

In the matter of 25 Bateman Road, Coleshill, Warwickshire B46 1EU;
Leasehold Reform Act 1967, Sections 9, 21(1) (ba)

John Anthony Pointer (1)

Ruth Meryl Pointer (2)

Applicants

and

Speedwell Estates Limited

Respondent

Date of application:-

12th September 2006

Date of hearing:-

29th January 2007

Tribunal:

Mr J.H.L. de Waal

Mr. D.J. Satchwell

Mrs. A. Bartram

Attendances:

For the Applicants:

Mr. A.W. Brunt

DECISION

1. This is the Tribunal's decision on Mr. and Mrs Pointer's application for determination of the price payable under section 9 of the Leasehold Reform Act 1967 ("the Act") for the house and premises at 25 Bateman Road, Coleshill, Warwickshire B46 1EU ("the Property") and for determination of the amount of any costs payable under sections 9 and 21(1)(ba) of the Act.
2. The Application was issued on 12th September 2006 and served on the Respondent, Speedwell Estates Limited, under cover of a letter dated 6th October 2006. The Respondent served no counter notice.
3. The Midlands Leasehold Valuation Tribunal panel office wrote to the Respondent on 13th December 2006 enclosing the Application and again on 15th December with Directions and guidance notes on procedure. The

directions required the parties to lodge an agreed trial bundle no later than 14 days before the hearing. The directions reminded the parties that the Tribunal expected a mutual exchange of experts' reports and also that failure to comply with the directions and failure to provide evidence may preclude the defaulter from relying on such evidence at the hearing.

4. On 3rd January 2007 the panel office wrote to the Respondent confirming that a hearing would take place on 29th January at 11.50am. The letter again reminded the Respondent that if a party does not appear at a hearing the Tribunal may, if satisfied that adequate notice of the hearing has been given, proceed to deal with the application. A further letter to the Respondent was sent on 15th January.
5. At 11.13am on the day of the hearing the panel office received a faxed letter from Mr. M.A. Fell on behalf of the Respondent's agent Fell Estates Limited. The letter stated that the Tribunal had not provided the agent with any information. It suggested that there had been breaches of regulations 16(1) and 23(1) of the Leasehold Valuation Tribunal (Procedure) Regulations 2003. Mr Fell then went on to request that the application be adjourned.
6. Having considered the matter carefully the Tribunal decided to refuse this request. It was our view that the Respondent had been given correct notice of the Application, of the Directions and of the hearing. If the Respondent did not, as it appears, inform its agent Fell Estates Limited of the Application, that is a matter that should not prejudice the Applicant. We were also conscious of the fact that this request was made (literally) at the very last minute and of the costs incurred by the Applicants who had instructed Mr Brunt to attend the hearing. Finally, when addressing us on this matter Mr Brunt told us that he had spoken to Mr Fell about the case during the previous week. Our conclusion therefore was that the Respondent knew about the Application but had chosen not to attend.
7. We then proceeded to hear the Application.

8. The Property is held under a lease dated 14th January 1970. The term of the lease is 99 years less three days from 25th December 1957.
9. The Tribunal inspected the Property on 29th January 2007. The Property is a mid-terraced house with a shared side tunnel entry. On the ground floor there is a through lounge, a kitchen and a conservatory. Upstairs there are three bedrooms and a bathroom. There is a small rear garden. At the front a parking space has been cut out of the front garden.
10. At the hearing the Applicants were represented by Mr. A.W. Brunt who relied upon his valuation dated 17th January 2007.
11. We consider that the correct date for valuation is 12th September 2006 the date of the application.
12. Mr Brunt valued the entirety of the Property at £150,000. He referred us to the nearest comparable property 7 Norton Road which is for sale at £164,590. That is a larger property with two living rooms downstairs and a garage to the rear. He also informed us that the last house to be sold in the road was no. 2, which was sold for £148,000 in August 2005. No. 2 is a semi-detached house and is better situated. We agree that the entirety value of the Property is £150,000.
13. Mr. Brunt followed the conventional Standing House Value approach, adopting a 33% site value. We agree that this is the correct approach but consider that a site value of 31.5% is more appropriate. That leads to a site apportionment of £47,250.
14. Our calculation of the price payable therefore proceeds as follows:

Term

Ground rent p.a.	£25.00
YP for (yrs) 50.25 @ 4.75%	19.00823
	£475.21

Reversion

Entirety Value	£150,000.00
Site apportionment @ 31.5%	£47,250.00
Section 15 rent @ 4.75%	£2,244.37
YP in perp 50.25 yrs @ 4.75%	2.04440
	£4,588.39

Price	£5,063.60
(say)	£5,064.00

15. We therefore determine that the price payable for the acquisition of the freehold under section 9 of the Act shall be £5,064.
16. In relation to the application under section 21(1)(ba) of the Act we consider that the Freeholder's reasonable legal costs should be £300. There was no evidence that the Freeholder had obtained a valuation of the Property so we make no order in respect of valuation costs. Therefore we determine that the amount of costs payable under sections 9 and 21(1)(ba) is £300.

1- FEB 2007

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Date



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John de Waal

Chairman, Midland

Leasehold Valuation Tribunal