

**LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL**

BIR/00CU/OAF/2004/0234

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

ON AN APPLICATION UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicants:	Mr D & Mrs L McInerney (leaseholders)
Respondent:	St Ermins Property Co Ltd (freeholders)
Subject property:	11 Brabham Crescent Streetly Sutton Coldfield West Midlands B74 2BN
Date of tenant's notice:	24 th June 2004
Application to the LVT:	26 th August 2004
Hearing:	15 th November 2004
Appearances:	
<i>For the applicant:</i>	Mr J Moore of Midland Valuations Limited
<i>For the respondents:</i>	Not represented
Members of the LVT:	Mr. D.B. Power FRICS Mr. W. J. Martin Mrs. M H Ryder
Date of determination:	15 th November 2004

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 D & Mrs L McInerney, leaseholders of the house and premises at 11 Brabham Crescent, Streetly, Sutton Coldfield West Midlands ("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 and under section 21((1)(ba) of the same Act to determine the amount of any costs payable under section 9(4).
- 2 The applicant leaseholders hold the subject property under a lease dated the 25th March 1964 for a term of 99 years from the 24th June 1692 at a ground rent of £20 per annum. The lease was assigned to the applicant on the 10th July 1970. The unexpired term at the date of the tenants' claim to acquire the freehold ("the relevant date") was approximately 57 years.
- 3 The applicant served a tenants' notice dated the 24th June 2004 on the respondent landlords claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act, and the present applications were made on behalf of the applicants by Midland Valuations Limited.
- 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 approximately 60 years ago of brick construction under a tiled roof, located in a quiet residential area developed at about the same time. The plot on which the house stands provides a front garden which is paved over and a rear garden of average size for a house of this character. There is an integral single garage. On the ground floor the accommodation comprises an enclosed entrance porch, an entrance hall opening into a dining room, a lounge, and kitchen and on the first floor 3 bedrooms, bathroom and separate W.C. There is upvc double glazing and space heating is by way of gas fired central heating.

Inspection and hearing

- 6 The Tribunal inspected the subject property on the day of the hearing in the presence of Mr McInerney, one of the applicant leaseholders; neither the freeholders nor their representative attended.
- 7 The hearing was attended by Mr J Moore of Midland Valuations Limited who represented the applicants. The freeholders did not attend and were not represented.

Representations of the parties

- 8 Written representation, prior to the hearing, had been received from the applicant leaseholders' surveyor. No communication had been received from the respondent or their representatives CHP Management Limited by the Tribunal, nor by the applicants' representative other than a request to provide office copy entries to enable title to be deduced.

- 9 Mr. J Moore had submitted, on behalf of the applicant leaseholders, that the valuation for the assessment of the price payable for the leasehold interest should be the capitalisation of the unexpired ground rent and the capitalisation of the modern ground rent (derived by the standing house method) as if in perpetuity but deferred for the length of the unexpired term.
- 10 The entirety value was put at £170,000, the site apportionment 33% and 7% yield rates were proposed
- 11 For the assessment of costs, he submitted that there was no evidence of any valuation prepared by or for the freeholder between the date of the leaseholders' claim and the application to the Leasehold Valuation Tribunal so there should be no surveyors costs. £275.00 plus VAT if applicable was proposed for the legal costs based upon other Leasehold Valuation tribunal decisions.
- 12 At the hearing Mr. Moore referred to his submitted valuation and enlarged on his evidence. His detailed valuation calculation was as follows

Ground rent	£20 per annum	
Years Purchase:	57 years @ 7% :13.984	£279.68
Entirety value	£170,000	
Site value:	@ 33%	£56,100.00
Section 15 rent:		£3927.00
Years purchase in perpetuity 57 years @ 7%	.302	£1,185.95
Price		£1,465.63
Say		£1,466

- 13 The entirety value was adopted having regard for a recent decision of a Leasehold Valuation Tribunal in September 2004 in respect of 17 Brabham Crescent where the notice to acquire the freehold was served in late May 2004. A figure of £170,000 was determined in that case. There was little solid evidence of achieved selling prices of other properties in the vicinity except for quoted asking prices giving an indication of the range of values which might be achieved.
- 14 He confirmed his submission that 33% was the proper proportion to be adopted to arrive at the site value from the entirety value based on other decisions of Leasehold Valuation Tribunals. The rate of return of 7% is generally accepted in cases such as this.

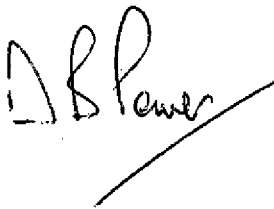
Determination of the Tribunal

- 15 The Tribunal holds that the basis of valuation adopted by Mr. Moore properly reflects the principles of the 1967 Act applicable in the present case.
- 16 Whilst Mr Moore's evidence relied on decisions of previous Leasehold Valuation Tribunals, this Tribunal is not bound by them and must make their determination on the merits of each case
- 17 The Tribunal examined the figure submitted by Mr. Moore in respect of the standing house value having regard for his evidence and using their own knowledge and experience. The Tribunal finds that the standing house value of the subject property at the relevant date is £170,000.
- 18 The Tribunal accepted the submissions of Mr. Moore in relation to the other factors in the valuation and his calculation of the price payable.

- 19 Accordingly, the Tribunal determines the price payable under section 9 of the 1967 Act for the freehold interest in the property is £1,466
- 20 There is no evidence of any surveyor's costs having been incurred by the freeholder between the date of the tenants' claim to acquire the freehold interest and the date of the application to the Leasehold Valuation Tribunal. These costs are therefore set at nil.
- 21 No claim for legal costs has been made so the Tribunal determines that these shall be set at a figure in alignment with determinations made by Leasehold Valuation Tribunals in other cases at £275.00 plus VAT if applicable

Summary

- 22 The Tribunal determines the price payable by the leaseholder for the freehold interest in the subject property at £1466, plus freeholders' legal costs in the sum of £275.00.

A handwritten signature in black ink, appearing to read 'D B Power', with a long horizontal stroke extending from the end of the signature.

DAVID B POWER
Chairman

Dated