

Leasehold Reform Act 1967

Housing Act 1980

DECISION OF LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER S.21 THE LEASEHOLD REFORM ACT 1967

**TO DETERMINE THE PRICE PAYABLE ON ENFRANCHISEMENT BY THE TENANT UNDER
S.9 L R ACT 1967**

Applicant Tenants: Walter Allwyne Beardmore and Melanie Jane Beardmore

Respondent Freeholder: London and City Properties plc

Property: 130, Kingsley Road, Kingswinford, Dudley DY6 9RR

Date of Tenants' Notice: 27 April 2002

RV as at 1.4.1973: Less than £500

Application dated: 9 August 2002

Heard at: The Panel Office

On: 9 April 2003

APPEARANCES:

For the Tenant: Mr E J Rutledge FRICS

For the Freeholder: No appearance

Members of the Leasehold Valuation Tribunal:

Mr T F Cooper BSc FRICS FCI Arb (Chairman)
Mr J Woolf
Mrs N Jukes

Date of Tribunal's decision:

52 MAY 2003

1. **Background:** Walter Allwyne Beardmore and Melanie Jane Beardmore are the tenants (the '**Tenant**') by a 99 year lease from 25 March 1958 of the dwelling house and premises at 130, Kingsley Road, Kingswinford, Dudley DY6 9RR (the '**Property**'). The Freeholder is London and City Properties plc. By a notice dated 27 April 2002 (the '**Date**') the Tenant claims to acquire the freehold under the Leasehold Reform Act 1967 (as amended) (the '**Act**'). By an application dated 9 August 2002 the Tenant applies to us to determine the price payable on the acquisition of the freehold of the Property under s.9 of the Act. It is not contested that the basis of valuation is a s.9(1) valuation. We inspected the Property on 9 April 2003 and a hearing was held on the same day.
2. The Tenant holds the Property by a lease (the '**Lease**') for a term of 99 years from 25 March 1958 at a fixed ground rent of £12.50 pa.
3. The unexpired term of the Lease on the Date - which is the relevant date for the determination of the price payable - was about 55 years. We and the parties accept that the qualifying conditions for entitlement to enfranchise under the Act have been met.
4. The Property comprises a semi-detached house of traditional brick and tile construction in an established residential area of similar properties. The accommodation includes: on the ground floor - porch entrance, hall, through living room, kitchen; on the first floor - 2 bedrooms, bathroom with wc, through room to stairs to loft room; on the second floor - loft room/bedroom. Cited in imperial measurement in the Lease, the site frontage is 9.1m; the width is maintained throughout the depth of the site and the total site area is 209m².
5. Mr E J Rutledge FRICS appeared for the applicant Tenant; no representative appeared for the Freeholder but Mr R Rains of Secureland Ltd made written representations.
6. **The valuation method:** Mr Rutledge adopts, and we accept that, the generally recognised valuation method to derive the price payable for the freehold interest is: (i) capitalise the ground rent (£12.50 pa) from the Date for the unexpired term of the Lease (55 years); (ii) capitalise the modern ground rent (s15 of the Act), as at the Date, as if in perpetuity but deferred for the unexpired term of the Lease - 'as if in perpetuity' because, although the value of the modern ground rent is for a term of 50 years (as the extension to the Lease), the value of the freehold reversion in possession at the end of the fifty years' extension is ignored as being too remote to have a separate value for it. As no evidence of cleared sites is adduced, the modern ground rent is derived by the standing house method: by decapitalising the site value, as a proportion of the entirety value. The entirety value is the value of the freehold interest in the Property with vacant possession assuming it to be in good condition and fully developing the potential of its site provided always that the potential identified is realistic and not fanciful.

7. Mr Rutledge's valuation does not include a *Haresign* addition - recognised in *Haresign v St John The Baptists' College, Oxford* [1980] 255 EG 711 when specific account was taken of the reversion to the full value of the dwelling after the expiration of the assumed fifty years' extension of the lease. We accept his approach.

8. **Mr Rutledge's valuation and evidence:** For the freehold interest - £1,172

9. More specifically:


| | | | |
|-----------------------------|---------------|--------------|-------------|
| Term | | | |
| Ground rent | | £12.50 pa | |
| YP 55 years at 7% | | <u>13.94</u> | £174 |
| Reversion | | | |
| Entirety value | £125,000 | | |
| Site value at 33% | £41,250 | | |
| Sec. 15 ground rent at 7% | £2,887.50 pa | | |
| YP deferred 61¼ years at 7% | <u>0.3458</u> | | |
| | | | £998 |
| | | | £1,172 |

10. In support of 7% as the yield rate in his valuation Mr Rutledge says that 7% is consistent with previous decisions of this tribunal with similar unexpired terms of leases.
11. In support of his entirety value (£125,000) he refers us to four semi-detached house in the area, including three in Kingsley Road. All have three bedrooms and a garage or conservatory. Sales of two were in July and September 2003 (after the Date) at £116,000 and £131,000; one is currently for sale, asking £139,950. 189, Kingsley Road is very close to the Property but is on an elevated site and was sold in August 2002 at close to the asking price of £139,950. He says that making adjustments for the differences in the dates (reflecting the general increase in values between the dates) and the superior site of 189, Kingsley Road all the evidence points to £125,000 as the entirety value, reflecting the principles which we refer to above.
12. He says that a 33% site apportionment is consistent with decisions of this tribunal for not dissimilar sites.
13. **Mr Rains' written representations:** Mr Rains refers us to three 'properties which have been sold in the area', which we infer are the sales, as settlements by the parties, of three ground rents, all subject to leases of semi-detached houses, at between £4.20 pa and £15 pa. Two had unexpired terms of 27 and 32 years and were sold in February 2003 at £8,000 and £11,500 respectively; and 191, Kingsley Road (close to the Property), with an unexpired term of 54 years and a fixed ground rent of £15 pa, was sold at £4,500. Mr Rutledge says that we should attach little or no weight to this evidence of settlement figures as, on enquiry to Mr Rains, there is no evidence that the tenants were professionally and competently

represented and the unexpired terms in respect of the February 2003 sales (27 and 32 years) were substantially less than Property (55 years).

14. **Our Decision:** We find that the evidence of settlement figures, introduced by Mr Rains, is not persuasive as we have no knowledge of the tenants' circumstances and there may well have been an anxiety to settle, including the tenants' bids which we are expressly required to exclude. We also accept Mr Rutledge's evidence that there is no evidence that the tenants were competently represented.
15. In deriving his entirety value (£125,000), Mr Rutledge clearly recognises his duty to us, to provide truly independent evidence to assist us to achieve a just result. We also accept site apportionment (33%) and his yield rate (7%). As an expert tribunal, relying on our general knowledge but not on any special knowledge, we find that Mr Rutledge's valuation is consistent with the principles in the Act and accepted guidance derived from the Lands Tribunal and this tribunal. We accept his figures and the total price payable, at £1,172.
16. **Conclusion:** We determine that taking account of all the evidence adduced, our evaluation of it, using our general knowledge and experience but not any special knowledge, our inspection, that the sum to be paid by the Tenant for the acquisition of the freehold interest in the Property in accordance with section 9 of the Leasehold Reform Act 1967, as amended, is £1,172 (One thousand one hundred and seventy two pounds) plus the Freeholder's reasonable costs in accordance with section 9(4) of the Leasehold Reform Act 1967 and Schedule 22, Part I, para. 5. of the Housing Act 1980. In default of agreement over the amount of any costs payable under section 9(4) under the provisions of section 21(1)(ba), application may be made to the Leasehold Valuation Tribunal for a determination of such costs.

Date:


T F Cooper
CHAIRMAN