

# **RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

## **LEASEHOLD VALUATION TRIBUNAL**

**Property:** Woodland House, 27 Chiltern Road, Ballinger Common, Buckinghamshire

**Applicant Leaseholder:** Barrie John Keeling

**Applicant's Solicitor:** Messrs DC Kaye & Co, Solicitors, Old Bank Chambers, 2 Wycombe Road, Prestwood, Great Missenden, Buckinghamshire HP16 0PW

**Respondent Freeholder:** Unknown

**Tribunal:** Mr JR Morris (Chairman)  
Miss M Krisko, BSc (Est Man), BA, FRICS  
Mrs S Redmond, BSc (Econ) MRICS

**Hearing Date:** 14<sup>th</sup> August 2006

**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**

**Enfranchisement price determined by Tribunal** **£19,669**

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### **STATEMENT OF REASONS**

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#### **Preliminary**

1. This matter has been transferred to the Leasehold Valuation Tribunal pursuant to an Order of the Aylesbury County Court in case number 6AY00280 dated 28<sup>th</sup> February 2006 (the Order).
2. The Order provides that the Applicant is not required to any further steps for the purpose of tracing the Landlord(s) of the Property whether by advertisement or otherwise.
3. The Order provides for a Leasehold Valuation Tribunal to determine the valuation of the freehold reversion of the premises pursuant to section 27(5) of the Leasehold Reform Act 1967 (the Act)

### **Documents received:**

4. Documents received are:

- a) A Claim Form (CPR Part 8)
- b) Affidavit dated 31<sup>st</sup> January 2006
- c) Official Copy of Register Entry Title Number BM153976 relating to the Leasehold title
- d) Court Order dated 28<sup>th</sup> February 2006
- e) Draft Transfer

### **The Subject Property**

- 5. The Tribunal inspected the Subject Property in the presence of the Applicant on the 14<sup>th</sup> August 2006. The Tribunal was of the opinion that the site of the Subject Property was fully developed.
- 6. This Subject Property is a two storey detached house constructed in 1963 of brick under a tile roof. It has replacement upvc windows and rainwater goods. The Subject Property is in good condition.
- 7. The accommodation comprises an entrance porch, hall with stairs to the first floor, cloakroom, dining room, sitting room, study and kitchen on the ground floor. On the first floor there are four bedrooms one with ensuite bathroom and a bathroom. Space and water heating is by an oil fired central heating system. The house has mains electricity and water and septic tank drainage. There is circular drive, double garage and gardens to the front and rear. There is an unadopted road to the front.

### **The Lease**

- 8. The Subject Property is registered with Title Absolute, Number BM153976.
- 9. The Property Register of the Title states that it is not known whether the land tinted pink (which is at the rear of the property) on the filed plan or some part of it thereof is included in an Indenture of Lease dated 16<sup>th</sup> April 1641 for a term of 400 years. The land tinted pink on the filed plan in so far as it or some part thereof is included in the Lease is of good Leasehold Title but is otherwise of Freehold Tenure. Neither the original Lease nor an examined abstract or certified copy could be produced on first registration.
- 10. The root of title appears to have been derived from a Conveyance dated 7 May 1938 made between Frederick George Rust and Frederick George Ratcliffe and (2) Rose Elizabeth Auerbach as this is referred to in the Charges Register which also refers to a number of restrictive covenants which were contained in the 1938 Conveyance.

### **The Application**

- 11. The Applicant has applied to enfranchise the Subject Property under the provision of the Leasehold Reform Act 1967.

12. A Court Order dated 28<sup>th</sup> February 2006 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**

13. 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.
14. 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.
15. 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 section 9 to be paid into court and terms of transfer to be filed with the court.
16. 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. The relevant method in this case is that set out in section 9 (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.
17. The Tribunal must therefore, as at the valuation date:
- Ascertain and determine the current open market value of the Subject Property as it stands taking into account its full development value. 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 section 15 of the Act which is calculated as a percentage of the site value
  - Ascertain and add the amount of any recoverable arrears
  - Calculate the current value of the lost future rents (using actuarial tables)
  - Calculate the open market value of the Subject Property at the end of the extended lease at today's prices (using actuarial tables)

This will give the enfranchisement price, which relates only to the site value. In some cases an additional calculation is made to compensate the landlord for the loss of the house on the land where it is likely that this will still be standing at the end of the extended term. This is referred to as the *Haresign* rule after the case of that name.

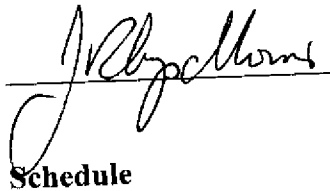
## The Evidence

18. A Hearing was held following the Inspection on the 14<sup>th</sup> August 2006. None of the parties attended but the Applicants had made written representations.
19. No expert's valuation report was submitted but the Applicant provided evidence of the market value of comparable properties sold around the valuation date, which was the 1<sup>st</sup> March 2006 being the date of the Application to the County Court. The comparables were as follows:  
Tweedsmuir, Marriots Avenue, South Heath sold on the 1<sup>st</sup> March 2006 for £602,500.  
5 Chiltern Manor Park, Great Missenden sold on the 31<sup>st</sup> January 2006 for £590,000  
1, Ballinger Hill Cottages, South Heath sold on 6<sup>th</sup> January 2006 for £617,500  
Estate Agent's details were provided for each of the properties referred to.
20. The Applicant's Solicitor submitted a draft Transfer to the Tribunal.

## Determination

21. No evidence was adduced as to rateable value. The Tribunal therefore used the knowledge and experience of its members and determined that the valuation should be carried out in accordance with Section 9(1) of the 1967 Act. The Subject Property was likely to have had a Rateable Value of below £200 on the 23<sup>rd</sup> March 1965 and below £500 in April 1973, which are the upper limits outside London for section 9(1) valuations to apply.
22. The Tribunal considered the comparables submitted and found that 5 Chiltern Manor Park, Great Missenden and 1 Ballinger Hill Cottages, South Heath were of a different age and type of property. 5 Chiltern Manor Park was more modern and 1 Ballinger Hill Cottages was a period house. Tweedsmuir, Marriots Avenue on the other hand was considered to be a good comparable and had been sold on the 1<sup>st</sup> March 2006, which is the valuation date. Using this information and the knowledge and experience of its members the Tribunal found that the current market value of the Subject Property fully developed would be £600,000.
23. The Tribunal using the knowledge and experience of its members considered that due to the contours of the land, the site value is 35% of the developed open market value. Although rental yields vary from time-to-time and place-to-place the Tribunal found that the figure of 7% had been generally used in this area.
24. The Tribunal therefore determined that the enfranchisement price is £19,669 and the calculations are set out in the Schedule to this Statement of Reasons. The Tribunal determined that the *Haresign* rule did not apply.
25. The Tribunal accepted the draft transfer with the following amendments:  
Part 10: The consideration is to read "Nineteen thousand six hundred and sixty nine pounds (£19,669)"  
Part 12: The Declaration of Trust is to be completed.  
Part 14: The Judge's name is to be inserted when known.
26. The Declaration annexed to the Transfer is accepted and approved subject to

Paragraph 2(4) and (5): The amount paid into court is to read "Nineteen thousand six hundred and sixty nine pounds (£19,669)".

 JR Morris (Chair)  
**Schedule**

### **Leasehold Valuation Tribunal's Valuation**

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

Current ground rent	Nil
Entirety Value	£600,000
Site Value 35%	£210,000
Section 15 Rent @ 7% of Site Value	£14,700 per annum
YP in perpetuity @7% 14.2857	
Deferred 35 years @ 7% 0.0936629	<u>1.338</u>
	£19,669
<b>Enfranchisement price</b>	<b>£19,669</b>