

LEASEHOLD VALUATION TRIBUNAL

DECISION OF LEASEHOLD VALUATION TRIBUNAL
LEASEHOLD REFORM ACT 1967

Applicants: PETER JACOBS and GILLIAN MARGARET JACOBS

Respondent : SIDEWALK PROPERTIES LIMITED

Property : 11 Tame Street, Hill Top, West Bromwich, West Midlands B70 0QP

Valuation Date : 4th July 2006

Heard at : Birmingham Panel Offices

On : 23rd January 2007

Appearances :

For the Applicants : Mr and Mrs Jacobs in person

For the Respondent : No appearance

Members of the Tribunal : Mr D Jackson (Chairman)
Mr T F Cooper FRICS
Mr I Taylor FRICS

Date of decision :

1. BACKGROUND

This is a decision of a Leasehold Valuation Tribunal of the Midland Rent Assessment Panel on an application to determine the price payable for enfranchisement under section 21 of the Leasehold Reform Act 1967 ("the Act") in relation to 11 Tame Street, Hill Top, West Bromwich, West Midlands B70 0QP ("the Property").

2. The property is held under the terms of a Lease dated 29th December 1972 and made between Yenton Minster Homes Limited (1) and Terence Bernard Riley and Sheila Patricia Cutler (2) whereby the Property was demised for a term of 99 years from 24th June 1972 at an annual rent of £30 until 24th June 2005, £60 from 24th June 2005 until 24th June 2038, and £104 for the remainder of the term.

3. By Notice ("the Tenant's Notice") dated 4th July 2006 the Applicants gave "Notice of Tenant's Claim to Acquire the Freehold". The Respondent's Notice in Reply dated 15th April 2006 admits the Applicants' claim to have the freehold of the Property.
4. On 22nd November 2006 the Applicants applied to the Tribunal for determination of the price payable under section 9 of the Act and for determination of the Respondent's costs payable under section 9(4) of the Act.

5. INSPECTION

The Tribunal inspected the Property on the morning of the hearing. The Property is a three-bed-roomed detached house. Entrance is via a side door approached via the driveway and front garden. There is an entrance hall with stairs off. The sitting room has patio doors to the rear garden. The kitchen leads to a through-dining room constructed in what was previously the garage. On the second floor there are three bedrooms – two "doubles" and one "single" and a family bathroom.

There is gas central heating throughout and the Property is double-glazed.

The frontage is approximately 19 feet.

6. VALUATION

- 6.1 Valuation in accordance with section 9 (1) of the Act.
- 6.2 Valuation date – 4th July 2006.
- 6.3 Unexpired term - 65 years, adopted as common ground.
- 6.4 Straightforward term and reversion valuation. In the absence of any evidence of cleared site sales the Standing House Method was used to determine the section 15 ground rent.

7. ISSUES FOR DETERMINATION

- 7.1 Entirety Valuation (Applicants - £120,000; Respondent - £130,000)
- 7.2 Site apportionment (Applicants – none given; Respondent – 34%)
- 7.3 Deferment Rate – (Applicants – 6%; Respondent – 4.75%)
- 7.4 Costs payable under section 9(4) of the Act.

8. APPLICANTS' SUBMISSIONS

The Tribunal has considered a witness statement made by the Applicants dated 19th December 2006 which incorporates a report in letter form from Paul Jackson FRICS. dated 17th May 2006.

9. The comparables provided by the Applicants are:-

9.1 25 Tame Street, an end of terrace house sold in July 2006 for £110,000.

9.2 8 Tame Street, a link-detached property sold in August 2005 for £128,500.

9.3 4 Tame Street, a link-detached property sold in July 2005 for £117,000.

During their evidence the Applicants agreed with the freehold valuation of £120,000 provided by Paul Jackson.

10. Mr Jackson in his valuation does not provide a figure for site apportionment. At the hearing the Applicants expressed the opinion that the figure of 34% adopted by the Respondent was "the top end of the range."

11. Mr Jackson has adopted a "yield" of 6% but gives no reasons for doing so. The price payable on Mr Jackson's figures is £1,500.

12. RESPONDENT'S SUBMISSIONS

The Respondent did not attend the hearing and was not represented. However Mr Plotnek who had been instructed by the Respondents produced a written valuation dated 22nd January 2007 which was subsequently revised on 29th January 2007 following receipt of a copy of the lease of the Property (which was not available at the hearing and on which both parties were given permission to produce further written representations). Mr Plotnek's valuation of 29th January gives a price of £3,478.

Mr Plotnek has adopted an entirety valuation of £130,000 based on the following:-

12.1 No 15 was on the market for £147,995 in November 2006 but valued by the agents (Dubberley) at £140,000. "The lady there stated that in her view a similar property without a conservatory as at July 2006 would be worth £130,000 at the least."

12.2 25 Tame Street, a terraced property, was sold for £110,000 in July 2006.

In relation to the site apportionment Mr Plotnek has adopted 34% "which I consider appropriate for a semi-detached house in this area with this frontage."

Mr Plotnek has adopted a yield of 4.75% for both term and reversion following *Sportelli* (see paragraph 15).

13. TRIBUNAL'S DETERMINATION – ENTIRETY VALUE

The Tribunal was not persuaded by Mr Plotnek's evidence obtained following a conversation with a single selling agent. The evidence of achieved sales produced by the Applicants was more persuasive. The only sale near to the valuation date was No. 25 Tame Road which was an end of terrace property and not semi-detached. Nos. 8 and 25 were link-detached rather than semi-detached.

The Tribunal determines that as at the valuation date of 4th July 2006 the entirety value was £120,000.

14. TRIBUNAL'S DETERMINATION – SITE APPORTIONMENT

The Property has a relatively small frontage of 19 feet and for that reason the Tribunal has reduced Mr Plotnek's starting figure of 34% and determined a site apportionment of 32.5%.

15. TRIBUNAL'S DETERMINATION – DEFERMENT RATE

The Tribunal has had regard to the guidance of the Lands Tribunal in *Earl Cadogan and Cadogan Estates Limited* (1) and *Michele Francesco Sportelli and Lara-Lynn Victoria Lamont Sportelli* (2) LRA/50/2005. In particular the Tribunal has considered paragraph 123:-

"The application of the deferment rate of 5% for flats and 4.75% for houses that we have found to be generally applicable will need to be considered in relation to the facts of each individual case. Before applying a rate that is different from this, however, a valuer or an LVT should be satisfied that there are particular features that fall outside the matters that are reflected in the vacant possession value of the house or flat or in the deferment rate itself and can be shown to make a departure from the rate appropriate."

In the absence of any evidence from the Applicants the Tribunal was not persuaded to make a departure from the rate determined in *Sportelli* of 4.75%.

16. TRIBUNAL'S VALUATION

Term

Current ground rent p.a	£60 p.a.	
YP 32 yrs @ 4.75%	<u>16.2842</u>	£977

Ground rent from June 2038 p.a.	£90 p.a.	
YP 33 yrs @ 4.75%	16.5004	
PV £1 in 32 yrs @ 4.75%	<u>0.2265</u>	
	3.73734	£336

Reversion

Entirety Value	£120,000	
Site Apportionment @ 32.5%	£ 39,000	
Section 15 modern ground rent p.a. @ 4.75%	£ 1,852.50 p.a.	
YP in perp def'd 65 yrs @ 4.75%	1.03108	<u>£1,910</u>
		£3,223

Price (say)		<u>£3,220</u>
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17. COSTS

The Tribunal was invited to exercise its jurisdiction under section 21(ba) of the Act to determine the amount of reasonable costs payable by the Applicants.

Mr Plotnek proposed £375 plus VAT for legal costs and £350 plus VAT for valuation fees. The Applicants agreed £375 for legal costs (based on Mrs Jacobs' experience as a solicitor's secretary) but argued that no valuation fees should be payable.

18. Under section 9(4) of the Act valuation costs are payable "so far as they incurred in pursuance of the Notice." Section 9(4)(A) does not require a person to bear the costs of another person in connection with an application to a Leasehold Valuation Tribunal.

19. The Tribunal determines that Mr Plotnek's valuation of January 2007 were prepared in connection with the application to the Tribunal (and the imminent hearing) and not "in pursuance of the notice". Accordingly no valuation fee is payable.

20. The Tribunal accepts the uncontested evidence from Mrs Jacobs and determines the legal costs at £375 plus VAT

21. DETERMINATION

21.1 The price payable by the Applicant under section 9(1) of the Act is £3,220.

21.2 The reasonable costs payable by the Applicants under section 9(4) of the Act are £375 plus VAT in relation to legal fees and nil in relation to valuation fees.

In reaching its determination the Tribunal has had regard to the submissions of the parties, the relevant law and its own knowledge and experience as an expert Tribunal but not any special or secret knowledge.

Signed

MR D JACKSON – Chairman

16 FEB 2006