



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : BIR/00CN/OAF/2018/0028

Property : 27 Blundell Road, Birmingham, West Midlands, B11 3NB

Applicant : Birmingham City Council

Representative : Mrs H.J. Kitely, Solicitor, Legal and Governance Services,
Birmingham City Council

Respondent : Parties Unknown

Representative : None

Type of Application : Referral by the County Court to determine the price payable for
the Freehold interest and amount payable into Court pursuant to
the Order of District Judge T.Rea, sitting in Birmingham County
Court, under Claim No.E00BM406. The Order is dated 11
September 2018 made under Section 27(5) of the Leasehold
Reform Act 1967.

Tribunal Members : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Judge C. Goodall

**Date and Venue of
Hearing** : 31 January 2019 at the offices of the First-tier Tribunal
(Property Chamber), Centre City Tower, 5-7 Hill Street,
Birmingham, B5 4UU.

Date of Decision : 7 March 2019

DECISION

Introduction

- 1 This is a referral to the First-tier Tribunal pursuant to the Order of Deputy District Judge T. Rea sitting in Birmingham County Court, dated 11 September 2018, for the First-tier Tribunal to determine the price payable for the Freehold interest and amount payable into Court under Section 27(5) of the Leasehold Reform Act 1967 ('the Act').
- 2 The tenant is Birmingham City Council ('the Council') having acquired the lease by assignment on 15 February 1978. The Council sub-lets to a tenant in occupation.
- 3 The lease expired 24 March 2018 and prior to expiry the Council wished to purchase the Freehold interest under the Leasehold Reform Act 1967. It made enquiries to locate the Freeholder which were unsuccessful, and on 6 March 2018 applied to Birmingham County Court for the Freehold to be transferred by vesting declaration.
- 4 A Hearing was held in Court on 19 July 2018 before Deputy District Judge T. Rea and a Court Order was issued on 11 September 2018, requiring the Council to advertise in the local press to locate the Freeholder. The appropriate press was specified as either the Birmingham Post or Birmingham Mail and an advertisement was placed in the Birmingham Post on 16 August 2018 by the Council, but again no reply was received.
- 5 The valuation of the Freehold and amount payable into court were referred to the First-tier Tribunal pursuant to paragraph 4 of the Order on 27 November 2018.
- 6 Directions were issued, the property inspected on 31 January 2019 and a Hearing held on the same day at the Tribunal offices in City Centre House, Birmingham.

The Law

- 7 Section 27(5) of the Leasehold Reform Act 1967 provides that where the tenant can establish a right to acquire a Freehold interest and the landlord cannot be found, the tenant can apply to the court for a vesting declaration.
- 8 The County Court hearing on 19 July 2018 established that the Council had the right to enfranchise under Section 9(1) of the Act.
- 9 The Council held a lease dated 21 May 1973 for a term of 45 years from 25 March 1973 expiring 24 March 2018 at a fixed ground rent of £10 per annum. There were 18 days unexpired at the date of the Council's application on 6 March 2018, which is the date of valuation for the purposes of Section 9(1).

Facts Found

- 10 Prior to the Hearing, the Tribunal members inspected the property in the company of Mr A. Mir MRICS representing the Council.
- 11 The property comprises an end terraced house in an inner city area of Birmingham about 3 miles south east of the city centre. It is a two storey brick and slate building with ground floor accommodation comprising a living room, lobby and kitchen with stairs to two bedrooms and a bathroom on the first floor. The property fronts the pavement but has a back garden accessed either from the house or from a passageway between two nearby houses leading through an entry to Blundell Road.

- 12 The house has double glazing and central heating. The Tribunal noted structural cracking in the building extending from masonry over the front door through the front elevation to the brick corbels at eaves level which was drawn to the attention of Mr Mir. The Tribunal also noted that the gable elevation brickwork had been rebuilt, evidenced by a different type of brick used in the construction to that in the front and rear main walls, and a bituminous damp proof course which was not evident in the front elevation.

Hearing

- 13 At the Hearing, the Council were represented by Mrs H.Kitely, in-house Solicitor with responsibility for litigation, Mrs J. Hopkins, in-house Solicitor with responsibility for conveyancing and Mr A.Mir MRICS, in-house Chartered Surveyor and Valuer who gave oral and written evidence.

The Council's Submissions

- 14 Mrs Kitely provided the background to the referral and offered Mr Mir as Expert Witness.
- 15 Mrs Kitely advised that the Council had no record of having paid a ground rent and offered £60 payable into Court to represent the previous six years' rent at £10 per annum, limited to six years by the Limitation Act 1980.
- 16 Mr Mir submitted a valuation prior to the Hearing in which the Freehold was valued at £41,500, but in the light of further evidence amended the valuation to £40,772 which he rounded to £41,000 at the Hearing.

The Council's Valuation Submissions and Tribunal Determination on each point

- 17 Mr Mir adopted a standard valuation approach in line with market precedents. He applied a three stage valuation valuing the term, a second term for a 50 year extension envisaged by the Act and a reversion to perpetuity.
- 18 The term ground rent was £10 per annum set by the lease. Mr Mir valued this at a capitalisation rate of 6.5% for the remaining 18 days of the lease, which the Tribunal agree to be the appropriate rate. This produced a term value of a nominal £0.48.
- 19 Mr Mir valued the second term, the 50 year extension, based on an 'entirety value' of £120,000. This is the notional value of the Freehold assuming the plot to be developed to its maximum potential. He referred to four local comparables to support the figure:

<u>Address</u>	<u>Description</u>	<u>Sold</u>	<u>Price £</u>
31 Mountford Street	2 bedroom terraced house	21.5.18	107,000
43 Lea Road	"	17.11.17	97,000
29 Gough Road	"	15.9.17	113,000
34 Medley Street	"	20.7.17	105,000

The Tribunal inspected 31 Mountford Street and 43 Lea Road from the street and also applied its own general knowledge of market values, and agree that the figure of £120,000 would have represented the 'entirety value' of a hypothetical house on the plot assuming it to have been fully developed at the valuation date of 6 March 2018.

- 20 Mr Mir submitted that the site element of the entirety value would be 30%. The Tribunal notes that this is a narrow plot with 12'6" frontage and agrees this to be a fair assessment.

- 21 Mr Mir devalued the ground rent at 5.25% for the purposes of assessing the ground rent under Section 15 of the Act, which he re-capitalised for the 50 year extension at 5.25% and deferred for the 18 days remaining on the term again at 5.25%. The Tribunal finds this to be fair and reasonable and in line with market practice.
- 22 In valuing the reversion to perpetuity, Mr Mir valued the existing house on the plot at £110,000, which, having considered the comparable evidence, the Tribunal agrees.
- 23 Mr Mir deducted 10% for sitting tenant rights in accordance with Schedule 10 of the Local Government and Housing Act 1989 which the Tribunal finds fair and reasonable in accordance with established practice.
- 24 Mr Mir then deferred the value of the second reversion at 5.25% consistent with the rate applied to value the second term. The Tribunal finds this fair and reasonable.

Tribunal Valuation

- 25 Applying these inputs, the Tribunal values the Freehold interest under the Act as follows:

Term 1

Ground Rent	£	10	
Years Purchase 18 days @ 6.5%		<u>0.0477</u>	
	£		0.48

Term 2

Entirety value	£	120,000	
Plot value @ 30%		36,000	
devalued at 5.25%		<u>0.0525</u>	
s.15 modern ground rent		1,890	
Years purchase 50 yrs 5.25%		17,5728	
Present Value 18 days 5.25%		<u>0.99748</u>	
	£		33,128

Reversion

Standing House value	£	110,000	
Less Sch.10 rights 10%		<u>11,000</u>	
Net		99,000	
Present Value £1 50 yrs 5.25%		<u>0.077427</u>	
	£		7,665

	£	40,793
Price under the Act rounded to	£	41,000

The Tribunal determines the value of the Freehold interest in accordance with the provisions of section 9 of the Leasehold Reform Act 1967 at £41,000 (Forty One Thousand Pounds).

- 26 In accordance with the Court Order, the Tribunal finds the amount payable for the Freehold interest to be £41,000 (Forty One Thousand Pounds) with an additional £60 (Sixty Pounds) payable representing six years' ground rent.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal to Upper Tribunal

Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal and the result sought by the party making the application.