

LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

BIR/37UD/OAF/2004/0332

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

*ON AN APPLICATION UNDER SECTION 27(5) OF THE LEASEHOLD REFORM ACT
1967 TO DETERMINE THE PRICE PAYABLE IN ACCORDANCE WITH SECTION 9
OF THAT ACT*

Applicant: Miss Margaret Ann Shuttleworth (leaseholder)

Respondent: Unknown (freeholder)

Subject property: 1 Byron Road
West Bridgford
Nottingham NG2 6DY

Date of Court Order: 22nd September 2004

Application to the LVT: 2nd November 2004

Hearings: 18th January 2005 and 12th April 2005

Appearances:

For the applicant: Mr. D. Schanzer of Lloyd Wright, Chartered Surveyors
and Miss R Gull of Massers, Solicitors

For the respondents: Not represented

Members of the LVT: Mr. D.B. Power FRICS
Mr. J Martin
Mr M Ryder

Date of determination:

09 MAY 2005

Introduction

- 1 This is a decision on an application under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Miss M A Shuttleworth, the leaseholder of the house and premises at 1 Byron Road West Bridgford Nottingham ("the subject property") as a result of an order by the Birmingham County Court dated 22nd September 2004 directing that application should be made for the determination of the amount of the appropriate sum to be paid into court under section 27 (5) of the 1967 Act. The price payable is to be in accordance with section 9 for the freehold interest in the subject property.
- 2 The applicant leaseholder holds the subject property by virtue of an underlease for a term of 99 years less 10 days from the 25th March 1896 at an informally apportioned ground rent of £1.10s.2d per annum. The underlease is derived from a headlease for a term of 99 years from 25th March 1896. Both the headlease and the underlease have therefore expired and the applicant leaseholder continues to hold over until such time as her tenancy is brought to an end by the service of an appropriate notice. However, as the freeholder cannot be found, application has been made by the leaseholder to the County Court for an Order vesting the freehold interest in the leaseholder under the provisions of section 27 of the Act.
- 3 In compliance with the Directions issued by the County Court, the applicant made the application to the Leasehold Valuation Tribunal to determine the price to be paid, on 2nd November 2004.

Subject property

- 4 The subject property comprises a semi-detached house standing in a small garden, located in a residential area originally developed about 100 years ago and comprising similar properties. It is close to the centre of West Bridgford. It is of brick construction with a slate covered roof. The accommodation comprises, on the ground floor, an entrance porch, entrance hall, through living room, kitchen with larder off and a conservatory at the rear, and on the first floor, a large front bedroom, a second bedroom and a bathroom combining WC. Outside, there is a brick garden store. There is a small enclosed rear garden and a narrow front garden.

Inspection

- 5 The Tribunal inspected the subject property on the day of the first hearing in the presence of the applicant leaseholder.

Hearings

- 6 At the original hearing on 18th January, the Applicant attended with Mr. D. Schanzer of Lloyd Wright, Chartered Surveyors, representing her. He admitted that due to late instructions, he had been unable to submit any opinion of

valuation as he had not dealt with a case of this nature previously. He requested an adjournment to properly prepare for the hearing and this was granted. At the reconvened hearing on 12th April, Mr Schanzer did not attend. The Applicant was again present and was represented by Miss R Gull of Massers, Solicitors. Mr Schanzer had submitted a valuation report dated 9th April proposing a purchase price of £24,000 but the means by which he had arrived at that figure were unclear and he was not present to be able to provide any explanation. The submission was therefore of no help to the Tribunal. Generous provision had been made by the Tribunal to enable a full submission to be made on behalf of the Leaseholder and it was not prepared to again defer a decision, to which Miss Gull consented, agreeing to accept the findings of the Tribunal as an expert tribunal

Determination of the Tribunal

- 7 Based on the details provided, the Tribunal holds that the price to be paid shall be calculated by reference to the provisions of section 9 of the Act. That is:

(1)....the price payable for a house and premises on a conveyance ...shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller (with the tenant and members of his family who reside in the house not buying or seeking to buy), might be expected to realise

- 8 In the absence of a notice of claim to acquire the freehold interest, the valuation date adopted is 22nd September 2004, being the date of the County Court Order to make application to the Tribunal to determine the price to be paid for the freehold interest. The unexpired period of the lease for the purpose of its capitalisation is taken as six months, this being the period of notice required to bring the applicant leaseholder's tenancy to an end.
- 9 Using its own knowledge and experience, the Tribunal has made an assessment of the value of the house as it now stands, assuming it to be in a satisfactory state of repair and modernisation and applied rates of return and proportions as it considers appropriate.
- 10 The Tribunal has had regard to all the relevant factors and calculates the price payable as follows.

(i)Capitalisation of existing ground rent to termination of lease

Ground Rent payable p a		1.51
Years purchase .5 years	@ 6.5%	0.470
Capitalised Ground rent		.71

(ii)Modern Ground Rent

Standing House value		190,000
Percentage attributable to site	32%	60,800
Annual equivalent at	7.00%	4256

(iii)Capitalisation of modern ground rent

YP in perpetuity deferred .5 years at	7.00%	13.18
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Capitalised modern ground rent	58,809
Total of capitalised ground rent and capitalised modern ground rent	58,810
Say	£58,800

Summary

- 11 The Tribunal determines the price payable under section 9 of the 1967 Act by the leaseholder for the freehold interest in the subject property at £58,800.



DAVID B POWER
Chairman

Dated **09 MAY 2005**

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