



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

**Case Reference** : CHI/00HC/OAF/2018/0012

**Property** : 56, Blackthorn Gardens, Worle, Weston-super  
-Mare BS22 6SA

**Applicant** : Andrew Edward Dunn

**Representative** : Berry Redmond Gordon & Penney, solicitors

**Respondent** : The successors in title of Catherine Wallop

**Representative** :

**Type of Application** : Leasehold Reform Act 1967 (Missing  
Landlord)

**Tribunal Member** : Mr D Banfield FRICS

**Date of Decision** : 12 December 2018

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DECISION

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## **Summary of Decision**

The Tribunal has determined for the reasons set out below that the price payable by the Applicant for the freehold reversion of the property is to be the sum of **£3,875** and the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

## **Background**

1. District Judge Field sitting at the County Court at Weston–super-Mare made an order dated 22 May 2018 directing that the First–tier Tribunal (Property Chamber) assess the appropriate sum in accordance with S27(5) of the Leasehold Reform Act 1967. (The Act)
2. Enclosed with the application to the Tribunal was a valuation report prepared by Mr M.T. Ripley FRICS dated 13 August 2018.
3. An inspection of the property has not been made.

## **The Lease**

4. The site is identified on the HM Land Registry plan edged red under title number AV246535 and is held by way of a lease for a term of 500 years from 1 September 1557 and made between Catherine Wallop and John and Isabel Thomas. The lease is subject to a yearly rent in respect of the whole of the premises of £1 6s 9d.
5. Mr Ripley in his valuation states that no ground rent is paid, the beneficiaries being unknown.

## **The Law**

6. Section 27(5) of the Act provides:  
*The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:*
  - a. *Such amount as may be determined by (or on appeal from) the appropriate Tribunal to be the price payable in accordance with Section 9 above; and*
  - b. *The amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the Conveyance which remains unpaid.*
7. Section 9 of the Act sets out in detail the assumptions to be made and the procedure to be followed in carrying out the valuation. The effect of Section 27(1) is that the valuation date is the date on which the application was made to the Court.
8. There are various bases set out in Section 9 of the Act and the Tribunal determines that the appropriate basis is in Subsection 9(1) being that on 31 March 1990 the Rateable value of the house and premises was not above £500.

9. The Tribunal has been referred to and takes account of the following decisions: *Arbib v Cadogan* (2005), *Cadogan Estates Limited v Sportelli* (2006) and *Clarice Properties Limited Appeal* (2012).

### **The Premises**

10. The property comprises a terraced house constructed in the late 1970s.
11. The accommodation comprises a hall, lounge, kitchen/diner on the ground floor with three bedrooms and bathroom with separate WC on the first floor. There is an open plan front garden and enclosed rear garden with rear access to a single garage.
12. There is no central heating.

### **Evidence and Decision**

13. In a valuation report dated 13 August 2018 Mr M T Ripley FRICS determined that the value for the purposes of Section 27 of The Act as at 22 May 2018 is £2,185.
14. Mr Ripley made his determination on an open market value of the property of £145,000, a site value proportion of 25.00% (£36,250) a modern ground rent at 6% (£2,175) and a YP in perp at 7% deferred 39 years. This produced the rounded sum of £2,185.
15. Mr Ripley bases his open market value of £145,000 on the sale of four similar but semidetached or end of terrace houses at prices between £180,000 and £193,000;
  - a. 18 Lime Close, sold April 2018 for £190,000
  - b. 2 Blackthorn Gardens, sold April 2018 for £193,000
  - c. 125 Verbena Way, sold December 2017 for £180,000
  - d. 46 Verbena Way, sold November 2017 for £193,000
16. Mr Ripley also refers to the sale in October 2017 of 72 Blackthorn Gardens at £155,000.
17. In assessing the value of the property Mr Ripley takes into account its condition and that it is terraced.
18. The Tribunal accepts Mr Ripley's value of £145,000.
19. The Tribunal finds that the deferment period is 39 years
20. Mr Ripley considers that the deferment rate should be 7% and the modern ground rent calculated on a 6% return. He justifies the departure from the 4.75% rate determined in *Sportelli* and the previously adopted 7% for calculating the modern ground rent for the reasons set out in paragraphs 1 to 5 on page 3 of his report.

21. The Tribunal accepts that there are grounds to depart from the generic deferment rate of 4.75% but considers that a rate of 6% is more appropriate to reflect the differences and therefore applies that figure to the valuation below.
22. The Tribunal accepts Mr Ripley's site value of 6% and 7% return on capital.
23. For the reasons set out in paragraph 6 of his report Mr Ripley considers that the staged approach adopted in Clarice is inappropriate and therefore adopts a single reversionary basis. The Tribunal disagrees and sees no justification for departing from the 3-stage approach.
24. The Tribunal accepts Mr Ripley's application of 25% as the site value proportion.
25. In order to reflect the assumption that Schedule 10, paragraph 4 of the Housing Act 1989 applies to the tenancy and that it will continue until the appropriate notice is served a deduction of 3.85% is made to reflect the possibility that the tenant may obtain an assured tenancy at a market rent.
26. The Tribunal's valuation is therefore;

<b>Value of current term with no rent payable,</b>	£00.00
<b>Value of first reversion;</b>	
Entirety value £145,000	
Site value @ 25%	£36,250
S.15 modern ground rent @6%	£2,175
Years purchase 50 years @7% = 13.80075	
	= £30,017
Present value of £1 in 39 years deferred @6% = 0.10306 =	£3,094
<b>Value of second reversion:</b>	
Entirety value £145,000	
Deduct 3.85%, £139,417	
Present value of £1 in 89 years deferred @ 6% = 0.0056 =	£781
Total sum payable:	<b><u>£3,875</u></b>

27. The Tribunal determines that the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is nil.

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.