

Case Ref. BIR/00CR/OAF/2006/0162

MIDLAND RENT ASSESSMENT PANEL

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

Leasehold Reform Act 1967

On the Lessees' application to the Leasehold Valuation Tribunal under s.21(1)(c) of the Leasehold Reform Act 1967 for determination of the price payable under s.9(1) in accordance with the Order of Birmingham County Court dated 9th November 2006

3 WANSBECK WALK, DUDLEY, WEST MIDLANDS, DY3 1DD

Applicants	Barry Keith Elwell and Pamela Elwell
Respondent	Person or persons unknown
County Court Claim No.	6BM77160
Date of Claim	9th November 2006
Date of Application to Tribunal	31st October 2006
Date of Tribunal Determination	29th January 2007

Members of the Leasehold Valuation Tribunal:

Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr W.H. Hatcher MA, Solicitor
Mrs C.L. Smith

Determination: Freehold Premium £1,555

1 Introduction

- 1.1 This is an application by Mr and Mrs Elwell, the long leaseholders of a house in Dudley to the Leasehold Valuation Tribunal (LVT) to determine the price payable for the Freehold interest under the Leasehold Reform Act 1967. The applicant had been unable to trace the Freeholder and applied to Birmingham County Court to purchase the Freehold under s.27 of the Act.

By Order of District Judge Sehdev dated 9th November 2006 the LVT is required to determine the price.

2 Legal Provisions

- 2.1 Mr and Mrs Elwell hold a lease of property known as 3 Wansbeck Walk, Woodsetton, Dudley for a term of 380 years from 26th April 1712 at a peppercorn ground rent.
- 2.2 They wish to acquire the Freehold interest in their house but after extensive enquiries have been unable to locate the Freeholder and applied to Birmingham County Court to convey the Freehold to them pursuant to s.27 of the Leasehold Reform Act 1967. The Court Order dated 9th November 2006 required the Freehold value to be determined by the Leasehold Valuation Tribunal which is the subject of this application.
- 2.3 The LVT issued Directions on 15th December 2006 and the Applicants submitted a valuation of the Freehold prepared by K.Chew Esq. FRICS of Messrs Lawrence & Wightman, Chartered Surveyors, Birmingham.
- 2.4 A Hearing was arranged for 29th January 2007 although Mr Chew did not attend having previously advised the LVT that his full case was contained in his prior written Submission and having inspected the property and considered the evidence and relevant case law the LVT proceeded to the determination.

3 Facts Found

- 3.1 The Tribunal inspected the property on 29th January 2007 in the presence of Mrs Elwell.
- 3.2 The property comprises a detached house built in 1988 by A & J Mucklow as part of an estate of houses and bungalows in a pleasant residential area of Dudley within walking distance of local amenities. The accommodation comprises an entrance hall with cloakroom, lounge, dining room, breakfast kitchen and utility on the ground floor with landing, four bedrooms (one en-suite) and bathroom on the first floor. Outside there is an open plan front garden with double garage to the side and enclosed rear garden with lawn and paving.
- 3.3 The house has brick elevations and a pitched interlocking tile roof.

4 Submission

- 4.1 The Applicants' Valuer Mr Chew submitted a written valuation valuing the Freehold interest at £1,525. This was based on a ground rent of a peppercorn per annum for the unexpired term of 85.5 years and reversion based on an entirety value of £230,000, apportioned site value of 35%, s.15 modern ground rent decapitalised at 4.75% and recapitalised after 85.5 years in perpetuity again at 4.75% .
- 4.2 To support the entirety value Mr Chew referred to sales of three similar properties in the area; 6 Tamar Drive which had been sold for £229,950 in August 2004, 34 Bosworth Close sold for £184,000 in October 2005 and 28 Bosworth Close sold for £235,000 in July 2006. He also made general reference to sales in Roper Way at £175,000 in November 2005 and £185,000 in February 2006 but did not give their addresses or further details.

5 Determination

- 5.1 Having considered the evidence we find as follows:
- 5.2 ***Method of Valuation***
In the absence of local rental evidence for building plots the Tribunal find the most appropriate method of valuation to be the standing house approach based on *Farr v Millerson Investments Ltd.(1971)* and value the interest in accordance with s.9(1) of the Act.
- 5.3 ***Value of Freehold Interest with Vacant Possession***
The LVT made external inspections of all the comparables referred to by Mr Chew. As with most sales evidence there are variations but of the evidence put forward, the LVT considered the sale of 28 Bosworth Close to be the most relevant as it is a similar type of house and had been sold only four months before the valuation date. Accordingly, the LVT find the appropriate entirety value of a house in good condition on the subject plot, assuming the plot to be fully developed, to be £235,000 at the valuation date.
- 5.4 ***Appropriate Site Value as a Percentage of the Freehold***
The Tribunal find that in the absence of direct sales evidence the LVT agree with Mr Chew that the current value of the plot as a percentage of the value of the house is 35%.
- 5.5 ***Capitalisation and Deferment Rates***
- 5.6 The Tribunal are not required to consider the capitalisation rate of the ground rent as the peppercorn rent has no value.
- 5.7 In respect of the deferment rate and in the absence of compelling evidence to the contrary, the LVT accept the guidance of the Lands Tribunal in *Earl Cadogan and Cadogan Estates v Sportelli LRA/50/2005* and value the reversion at 4.75%.

5.10 **Premium**

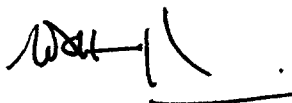
Accordingly, our valuation is as follows:

Term			
Ground Rent	1 peppercorn		£ 0
Reversion			
Entirety Value	£235,000		
Site apportionment @ 35%	£ 82,250		
Section 15 rent @ 4.75%	£ 3,906		
Years Purchase of reversion to perpetuity post 85.5 years 4.75%	<u>0.39834</u>		
			<u>£1,555</u>
Premium			<u>£1,555</u>

5.11 **Summary**

Accordingly, we determine the premium payable in accordance with s.9(1) of the Leasehold Reform Act 1967 to be £1,555 (One Thousand Five Hundred and Fifty Five Pounds).

5.12 There is no application for landlord's legal costs or Surveyor's fees and a valuation has not been prepared by the landlord pursuant to a Notice. Accordingly, no fees are payable.



I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Date: - 2 FEB 2007

Case Ref. BIR/00CR/OAF/2006/0162

MIDLAND RENT ASSESSMENT PANEL

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

Leasehold Reform Act 1967

On the Lessees' application to the Leasehold Valuation Tribunal under s.21(1)(cza) of the Leasehold Reform Act 1967 for determination of the price payable under s.9(1) in accordance with the Order of Birmingham County Court dated 9th November 2006

3 WANSBECK WALK, DUDLEY, WEST MIDLANDS, DY3 1DD

Applicants	Barry Keith Elwell and Pamela Elwell
Respondent	Person or persons unknown
County Court Claim No.	6BM77160
Date of Claim	9th November 2006
Date of Application to Tribunal	31st October 2006
Date of Tribunal Determination	29th January 2007

Members of the Leasehold Valuation Tribunal:

Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr W.H. Hatcher MA, Solicitor
Mrs C.L. Smith

Determination: Freehold Premium £1,555

1 Introduction

- 1.1 This is an application by Mr and Mrs Elwell, the long leaseholders of a house in Dudley to the Leasehold Valuation Tribunal (LVT) to determine the price payable for the Freehold interest under the Leasehold Reform Act 1967. The applicant had been unable to trace the Freeholder and applied to Birmingham County Court to purchase the Freehold under s.27 of the Act.

By Order of District Judge Sehdev dated 9th November 2006 the LVT is required to determine the price.

2 Legal Provisions

- 2.1 Mr and Mrs Elwell hold a lease of property known as 3 Wansbeck Walk, Woodsetton, Dudley for a term of 380 years from 26th April 1712 at a peppercorn ground rent.
- 2.2 They wish to acquire the Freehold interest in their house but after extensive enquiries have been unable to locate the Freeholder and applied to Birmingham County Court to convey the Freehold to them pursuant to s.27 of the Leasehold Reform Act 1967. The Court Order dated 9th November 2006 required the Freehold value to be determined by the Leasehold Valuation Tribunal which is the subject of this application.
- 2.3 The LVT issued Directions on 15th December 2006 and the Applicants submitted a valuation of the Freehold prepared by K.Chew Esq. FRICS of Messrs Lawrence & Wightman, Chartered Surveyors, Birmingham.
- 2.4 A Hearing was arranged for 29th January 2007 although Mr Chew did not attend having previously advised the LVT that his full case was contained in his prior written Submission and having inspected the property and considered the evidence and relevant case law the LVT proceeded to the determination.

3 Facts Found

- 3.1 The Tribunal inspected the property on 29th January 2007 in the presence of Mrs Elwell.
- 3.2 The property comprises a detached house built in 1988 by A & J Mucklow as part of an estate of houses and bungalows in a pleasant residential area of Dudley within walking distance of local amenities. The accommodation comprises an entrance hall with cloakroom, lounge, dining room, breakfast kitchen and utility on the ground floor with landing, four bedrooms (one en-suite) and bathroom on the first floor. Outside there is an open plan front garden with double garage to the side and enclosed rear garden with lawn and paving.
- 3.3 The house has brick elevations and a pitched interlocking tile roof.

4 Submission

- 4.1 The Applicants' Valuer Mr Chew submitted a written valuation valuing the Freehold interest at £1,525. This was based on a ground rent of a peppercorn per annum for the unexpired term of 85.5 years and reversion based on an entirety value of £230,000, apportioned site value of 35%, s.15 modern ground rent decapitalised at 4.75% and recapitalised after 85.5 years in perpetuity again at 4.75% .
- 4.2 To support the entirety value Mr Chew referred to sales of three similar properties in the area; 6 Tamar Drive which had been sold for £229,950 in August 2004, 34 Bosworth Close sold for £184,000 in October 2005 and 28 Bosworth Close sold for £235,000 in July 2006. He also made general reference to sales in Roper Way at £175,000 in November 2005 and £185,000 in February 2006 but did not give their addresses or further details.

5 Determination

- 5.1 Having considered the evidence we find as follows:
- 5.2 ***Method of Valuation***
In the absence of local rental evidence for building plots the Tribunal find the most appropriate method of valuation to be the standing house approach based on *Farr v Millerson Investments Ltd.(1971)* and value the interest in accordance with s.9(1) of the Act.
- 5.3 ***Value of Freehold Interest with Vacant Possession***
The LVT made external inspections of all the comparables referred to by Mr Chew. As with most sales evidence there are variations but of the evidence put forward, the LVT considered the sale of 28 Bosworth Close to be the most relevant as it is a similar type of house and had been sold only four months before the valuation date. Accordingly, the LVT find the appropriate entirety value of a house in good condition on the subject plot, assuming the plot to be fully developed, to be £235,000 at the valuation date.
- 5.4 ***Appropriate Site Value as a Percentage of the Freehold***
The Tribunal find that in the absence of direct sales evidence the LVT agree with Mr Chew that the current value of the plot as a percentage of the value of the house is 35%.
- 5.5 ***Capitalisation and Deferment Rates***
- 5.6 The Tribunal are not required to consider the capitalisation rate of the ground rent as the peppercorn rent has no value.
- 5.7 In respect of the deferment rate and in the absence of compelling evidence to the contrary, the LVT accept the guidance of the Lands Tribunal in *Earl Cadogan and Cadogan Estates v Sportelli* LRA/50/2005 and value the reversion at 4.75%.

5.10 **Premium**

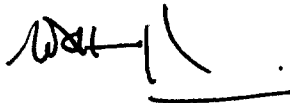
Accordingly, our valuation is as follows:

Term			
Ground Rent	1 peppercorn		£ 0
Reversion			
Entirety Value	£235,000		
Site apportionment @ 35%	£ 82,250		
Section 15 rent @ 4.75%	£ 3,906		
Years Purchase of reversion to perpetuity post 85.5 years 4.75%	<u>0.39834</u>		
			<u>£1,555</u>
Premium			<u>£1,555</u>

5.11 **Summary**

Accordingly, we determine the premium payable in accordance with s.9(1) of the Leasehold Reform Act 1967 to be £1,555 (One Thousand Five Hundred and Fifty Five Pounds).

- 5.12 There is no application for landlord's legal costs or Surveyor's fees and a valuation has not been prepared by the landlord pursuant to a Notice. Accordingly, no fees are payable.



I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Date: • 2 FEB 2007