

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Section 24

Leasehold Reform, Housing and Urban Development Act 1993 (as amended)

DECISION

Case Number: CHI/45UD/OCE/2004/0060

Property: The Cherries,
Rookwood Road,
West Wittering,
Chichester,
West Sussex. PO20 8LT

Applicant: The Cherries (West Wittering) Ltd (Nominee Purchaser)

Respondent: Sinclair Gardens Investments (Kensington) Ltd

Date of Application: 27 September 2004

Date of Hearing: 18 January 2005

Date of Decision: 27 January 2005

Appearances:

Mr Richard Oppe and Mr Richard Goldsmith for the Applicant
Mr Stephen Goodman of Hurst Managements for the Respondent

Tribunal Members: Mr B H R Simms FRICS MCI Arb (Chairman)
Mr J H S Preston JP FRICS
Mrs C Newman JP

Summary of Decision

The price to be paid by the nominee purchaser for the freehold interest in the property is **£5,219** (five thousand two hundred and nineteen pounds). Our valuation is attached as an Appendix.

INTRODUCTION

1. On the 27 September 2004 the Applicant applied to the Tribunal under S.24 of the Leasehold Reform Housing and Urban Development Act 1993 to determine the terms for the enfranchisement of the freehold of the Property. The lessees of Flat 2 and Flat 3 are not participating in the enfranchisement.
2. The Tribunal issued Directions for the conduct of the case dated 11 October 2004. The parties had been able to exchange statements and had been able to agree several issues which did not need to be decided.

INSPECTION

3. Members of the Tribunal inspected the Property before the hearing and were accompanied by the parties' representatives.
4. The Cherries is a two storey purpose built block of four flats located on the edge of West Wittering. Rookwood Road is the main road leading in to the village. There are some shops opposite and a recreation ground and children's play area at the side and rear. The building is set back from the road with a forecourt providing car parking and there is a garden at the rear.
5. We inspected flat 1 and flat 4 internally. Each has a hall, living room, kitchen, bedroom and bathroom with WC.
6. The Tribunal then inspected the exterior of Southdown Court in East Wittering, a property to be used as a comparable.

THE HEARING

7. The Hearing was held at New Park Community Centre in Chichester and commenced at about 11.00 a.m. In addition to the oral evidence presented at the hearing the Tribunal considered the written evidence and documents presented to it.
8. The parties had agreed various elements of the valuation and confirmed this agreement at the Hearing. The matters agreed are:
9. Each flat has a lease of 99 years from 1 January 1985
10. The ground rent in each case is £35 p.a. rising to £70 p.a. after 25 years; £105 p.a. after 50 years and £140 p.a. after 75 years.
11. The market value of the current leasehold interests in each flat at the valuation date are:
Flat 1: £105,000
Flat 2: £110,000
Flat 3 £110,000
Flat 4 £115,000
12. The capitalisation rate or yield is 8%

13. The marriage value if any should be split equally between the Applicant and the Respondent

14. The matters to be determined are:

15. The Valuation Date

16. The uplift in value to reflect the enfranchisement

17. The marriage value if any

The Valuation Date

18. The Applicant argues that this should be the date of the original notice (20 April 2004) on the grounds that this would be the date fixed by the amendment in the Commonhold and Leasehold Reform Act 2002 if in force. This date follows the convention used when dealing with enfranchisement under the 1967 legislation.

19. The Respondent argues for the date of the counter-notice (21 June 2004) but in any case the difference is very small.

20. The Applicant considers that although the difference in the number of years remaining is small (79.7 or 79.53), and the difference is not material, both fractions should be rounded to 80 years under usual mathematical convention.

The uplift in value

21. The Applicant in support of an uplift of no more than 2% quotes evidence at Southdown Court, Stocks Lane East Wittering and produces Land Registry documentation in evidence. Flat 10 sold for £115,000 in May 2004 and Flat 3 sold for £115,000 in November 2003. Although the leases at Southdown Court are 99 years from 1972 the lessees all participate in the freehold ownership and the properties can be compared to the situation existing after enfranchisement. Southdown Court is in a better state of repair than The Cherries and this offsets any adjustment required to take account of the more desirable location of The Cherries in West Wittering.

22. Neil Hawkins FRICS expressed an opinion in his written report that there is no uplift for an unexpired term of 79 years 10 months. Other chartered surveyors in the south work on the principle of 1% p.a. for each year below 80 years.

23. A LVT decision on 150 Ditchling Road Brighton heard in July 2004 decided on 2% uplift for a lease with 76 years remaining.

24. The Respondent does not consider Southdown Court to be directly comparable. Values here would be lower than at The Cherries. Enquiries of local agents confirm the difficulty in obtaining comparables in the area. A local agent considers that the value of a flat in The Cherries with an extended lease would be between £125,000 and £150,000. Other agents had been consulted but none of them had carried out a valuation or visited The Cherries.

25. Since a flat in The Cherries cannot be worth less than £125,000 this figure is then adjusted by £5,000 to take account of improvements producing an extended lease valuation of £120,000. This represents an uplift of 5%. The Respondent explained that an adjustment had to be made for improvements to comply with the valuation principles set out in the Act and this is assessed at £5,000.

Marriage Value

26. This is linked with the assessment of uplift. The Applicant argues that the 2002 Act removes marriage value from the valuation calculation if the remaining term is 80 years or more. As the remaining term in this case should be rounded to 80 years there should be no marriage value addition.
27. The Respondent refers to the same S.128 in the 2002 Act but points out that as leases at The Cherries are shorter than 80 years the exclusion of marriage value does not apply. The Act does not say that marriage value does not exist for leases longer than 80 years only that any value should be excluded in the calculation of price. Marriage value exists at The Cherries and it should be based on 5% uplift. The published relativity graphs all show an uplift at 80 years and longer. He could not explain why there was still relativity shown on the graphs at 100 years.
28. The Respondent agrees that the best evidence is market evidence but this is very limited in this case. Southern LVTs have decided cases based on relativities lower than the evidence showed.

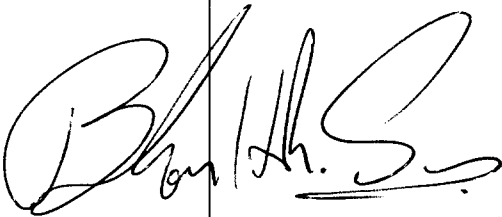
DECISION

29. The valuation date should be the date of the initial notice (20 April 2004). The 2002 Act will follow this convention when SI 3056 (2004) comes into force in February this year. This also follows the convention used by the 1967 legislation. At this valuation date the leases had 79.7 years unexpired.
30. The evidence of long lease values was not clear but we found the information from Southdown Court to be useful. This is a comparable type of property in a nearby location. The alleged poorer location of Southdown Court in East Wittering is partly balanced by the disadvantages of the recreation ground and children's play area adjoining The Cherries. West Wittering is clearly a better locality and the views of local agents cannot be ignored.
31. We found the Applicant's case slightly contradictory in that at times in the written case they argued for no marriage value but at the Hearing it was clear that a 2% uplift was being put forward.

32. As usual the problem is a shortage of market evidence for long leases. We find that there should be a marriage value. Based on the evidence presented it is clear that a purchaser would pay a higher price for a long lease compared to one of 79.7 years. The 80 year exclusion does not apply as the lease residue is less than 80 years. Insufficient evidence is available to show an uplift of more than 2% so this is the figure used in our calculation.

33. The only term in dispute and referred to this Tribunal is the price to be paid and we find this to be **£5,219**. Our calculation is attached.

Dated 27 January 2005

A handwritten signature in black ink, appearing to read 'Brandon H R Simms', with a stylized flourish at the end.

Brandon H R Simms FRICS MCI Arb
A member of the Panel appointed by the Lord Chancellor

Facts used

Value of existing lease	Flat 1	£105,000	
	Flat 2	£110,000 non participating	
	Flat 3	£110,000 non participating	
	Flat 4	£115,000	
	Total	£440,000	
Value of long leases (2% uplift)	Flat 1	£107,100	
	Flat 2	£112,200 non participating	
	Flat 3	£112,200 non participating	
	Flat 4	£117,300	
	Total	£448,800	
Valuation date	20/04/04		
yield	8.00%		
Unexpired term at valuation date	79.7 years		
Ground Rent	£140.00 for	5.7 yrs	
increasing to	£280.00 for	25 yrs	
increasing to	£420.00 for	25 yrs	
increasing to	£560.00 for	24 yrs	

Value of landlord's interest

Capitalise ground rent for current term						
			Ground rent	£140.00		
YP	8.00%	5.7 years		<u>4.43889</u>	621	
			Increase to	£280.00		
YP	8.00%	25 years	10.67478			
x Pv	8.00%	5.7 years	<u>0.64489</u>	<u>6.88404</u>	1,928	
			Increase to	£420.00		
YP	8.00%	25 years	10.67478			
x Pv	8.00%	30.7 years	<u>0.09417</u>	<u>1.00519</u>	422	
			Increase to	£560.00		
YP	8.00%	24 years	10.52876			
x Pv	8.00%	55.7 years	<u>0.01375</u>	<u>0.14477</u>	81	3,052
Plus Landord's reversion to long lease in possession				£448,800		
	x Pv	8.00%	79.7 years	<u>0.002168</u>	973	
Value of landlord's existing interest						4,025

Landlord's share of marriage value

Value of new extended leases (participating)		Flat 1	£107,100		
		Flat 4	£117,300		
		Total	224,400		
Value of reversionary interests in non-participating flats					
		Ground rent	£70.00		
YP	8.00%	5.7 years	<u>4.43889</u>	311	
		Increase to	£140.00		
YP	8.00%	25 years	10.67478		
x Pv	8.00%	5.7 years	<u>0.64489</u>	<u>6.88404</u>	964
		Increase to	£210.00		
YP	8.00%	25 years	10.67478		
x Pv	8.00%	30.7 years	<u>0.09417</u>	<u>1.00519</u>	211
		Increase to	£280.00		
YP	8.00%	24 years	10.52876		
x Pv	8.00%	55.7 years	<u>0.01375</u>	<u>0.14477</u>	41
plus reversion to long lease		Flat 2	£112,200		
		Flat 3	£112,200		
		Total	£224,400		
	x Pv	8.00%	79.7 years	<u>0.002168</u>	487
					2,013
					226,413
Less					
Value of landlord's existing interest lost (see above)					4,025
Value of existing leases (participating)		Flat 1	£105,000		
		Flat 4	£115,000		
		Total	220,000	224,025	
Marriage value				2,387	
Landlord's share of marriage value at 50%					1,194
Compensation					nil
Price payable					<u>£ 5,219</u>