



Subject Property: 144 High Street Chesterton, Cambridge CB4 1NW

Applicant Leaseholder: Laura Anna Stephania Ciccolini

Applicant's Solicitor: Barr Ellison LLP Solicitors, Parkside, Cambridge CB1 1PN

Respondent Freeholder: Unknown

Date of Application: 5th September 2011

Application: An application to the Tribunal under section 21 of the Leasehold Reform Act 1967 (the 1967 Act) to determine the amount to be paid into court pursuant to Section 27(5) of the 1967 Act as amended by the Commonhold and Leasehold Reform Act 2002

Tribunal: Dr JR Morris (Lawyer Chair)
Mr R Thomas MRICS (Surveyor)

Date of Determination: 2nd November 2011

Enfranchisement price determined by Tribunal **£409.00**

STATEMENT OF REASONS

Preliminary

1. This matter has been transferred to the Leasehold Valuation Tribunal pursuant to an Order of the Cambridge County Court in case number 1CB00407 dated 23rd August 2011 (the Order).
2. The Order provides:
 - That advertisement in this matter is impractical and
 - That the court being satisfied that the [Applicants] being Tenants of the Property under a Lease dated 21st November 1587 and made between (1) Thomas Brakyn and (2) William Stokes (the Lease) have a right under Part 1 of the Leasehold Reform Act 1967 (the Act) to acquire the freehold of the Property and are prevented from giving notice in accordance with the Act of their desire to have the freehold of the Property because the identity of the person to be served with the notice cannot be ascertained.
 - The court determines and declares pursuant to the provisions of section 27 (5) of the Act that the estimated amount of pecuniary rent payable for the Property by the [Applicants] as Tenants thereof under the terms of the Lease which remains unpaid and will remain unpaid up to the date of the conveyance is a peppercorn

- And these proceedings shall be stayed pending determination by the Leasehold Valuation Tribunal of the purchase price payable for the Property in accordance with section 9 of the Leasehold Reform Act 1967.

Documents received:

3. Documents received are:
 - a) Application Form
 - b) A Claim Form (CPR Part 8) issued 13th June 2011
 - c) Court Order dated 23rd August 2011
 - d) Affidavit dated 3rd June 2011 and exhibits
 - c) Official Copy of Register Entry Title Number CB11359 relating to the Leasehold title
 - d) Expert's valuation report

The Subject Property

4. The Tribunal inspected the Subject Property in the presence of the Sub-Tenant for the time being on the 2nd November 2011 and found it to be as described by the Applicant's Surveyor in her report.

The Lease

5. The Subject Property is registered with Good Leasehold Title, Number CB 55038.
6. The short particulars of the Lease under which the land is held are:

Date:	21 st November 1587
Term:	500 years from 21 st November 1587
Rent:	as therein mentioned
Parties:	(1) Thomas Brakyn (2) William Stokes
7. The Property Register of the Leasehold Title states that neither the original Lease nor the counterpart or an examined abstract or certified copy thereof was produced on first registration. The above particulars are taken from an Assignment dated 1st November 1922 made between Robert Edwin Rodwell and Horace Brown.

The Application

8. The Applicants have applied to enfranchise the Subject Property under the provisions of the Leasehold Reform Act 1967.
9. A Court Order dated 23rd August 2011 directed that the matter is transferred to the Leasehold Valuation Tribunal to determine the valuation of the freehold reversion of the Subject Property pursuant to section 27(5) of the Leasehold Reform Act 1967.

The Law

10. The Leasehold Reform Act 1967 as amended by the Commonhold and Leasehold Reform Act 2002 enables tenants of houses on long leases at low rent to enfranchise (acquire the freehold) their properties.
11. Section 21 of the 1967 provides that if the parties do not agree a price an application may be made to the Leasehold Valuation tribunal to determine the price. The valuation methods are set out in section 9 of the 1967 Act.

12. Section 27 of the 1967 Act provides for an application to the court where the landlord cannot be found to dispense with notice and require a Leasehold Valuation Tribunal to determine a price under s 9 to be paid into court and terms of transfer to be filed with the court.
13. Section 9 of the 1967 Act provides for one of three methods of valuation to determine the price depending on the rateable value of the property at a specific time (the appropriate day). The relevant method in this case is that set out in s9 (1) which requires the Tribunal to assume that at the end of current term, the tenant has applied for and been granted an extended lease under section 14 of the 1967 Act for a term of 50 years from the date of the existing tenancy at an open market ground rent. The basic principle is that the enfranchisement price should compensate the landlord for the loss of rents (including any current arrears) until the extended term date and the loss of the freehold at that time.
14. The Tribunal calculates the value of the freehold, as at the valuation date usually using what is known as the "standing house approach". To do this it must:
- Ascertain and determine its "entirety value" i.e. the current open market value of the Subject Property as it stands, modernised, in good condition and assuming the site to be developed to its full potential for the same purpose (i.e. as a single dwelling). The tribunal may assume the house to be extended or replaced with a larger house provided the potential is realistic and not fanciful, and no deduction is to be made to reflect uncertainty over obtaining planning permission (*Cadogan Estates Ltd v Hows* [1989] 2 EGLR 216). This is the starting point of the calculations and is assessed for the Subject Property based, as far as possible, upon the sales of comparable properties close to the valuation date.
 - Determine the site value of the Subject Property (this is assessed as a percentage of the open market value)
 - Assess the annual open market modern ground rent under s15 of the Act which is calculated as a percentage of the site value
 - Ascertain and add the amount of any recoverable arrears
 - Assess the capital value of the rental income receivable to the end of the assumed lease extension
 - Calculate the present value of the freehold interest in the entire Property, deferred to the end of the assumed lease extension
15. This will give the enfranchisement price. The final step, known as a *Haresign Addition*, is only used when it is considered that there is a reasonable prospect that the house will remain standing and of value at the end of the assumed lease extension. Where that is not the case, the rental income is capitalised "in perpetuity".

The Evidence

16. The Applicant's Surveyor in a written Report stated that the valuation complied with Section 9(1) of the 1967 Act because the tenancy was created on or before 18th February 1966 and the Subject Property had a Rateable Value below £750.00 (£92.00) per annum on 1st April 1973 (the 'appropriate day').
17. The Valuation Date pursuant to the Act is the date of the Court application, which was the 13th June 2011. The Applicant's Surveyor calculated her valuation on the following basis:
- | | |
|----------------|---|
| Lease length | 500 years from 21 st November 1587 |
| Rental | Peppercorn |
| Valuation date | 13 th June 2011 |
| Unexpired term | 76 years 5 months |
| Yield | 7% |

18. The Applicant's Surveyor submitted that the entirety value of the Subject Property was £240,000. She based this upon two very similar houses. One was 89 High Street, which has been sold with a completion date of 8th September 2011 for £210,000. The other was 93 High Street which was under offer at £235,000. The sale did not go through due to structural problems found in the survey but the offer price was considered to give a good indication of the value of that property in good condition. 89 High Street was said to be very similar to the Subject Property except that it was an inner terrace, had three bedrooms and a bathroom on the ground floor. The Applicant's Surveyor's opinion was that, based on the value of 89 High Street but making an allowance for the upstairs bathroom and the more attractive end of terrace position of the Subject Property, the freehold interest of the Subject Property as at the valuation date would be sold at a price of £240,000.
19. The site value of the Subject Property was submitted to be 30% of the entirety value and the premium for the freehold of the Subject Property was calculated to be £240,000.
20. It was submitted that the "*Haresign* Addition" should not be made.

Determination

21. The Tribunal in agreement with the Applicant considered the matter by way of documentation only following an inspection of the Subject Property.
22. The Tribunal agreed that the method of valuation specified in s 9(1) of the 1967 Act applied and noted the Applicants' Surveyor's report.
23. The Tribunal agreed that the "*Haresign* Addition" should not be made. In the case of *Haresign v St John the Baptist's College Oxford* (1980) 255 EG 711 a three storey Victorian house in Oxford reverted to the Landlord in 53 years and it was agreed that the house would still be standing and of value at the end of that time. In the present case the Subject Property will not revert to the Landlord for 126 years and the Tribunal were of the view that it was unlikely that the house would be standing or of value at the end of that time. The Tribunal therefore capitalised the modern ground rent in perpetuity and omitted the *Haresign* addition.
24. The Tribunal accepted the valuation of the entirety value of £240,000 and the site value of 30% and the yield of 7% submitted by the Applicant's Surveyor. It further accepted the Applicant's Surveyor's calculations and price of £409.00 as set out in the Schedule.
25. The therefore Tribunal determined that the enfranchisement price is £409.00.

JR Morris:
Date: 2nd November 2011

Schedule

Leasehold Valuation Tribunal's Valuation

In accordance with The Leasehold Reform Act 1967 Section 9 (1)

Lease length	500 years from 21 st November 1587		
Rental	Peppercorn		
Valuation date	13 th June 2011		
Unexpired term	76 years and 5 months		
Yield	7%		
(i) Ground Rent			
YP 76.44 years @ 7%	nil		nil
(ii) Modern Ground Rent			
Value of House	£240,000		
Site Value @ 30%	£72,000		
Modern Ground Rent @ 7%			£5,040
YP in perpetuity @ 7%	14.2857		
Present Value 76 years 10 months	0.005674192		
		0.081059806	408.54
Premium for Freehold Interest			£409.00