

SOUTHERN RENT ASSESSMENT PANEL

LEASEHOLD VALUATION TRIBUNAL

CHI/19UJ/OFR/2005/01

Decision of the Leasehold Valuation Tribunal on application(s) under Sections 21 and 27 of the Leasehold Reform Act 1967

Applicant(s):	Michael Freeman
Respondent(s):	Successors to John Henning
Re:	Garage 2, Hope Street South, Weymouth
Date of Application	19 <sup>th</sup> July 2005 Court Order
Date of Inspection	12 <sup>th</sup> January 2006
Date of Hearing	12 <sup>th</sup> January 2006
Venue	Redferns, 34A St Thomas St, Weymouth
Appearances for Applicant(s)	Mr Mackenzie – solicitor
Appearances for Respondent(s)	G J Whitby FRICS – valuer
	None

Members of the Leasehold Valuation Tribunal

M J Greenleaves  
A Mellery-Pratt FRICS

Lawyer Chairman  
Valuer Member

Date of Tribunal's Decision: 17<sup>th</sup> January 2006

### Decision

The sum payable under Section 27(5) of the Leasehold Reform Act 1967 is the sum of £1,961 calculated as follows:-

Ground rent		.05	
YP 52 years @ 7%		15.8614	
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		Say	1.00
Modern ground rent	6% x 40,000	2,400.00	
YP 50 years @ 6%	15.7619		
Deferred 52 years @6%	0.04832	0.7616	1,827.84
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Reversion to Freehold value		100,000.00	
Less cost of conversion		50,000.00	
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		50,000.00	
Deferred 102 years		.0026223	131.11
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			1,959.95
			Say £1,960.00
Estimated amount of unpaid rent	0.05	x 20 years	1.00
Total payable			£1,961.00

### Reasons

1. On 10<sup>th</sup> March 2004 Michael Freeman (the Applicant) had applied to the Weymouth County Court for an Order under Section 27 of the Leasehold Reform Act 1967 (the Act) vesting in him the freehold of premises known as Garage 2, Hope Street South, Weymouth (the premises) in respect of which his leasehold title was registered at HM Land Registry under Title Number DT 128459.
2. On 19<sup>th</sup> July 2005 the Court found it was satisfied that the Applicant had a right to acquire the freehold of the premises under the Act and ordered the case to be transferred to the Leasehold Valuation Tribunal to fix a sum of money representing the purchase price of the freehold reversion expectant of the Applicant's tenancy and fixing the amount or estimated amount remaining unpaid

of any pecuniary rent payable for the premises up to date of a conveyance to the Applicant.

3. The matter was first considered by the Tribunal on 10<sup>th</sup> October 2005 but consideration of the matter was adjourned for further evidence and inspection.

#### **Inspection.**

4. The Tribunal inspected the premises on 12<sup>th</sup> January 2006 in the presence of the Applicant.
5. The premises are situated on Hope Street South off Hope Square close to Weymouth Harbour in a mixed area of commercial and residential properties, the area having many high value character properties.
6. The premises are in a block of lockup garages and comprise a garage on the ground floor with workshop on the first floor to which there is access by ladder from the garage. The first floor forms part of a larger workshop, having been combined with a similar adjoining workshop. Mr Whitby measures the subject premises as a total (for the two floors) of 416 sq ft.

#### **Hearing**

7. Mr Whitby had submitted two reports, the first dated 9<sup>th</sup> September 2005 and a Supplementary Report dated 11<sup>th</sup> January 2006 in view of issues raised by the Tribunal referred to below. At the Tribunal's request he had also provided further information by letters dated 22<sup>nd</sup> September 2005 and 1<sup>st</sup> November 2005
8. in reply to questions from the Tribunal, Mr Whitby said:
  - a) he had used a rate of 7% as the property could be used as a dwelling;
  - b) he had estimated £100,000 as the minimum value of a dwelling in Weymouth although this meant a higher rate per foot than he would expect;
  - c) On the site value of £40,000 he had calculated a modern rent of £2,800 at the rate of 7%;
  - d) The cost of conversion was, he felt, reasonable and was a matter of his own judgement;
  - e) The possibility of rising sea levels does not presently affect values of property in this low lying area.

#### **Consideration**

9. The Tribunal considered all the case papers including the valuations, the Court papers, the evidence and its inspection of the premises.
10. The Court had determined that the Applicant was entitled to the freehold of the premises under the Act.
11. In his first valuation Mr Whitby had valued the premises as a lockup garage with store over. In his letter of 1<sup>st</sup> November 2005 he said use of the premises as a house would be unlawful due to the lack of planning permission.

12. However, in his application to the Court, the Applicant had said that he acquired the lease on 31<sup>st</sup> July 1985 and they had since been converted into a residence.
13. Section 1 of the Act confers on a tenant the right to acquire the freehold or an extended lease if he is tenant of a leasehold house. It accordingly appeared to the Tribunal that the Court had made its Order on the basis only that the Applicant was tenant of a house. Therefore despite lack of planning permission for use as a house, the Tribunal decided it had to consider valuation of the premises on the basis that there was actually planning consent for use as a house.
14. The Tribunal found that the premises are not converted to enable them to be used as a house and accepted Mr Whitby's evidence that the cost of conversion would be about £50,000.
15. The Tribunal also accepted his evidence of the likely value of the premises as a converted house of £100,000 and their site value of £40,000.
16. The Tribunal did not, however, consider that the rate of 7% used by Mr Whitby was appropriate. It noted he did not have evidence to support that rate and in the light of trends in interest rates generally and also of the recent cases of *Arbib v Cadogan* and similar appeals, the Tribunal considers a lower rate is appropriate. The Tribunal found that rate to be 6%.
17. The Tribunal also had to ascertain under Section 27(5) of the Act the amount of rent unpaid. In his claim to the Court the Applicant said he had not had any demands for payment since he purchased his lease in 1985, a period of 20 years, so that the applicable arrears are £1.
18. The Tribunal made its calculations and decision accordingly.

Signed  
M J Greenleaves  
Chairman.  
A member of the Southern  
Leasehold Valuation Tribunal  
appointed by the Lord Chancellor