

**SOUTHERN RENT ASSESSMENT PANEL AND
LEASEHOLD VALUATION TRIBUNAL**

**In the matter of section 9 and section 27 of the
Leasehold Reform Act 1967 (as amended) (“the Act”)**

and in the matter of 5 Perrymead Worle Weston super Mare

Case Number: CHI/00HC/OAF/2008/0005

Upon the application of Ms Elaine Tsui (“the Applicant”)

Inspection 7th July 2008

Determination: 7th July 2008

The matter was considered in the light of written representations without a hearing

Decision of the Tribunal

Issued: July 2008

Tribunal

Mr A D McCallum Gregg (Chairman)
Mrs M Hodge BSc(Hons) MRICS

Decision

1. The Tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion in this matter is the sum of £2,375.

Reasons

2. 5 Perrymead (“the property”) is a mid-terrace 2 storey house built in about 1987 on a development at Worle. The premises form part of a staggered terrace on the south side of a communal area giving parking and access for some 13 dwellings. The Tribunal was informed that there was no car parking within this area for the subject property. It is of a brick and reconstituted block cavity construction under a pitched tiled roof. The Tribunal understood, from the survey report from Stephen & Co dated the 27th of May 2008 that had been provided to the Tribunal that the premises comprise a leasehold title and a small freehold title both which were more particularly delineated on plans accompanying that survey report.

The Tribunal were unable to gain access to the property to inspect the internal accommodation of the premises but again from the survey report assumed that the accommodation comprised, on the ground floor, an entrance hall to the living room and kitchen. On the first floor a landing apparently led to 2 bedrooms, a bathroom and a WC. The Tribunal were however able to inspect a small front garden area and an enclosed rear garden. Due to the inability to inspect the premises the Tribunal were unable to ascertain what mains services were connected to the premises or the sources of water and space heating. There appeared from our inspection to be no material improvement or modernisation that we could disregard for the purposes of valuation. The Applicant had not sought a hearing before the Tribunal and the members of the Tribunal carried out only an external inspection of the property on the 7th of July 2008.

3. The property is built upon land that was part of that demised by a 16th century lease, of which the Tribunal understands no copy is now known to exist. The demise was in favour of John and Isobel Thomas for a term expiring in 2057 at an annual rent of £1.6s.9d (£1.34p). We are informed that no rent is paid by the lessees of the property under this lease. The whereabouts of the lessees or the beneficiaries under the lease are now unknown. The rateable value is £111.
4. A claim has been submitted to the Weston Super Mare County Court under Part 8 of the CPR on the 27th of March 2008 and a draft order under Section 27(5) of the Act vesting the freehold of the property in the Applicant has been approved by the court. The order contains a paragraph in the following terms:-

“AND THIS COURT determines and declares pursuant to the provisions of section 27(5) of the Leasehold reform Act 1967 that the estimated amount of pecuniary rent payable for the said property by the Applicants as tenants

thereof under the lease out of which the Applicants current interest arises as provided by section 3 of the Landlord & Tenant Act 1954 as amended and which remains unpaid and which will remain unpaid up to the date of this order is the sum to be determined by the Leasehold Valuation Tribunal (under section 9(i) of the Leasehold reform Act 1967 under the “original valuation” basis).”

5. The amount that the tribunal is to determine is the ‘appropriate sum’ defined in section 27(5) of the Act as follows:

‘The appropriate sum which in accordance with sub section (3) above, is to be paid into Court is the aggregate of:

- (a) such amount as may be determined by (or on appeal from) a leasehold valuation tribunal to be the price payable in accordance with section 9 above, and
- (b) the amount or estimated amount as so determined of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.’

6. Section 9 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation. The effect of section 27(1) is that the valuation date is the date on which the application for an Order was made to the Court. The Tribunal is informed that in this case the application was made on the 27th of March 2008.

7. The tribunal is aware that the expression “original valuation basis” is one that is referred to in a paper on the website of the Leasehold Advisory Service (LEASE) intended to explain valuations in matters of this nature to the general public, although the term does not appear in the leading textbook upon the matter, Hague on Leasehold Enfranchisement. However, the paper in question adopts the “standing house” method of valuation as does the valuation from Messrs Stephen & Co the applicants’ valuers, which is the method commonly adopted for valuations under section 9(1) of the Act. The question whether or not a Court in these circumstances is entitled to instruct an expert tribunal upon the valuation method it is to adopt is not settled, but since the tribunal would be minded in any event to adopt the standing house approach in the present case, and it appears that that is the approach that the Court may have had in mind, no issue arises upon the point.

8. There is unlikely to be evidence of sales of vacant sites because the locality in which the property stands has been fully developed for some years. Finally, the tribunal bore in mind the cases to which the Applicant’s valuers stated that they had considered.

9. For the purpose of establishing what amounted to the standing house value of the property on the valuation date Messrs Stephen & Co had supplied details of sales of five properties that they regarded as comparables, namely:

6 Perrymead (adjoining), sold in November 2005 for £111,500 – The market has altered considerably in getting on for 3 years.

39 Perrymead sold in May 2006 for £100,000 – This is a corner terrace with one bedroom and separate rear garden and parking space.

22 Perrymead sold in May 2007 for £139,950 – A one bedroom corner terrace property.

3 Elton Road sold in June 2007 for £144,000 – Said to be effectively a semi-detached property with a garage space and parking adjacent.

14 Elton Road sold in October 2006 for £124,950 – Effectively semi-detached.

From these figures they had concluded that the entirety value of the subject property based on the valuation date was fairly represented by a sum of £115,000. On the basis of its collective knowledge and experience of local processes and of the movement in them between the dates of the sales mentioned and the valuation date together with the lack of comparability, of the evidence supplied, to the subject property, the Tribunal saw no reason to differ from that view.

10. Messrs Stephen & Co argued that the site value should be taken as 27.5% of the entirety value, rather than the 30% that might more ordinarily be expected, after taking into account the lack of parking. The Tribunal did not feel that the 2.5% reduction proposed was appropriate in this case. Accordingly the Tribunal took the site value as 30% of £115,000 i.e. £34,500.
11. The Tribunal accepted Messrs Stephen & Co's representation that a modern ground rent in this locality might be established using a 7% rate of return on the site value. That produces a modern ground rent of £2,415. It added no amount for unpaid ground rent as any apportionment of the rent of one shilling and sixpence originally reserved produces an entirely insignificant sum for an individual property.
12. The Tribunal was mindful of the decision *Earl Cadogan and others v Sportelli [LRA 50 2005]* ("Sportelli"). That decision indicated that in the absence of special circumstances the appropriate deferment rate to be employed in enfranchisement calculations is 4.75% for houses and 5% for flats. Since the evidence before the Tribunal did not deal with the point, and because Messrs Stephen and Co in their valuation dated 3rd October 2006 had taken a deferment rate of 7% as has previously been used in cases in this locality.
13. In Sportelli the Lands Tribunal has discussed its responsibility for giving guidance in cases of this nature to Tribunals that fall within its sphere. At paragraph 117 of its decision it said:

"The function of the Tribunal is thus to make decisions on points of law and on what may be called principles of practice to which regard should be had by the first-tier tribunals and by practitioners dealing with claims in any of the

Tribunal's original or appellate jurisdictions. Such principles of practice are not, in our view, confined to valuation methodology (for example, in rating, whether local authority leisure centres should be valued on the contractor's basis or by some other method: see *Eastbourne Borough Council v Allen (VO)* [2001] RA 273) but may extend to matters of quantification if the considerations underlying the quantification are of general application."

14. At paragraph 123 of the same decision, the Lands Tribunal said:

"The application of the deferment rate of 5% for flats and 4.75% for houses that we have found to be generally applicable will need to be considered in relation to the facts of each individual case. Before applying a rate that is different from this, however, a valuer or an LVT should be satisfied that there are particular features that fall outside the matters that are reflected in the vacant possession value of the house or flat or in the deferment rate itself and can be shown to make a departure from the rate appropriate."
15. Messrs Stephen & Co make several points in this respect and in particular that the Arbib and Sportelli cases relate to London and not the provinces. Thus one must take care in applying these decisions to a property like 5 Perrymead where there is no ground rent passing and there may be many changes in interest rate before the reversionary date.
16. The Tribunal considered this point carefully. It could find nothing in Sportelli to indicate that it was intended only to apply to London, although it recognises that the property concerned was part of the Cadogan estate in central London, and as such in very many ways different from the estate of which 5 Perrymead forms a part. There is however nothing in the Lands Tribunal's decision to suggest that Sportelli is only to have application in London cases. Indeed, as the quotation from paragraph 123 of their judgement set out above indicates, they take the view that the rates they have identified are "generally applicable".
17. The Tribunal is of the view that it is required to value the property in accordance with the requirements of the Act. It does however recognise that there is some force in the argument that the absence of a ground rent in these cases can be regarded in this context as a particular feature that may indicate some departure from the rates mentioned by the Lands Tribunal as does the absence of a freeholder who can enforce the freehold covenants. Those factors in its judgement produce a risk factor that may be regarded as higher than that for a normal reversionary investment.
18. In the light of all those factors the Tribunal concluded that it was right to take a deferment rate of 6% rather than 4.75% as Sportelli might otherwise indicate.

19. The Tribunal's valuation therefore was:

Ground rent reserved: Nil

Reversion

Estimated site value (30% of £115,000)	£34,500.00
Modern Ground rent @ 7%	£2,415.00 pa
YP in perpetuity @ 6% deferred 48.42 years	0.9833
Total	£2,374.69

But say £2,375.00

20. The Tribunal approves the form of transfer that was sent with the application, a copy of which is annexed and is signed by me for identification.



.....
Andrew Gregg
Chairman

15 July 2008

Transfer of whole
registered title(s)

H M Land Registry

Approved
Anthea Lewis
15 July 2008

TR1

1. Stamp Duty

It is certified that the transaction effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value of the aggregate amount or value the consideration exceeds the sum of £125,000.00

2. Title Number(s) of the Property (leave blank if not registered)

AV147585

3. Property

5 Perrymead, Worle, Weston-super-Mare, North Somerset, BS22 0FB

If this transfer is made under section 37 of the Land Registration Act 1925 following a not-yet-registered dealing with part only of the land in a title, or is made under rule 72 of the Land Registration Rules 1925, include a reference to the last preceding document of title containing a description of the property.

4. Date

5. Transferor

The Successors in Title to Catherine and Henry Wallop

6. Transferee for entry on the register

Elaine Tsui

7. Transferee's intended address(es) for service in the U.K. (including postcode) for entry on the register

73 Blaisdon, Locking Castle, Weston-super-Mare, North Somerset, BS22 8BL

8. The Transferor transfers their interest in the property to the Transferee.

9. Consideration

The Transferor has received from the Transferee for the property the sum of
(£)

Pounds

10. The Transferor will transfer with limited title guarantee.

12. This Transfer is made pursuant to an Order for enfranchisement within the provisions of Section 8 and Section 27 of the Leasehold Reform Act 1967 made in the Bristol District Registry by order of District Judge dated the day of 200.

13. Application is hereby made to the Chief Land Registrar to close the leasehold title number AV147585 and to cancel the entries numbers 1 and 2 of the Property Registry.

SIGNED AS A DEED pursuant to the Order for Enfranchisement

by **District Judge**
as successor in Title to Henry Wallop and Catherine Wallop
in the presence of :-

Signature of
witness
Name (*in BLOCK CAPITALS*).....
Address
.....

**SIGNED AS A DEED by
ELAINE TSUI**
in the presence of:

Signature of
witness
Name (*in BLOCK CAPITALS*).....
Address