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**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : CHI/00HC/OAF/2016/0002

Property : 11 Kelston Road, Worle, Weston-super-Mare
BS22 6RZ

Applicant : Mr G P Sleigh and Ms C A Loosemore (as
Executors for Malcolm Samuel Sleigh)

Representative : Berry Redmond Gordon & Penney, solicitors

Respondent : The successors in title of Catherine Wallop

Representative :

Type of Application : Leasehold Reform Act 1967 (Missing
Landlord)

Tribunal Member : Mr D Banfield FRICS

:

Date of Decision : 4 February 2016

DECISION

Summary of Decision

The Tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion of the property is to be the sum of **£4,459** and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

Background

1. Following an application of Mr G P Sleigh and Ms C A Loosemore (as Executors for Malcolm Samuel Sleigh issued on a date in October 2015 District Judge Cope sitting at the County Court at Weston–super-Mare made an order dated 21 October 2015 directing that the First–tier Tribunal (Property Chamber) assess the appropriate sum in accordance with S27(5) of the Leasehold Reform Act 1967.(The Act)
2. Enclosed with the application to the Tribunal was a valuation report prepared by Mr M.T.Ripley FRICS dated 18 December 2015.
3. An inspection of the property has not been made.

The Lease

4. The site is identified on the HM Land Registry plan edged red under title number AV150438 and is held by way of a lease for a term of 500 years from 1 September 1557 and made between Catherine Wallop and John and Isabel Thomas. The lease is subject to a yearly rent in respect of the whole of the premises of £1 6s 9d.
5. Mr Ripley in his valuation states that no ground rent is paid, the beneficiaries being unknown.

The Law

6. Section 27(5) of the Act provides:
The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:
 - a. *Such amount as may be determined by (or on appeal from) the appropriate 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.*
7. 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 was made to the Court; 3 March 2015.
8. There are various bases set out in Section 9 of the Act and the Tribunal determines that the appropriate basis is in Subsection 9(1) being that

on 31 March 1990 the Rateable value of the house and premises was not above £500.

9. The Tribunal has been referred to and takes account of the following decisions: *Arbib v Cadogan* (2005), *Cadogan Estates Limited v Sportelli* (2006) and *Clarice Properties Limited Appeal* (2012).

The Premises

10. The property comprises a semi detached house constructed in the late 1980s.
11. The accommodation comprises an entrance porch, living room and kitchen/diner on the ground floor with two bedrooms and a bathroom/WC on the first floor. There are gardens front and rear and a single garage.

Evidence and Decision

12. In a valuation report dated 18 December 2015 Mr M T Ripley FRICS determined that the value for the purposes of Section 27 of The Act as at 21 October 2015 is £1,990.
13. Mr Ripley made his determination on an open market value of the property of £145,000, a site value proportion of 27.5% (£39,875) a modern ground rent at 6% (rounded to £2,390) and a YP in perp at 7% deferred 42 years. This produced the rounded sum of £1,990.
14. Mr Ripley bases his open market value of £145,000 on the sale of four similar houses at prices between £129,000 and £151,000;
 - a. 2 Wellard Close, sold September 2015 for £139,950
 - b. 11 Harvey Close, sold June 2015 for £151,000
 - c. 61 Warrilow Close, sold September 2015 for £129,000
 - d. 8 Longdown Drive, sold July 2015 for £130,000
15. The Tribunal accepts Mr Ripley's value of £145,000.
16. The Tribunal finds that the deferment period is 42 years
17. Mr Ripley considers that the deferment rate should be 7% and the modern ground rent calculated on a 6% return. He justifies the departure from the 4.75% rate determined in *Sportelli* and the previously adopted 7% for calculating the modern ground rent for the reasons set out in paragraphs 1 to 5 on page 3 of his report.
18. The Tribunal accepts that there are grounds to depart from the generic deferment rate of 4.75% but considers that a rate of 6% is more appropriate to reflect the differences and therefore applies that figure to the valuation below.

19. With regard to the suggested return on capital of 6% the Tribunal accepts the disadvantages referred to in paragraph 5 of his report but does not consider that evidence has been provided to show why these circumstances should cause the investment rate to fall. Generally investors require a greater rate of return to compensate them for any increase in costs and risks and whilst not bound by previous decisions of the Tribunal it is not persuaded by the evidence before it that there should be a departure from the previously adopted 7%.
20. For the reasons set out in paragraph 6 of his report Mr Ripley considers that the staged approach adopted in Clarice is inappropriate and therefore adopts a single reversionary basis. The Tribunal disagrees and sees no justification for departing from the 3 stage approach.
21. The Tribunal accepts Mr Ripley's application of 27.5% as the site value proportion.
22. In order to reflect the assumption that Schedule 10, paragraph 4 of the Housing Act 1989 applies to the tenancy and that it will continue until the appropriate notice is served a deduction of 3.85% is made to reflect the possibility that the tenant may obtain an assured tenancy at a market rent.
23. The Tribunal's valuation is therefore;

Value of current term with no rent payable,	£00.00
Value of first reversion;	
Entirety value £145,000	
Site value @ 27.5% £39,875	
S.15 modern ground rent @7%	£2,791
Years purchase 50 years @6% = 15.762	
	= £43,992
Present value of £1 in 42 years deferred @6% = 0.0865 =	£3,805
Value of second reversion:	
Entirety value £145,000	
Deduct 3.85%, £139,417	
Present value of £1 in 92 years deferred @ 6% = 0.00469 =	£654
Total sum payable:	<u>£4,459</u>

24. The Tribunal determines that the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.