,951	
	Years Purchase of reversion to perpetuity after 29 years @ 5.5%	<u>3,8487</u>	
			<u>£ 11,357</u>
			£ 11,551
Premium	say		<u>£ 11,550</u>



I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Dated: - 5 MAR 2008