



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

Case Reference : **CAM/22UC/OAF/2019/0002**

Property : **64 Chapel Hill, Halstead, Essex CO9 1JP**

Applicants : **Ian Alderton and Rachael Ann Lane**

Representative : **Holmes and Hill LLP**

Respondent : **Missing Landlord**

Type of Application : **Application to determine the price payable under section 9 and 27 of the Leasehold Reform Act 1967**

Tribunal Members : **Mary E Hardman FRICS IRRV (Hons)
Judge Wayte**

Date of Decision : **19 June 2019**

DECISION

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DECISION

The Tribunal determines that the price payable for the freehold of the Property ,64 Chapel Hill, Halstead, Essex CO9 1JP is £37,061 and the amount of unpaid pecuniary rent payable for the property up to the date of the Conveyance is nil.

BACKGROUND

1. On 15th February 2019 the applicants Mr Ian Alderton and Miss Rachael Ann Lane, the leaseholders of the Property, made application to the County Court at Chelmsford seeking the right under Part 1 of the Leasehold Reform Act 1967 (the Act) to acquire the freehold of the Property.
2. On 5th April 2019 at the County Court at Chelmsford, District Judge Mitchell found that the Claimants were prevented from giving notice to the Landlord or superior title holder pursuant to the provisions of the Leasehold Reform Act 1967 Section 27 because the identity of the Landlord or superior title holder, if any, cannot be found.
3. He further declared that the amount of rent payable in respect of the property is not known and has not been paid in living memory.
4. He ordered that the Leasehold Valuation Tribunal (First-tier Tribunal) determine (a) the price payable in accordance with Section 27(5) of the Act (in the event of the application succeeding) and (b) the amount or estimated pecuniary rent payable for the property up to the date of the conveyance that remains unpaid.
5. Directions were given on 15 May 2019. The Directions were to the effect that the case could be dealt with without the need for an oral hearing and required the applicants to notify the Tribunal should they require an oral hearing to be held. The applicants did not request an oral hearing.

The Lease

6. The applicants acquired their leasehold interest in 64 Chapel Hill Road on 4 May 2000.
7. The property is registered at the Land Registry under title number EX639841.
8. In a witness statement made by Mr Hopkins, Holmes and Hill LLP, we are told that the house was held under a lease dated 24 October 1841 for an original term of 200 years. No particulars of rent are provided. He also states that to the best of the Claimants' knowledge the original lease has been lost and that it is not apparent from the Land Registry title documentation what rent, if any, was payable under the terms of the lease.

The Law

9. 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.*

10. 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 – in this case 15 February 2019
11. 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.

The Property

12. The valuation report provided by Mr Woodhouse FRICS describes the property as an extended semi-detached house thought to have been built in 1841 in an established residential location close to the town centre.
13. The original house is of brick construction with part of the extension work being timber framed. The elevations are fully rendered with a pitched roof of concrete pantiles.
14. Accommodation is 2 receptions and kitchen/breakfast room to the ground floor and 4 bedrooms and bathroom/wc to the first floor. There is single garage and parking for two cars. There are gardens to the front and rear.

Evidence

15. The Applicants rely on a report from CC Woodhouse of Braintree based Joscelyne Chase Property Consultants and a Fellow of the Royal Institution of Chartered Surveyors and a Registered Valuer.
16. Mr Woodhouse provides a short report in which he describes the property, outlines the tenure and provides a valuation. He also provides the sales particulars for the property which he informs the tribunal was being offered for sale immediately prior to the application by a local estate agent and was under offer at £325,000 subject to the tenure aspect being resolved.
17. He provides a copy of the sales particulars detailing the property as being on the market at £332,959. He does not provide any comparable sales nor any basis or explanation as to why he has adopted the various return rates in his calculation in arriving at the Enfranchisement price of £37662.

Determination

18. Mr Woodhouse has adopted a three-stage valuation following **Clarise Properties Limited** [2012] UKUT 4 (LC)

19. The first stage requires capitalisation of the ground rent for the term. We agree with Mr Woodhouse that on the basis there is no ground rent demanded or paid that the value of the unexpired term of 23 years is nil
20. The second stage requires the Tribunal to determine and capitalise a section m modern ground rent. This requires the Tribunal to determine Entirety Value, Site Apportionment and deferment rate.
21. In relation to Entirety Value Mr Woodhouse adopts the 'under offer' price of £325,000 as his market value of the property. He does not offer any comparables to support this. It appears to the Tribunal likely that the sale price may be somewhat impacted by the potential delay and uncertainty of the vendor having to make an application to the County Court. The Tribunal has performed an internet search and using its skill and experience has adopted the asking price of £332,950 as more fairly representing the Entirety value
22. Mr Woodhouse adopts a figure of 33.33% Site Apportionment. The house stands on a good plot. It is a semi-detached house with parking for two vehicles and a garage at the side of the house itself. We therefore find that the appropriate figure for Site Apportionment is 33.33%. We adopt a deferment rate of 6% on the basis of Mr Woodhouse's valuation, which whilst unsupported by any evidence is not untypical.
23. At the third stage we have to value the reversion to a standing house on the expiry of the 50 year lease extension. It is necessary to reflect the tenant's right to remain in possession after the 50 year lease extension under Schedule 10 to of the Local Government and Housing Act 1989. Mr Woodhouse has made no deduction (nor any mention) of this. The Tribunal, having regard to the facts of the case, the relatively short unexpired term and case law precedent has adopted a 15% deduction to reflect rights under Schedule 10 .
24. There is no unpaid rent. There has been no demand for rent. The provisions of sections 47 and 48 of the Landlord and Tenant Act 1987 and section 166(1) Commonhold and Leasehold Reform Act 2002 (requirement to notify long leaseholders that rent is due) have not been complied with. A tenant is not liable to make payment of rent under a lease unless the Landlord has given him notice relating to the payment.
25. The valuation is set out at Appendix 1
26. The case must now be transferred back to Chelmsford County Court.

Judge: *Mary Hardman*

Mary Hardman

Date: 19 June 2019

Appendix 1

Valuation – 64 Chapel Hill Halstead CO9 1JP

						£
Value of unexpired 23 years						0
Reversion to modern day ground rent						
House value					£332,950	
Plot value at 33.3%					£110,983	
Ground rent @	6%				£6,659	
YP 50 years @	6%	15.76				
PV £1 23 years @	6%	0.262		4.129		£27,495
Revert to standing house value				£332,950		
Less Schedule 10 rights @15%				£49,943		
				£283,007		
PV £1 73 years @	4.75%			0.0338		£9,566
						£37,061

ANNEX – RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-Tier at the Regional Office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request to an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.