

LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

BIR/00CS/OAF/2003/0072

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967*

<u>Applicant:</u>	Mr R J & Mrs S R Kingham (leaseholders)
<u>Respondent:</u>	Perimeter Properties Ltd (freeholders)
<u>Subject property:</u>	279 Old Walsall Road Great Barr Birmingham West Midlands B42 1HY
<u>Date of tenants' notice:</u>	06 January 2003
<u>Application to the LVT:</u>	11 June 2003
<u>Hearing:</u>	24 September 2003
<u>Appearances:</u>	
<i>For the applicants:</i>	Mr A W Brunt FRICS
<i>For the respondents:</i>	Not represented
<u>Members of the LVT:</u>	Mr D B Power FRICS Mr J H Dove Mr D Underhill
<u>Date of determination:</u>	21 OCT 2003

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 Mr R J Kingham and Mrs S R Kingham, leaseholders of the house and premises at 279 Old Walsall Road, Great Barr, Birmingham, B2 1HY ("the subject property"). The application is under section 21(1)(a) for the determination of the price payable under section 9 of the Leasehold Reform Act 1967 for the freehold interest in the subject property.
- 2 The applicant leaseholders hold the subject property under a lease dated the 22 June 1972 for a term of 99 years from the 24 June 1973 at a ground rent of £30.00 per annum. The lease was assigned to the applicants on the 24 July 1992. The unexpired term at the date of the tenants claim to acquire the freehold ("the relevant date") was approximately 69 years.
- 3 The applicants served a tenant's notice dated the 06 January 2003 on the respondent landlords claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act, and the present application was made on behalf of the applicants by Anthony Brunt & Co, Valuers.
- 4 The parties have not disputed that the Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

Subject property

- 5 The subject property comprises a semi-detached house built 1973 of brick construction with a tiled roof, located on the Old Walsall Road, set back above the road itself by a wide verge. There are gardens front and rear; an unmade road at the rear of the property gives access to a garage and car port. On the ground floor the accommodation comprises an entrance hall, living room and kitchen with under-stairs cupboard, and on the first floor, two double bedrooms, a single bedroom and a combined bathroom and wc. There is upvc double glazing and space heating is by way of gas fired central heating and a gas effect fire in the living room.

Inspection and hearing

- 6 The Tribunal inspected the subject property on the day of the hearing in the presence of the applicant leaseholders; the freeholders did not attend.
- 7 The hearing was attended by Mr A W Brunt of Anthony Brunt & Co, who represented the applicants. The freeholders did not attend and were not represented.

Representations of the parties

- 8 Written representations, prior to the hearing, had been received from both the freeholders and the applicant leaseholders. The freeholders asked that Tribunal took into consideration that they had sold the freehold of 303 Old Walsall Road in February 2002 for £5,000. No other information was given.
- 9 The representation by Mr Brunt on behalf of the applicant leaseholders submitted a valuation based upon the generally recognised three-stage approach involving the capitalisation of the ground rent payable, the identification of a modern ground rent by decapitalising the site value by reference to the standing house value, and the capitalisation of the modern ground rent as if in perpetuity, deferred for the remainder of the expired term. The price payable on this basis is the sum of the first and last stages. Mr Brunt had found comparable evidence scarce and had not been able to locate anything directly comparable nearby of the same age. A house on Old Walsall Road, which did not identify the number, was included – this was a three bedroom semi-detached house, which from the photograph appeared to have been built perhaps over fifty years ago.
- 10 At the hearing, Mr Brunt referred to the submitted valuation, which is set out below:

(i) *Capitalisation of existing ground rent*

Ground rent payable:	£30.00 per annum	
Years Purchase:	69.5 years @ 7% : 14.156	
Capitalised ground rent:	$£30.00 \times 14.156 =$	£424.68

(ii) *Modern ground rent*

Value of the entirety:	£110,000	
Percentage of ground rent attributable to site:	33%	
Annual equivalent at 7%:		£2,541

(iii) *Capitalisation of modern ground rent*

Modern ground rent as above:	£2,541	
Years Purchase at 7% in perpetuity deferred 69.5 years:	.1297	
Capitalised modern ground rent:	$£2,541 \times .1297 =$	£329.57
The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say)		£754.00

- 11 Mr Brunt repeated his difficulty in finding suitable comparable evidence and relied on the judgement and expertise of the Tribunal to determine the freehold vacant possession value of the property in good order. It was however a busy road – a rat run, but set well back from the road. He again referred to the property for which details had been given and gave the opinion that property values had risen in the nine months since the date of the leaseholders claim, but would not quantify that. He asked the Tribunal to note that the freeholders had given no details or the circumstances of the sale by the freeholders and that the Tribunal should give no weight to this.
- 12 The Tribunal members advised Mr Brunt that, on inspecting the property, number 235 Old Walsall Road had an Agent's board outside indicating it had been sold. This might assist the Tribunal in assessing the open market value. It had been noted that the house was nearer the road, appeared smaller, in poorer condition, and had no garage or garage space. The price quoted was £96,950.
- 13 The hearing was then closed, on the understanding that the parties be invited to make representations on this new evidence, such representations to be copied to both parties for further comment. As a result a letter was received from Anthony Brunt & Co (copied to the freeholders) enclosing a copy of the Estate Agent's particulars, and revising the open market valuation of the subject property to £100,000, resulting in an reduction of the price to be paid to £724. No representation was received from the freeholders.

Determination of the Tribunal

- 14 The Tribunal holds that the basis of valuation adopted Mr Brunt properly reflects the principles of the 1967 Act applicable in the present case.
- 15 The Tribunal examined the figure submitted by Mr Brunt in respect of the standing house value after his consideration in the light of the information available in respect of 235 Old Walsall Road and considered whether those figures were appropriate.
- 16 Given Mr Brunt's acknowledgement of the difficulty of ascertaining suitable comparative evidence, and his reconsideration in the light of the information available in respect of 235 Old Walsall Road, the Tribunal does not accept that the freehold value of the property, in good condition with vacant possession, is properly assessed at £100,000. Having regard for the period of time between the valuation date and the hearing, and the differences between the subject property and 235 Old Walsall Road, such as size, condition, location and garage accommodation, the Tribunal finds that the standing house value of the subject property at the relevant date is £123,500
- 17 Apart from this, the Tribunal accepts the submissions of Mr Brunt in relation to the other factors in the valuation and calculates the price payable as follows:

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

Ground rent payable:	£30.00 per annum	
Years Purchase:	69.5 years @ 7% : 14.156	
Capitalised ground rent:	£30.00 x 14.156 =	£424.68

(ii) *Modern ground rent*

Standing house value of subject property:	£123,500	
Percentage attributable to site:	33% : £40,755	
Annual equivalent at 7%:		£2,853

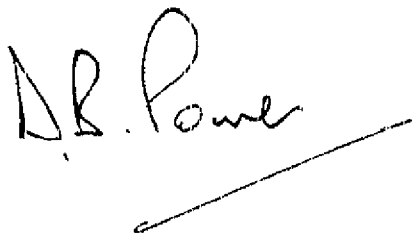
(iii) *Capitalisation of modern ground rent*

Modern ground rent as above:	£2,853	
Years Purchase at 7% in perpetuity deferred 69.5 years:	.1297	
Capitalised modern ground rent:	£2,853 x .1297 =	£370.03
Total of capitalised existing ground rent and capitalised modern ground rent (say)		£794.71

- 18 Accordingly, the Tribunal determines the price payable under section 9 of the 1967 Act for the freehold interest in the subject property is £795.

Summary

- 19 The Tribunal determines the price payable by the tenants for the freehold interest in the subject property at £795, plus the freeholders' reasonable costs calculated in accordance with section 9(4) of the 1967 Act and paragraph 5 of Schedule 22 to the Housing Act 1980.



DAVID B POWER
CHAIRMAN

21 OCT 2003