



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

Case Reference : **AGR/LON/00AB/OAF/2019/0002**

Property : **280 LODGE AVENUE,
DAGENHAM, RM8 2HF**

Applicant : **LITTLECROFT PROPERTIES
LIMITED**

Representatives : **ANTHONY RADEVSKY of Counsel
ROGER HARDWICK (Brethertons
solicitors)
JUSTIN BENNETT FRICS (LBB
Chartered Surveyors)**

Respondent : **PINE PROPERTIES SERVICES
LIMITED**

Representative : **MR AND MRS K RAHMAN**

**Date of Receipt of
Application** : **20th May 2019**

Date of Hearing : **2nd July 2019**

Tribunal Members : **Judge Shaw
Mr D Jagger FRICS**

Date of Decision : **11th July 2019**

DECISION

Introduction

1. This case involves an application made on the 15 January 2019 for a determination of the price payable for the freehold of the property situate and known as 280 Lodge Avenue Dagenham RM8 2HF (“the Property”). The application is made pursuant to the provisions of the Leasehold Reform Act 1967 (“the Act”). The parties were unable to agree that price and therefore an application has been made under Section 22 of the Act in order that the Tribunal may make a determination in accordance with Section 9 of the Act.
2. The Applicant is Littlecroft Properties Limited (“the Applicant”) which is presently the leasehold owner of a two floor flat above a shop at the address mentioned. The Respondent is Pine Properties Services Limited (“the Respondent”), the current freehold owner of the shop and flat above. The parties have appeared before the tribunal today; the applicant represented by Mr Anthony Radevsky of Counsel and accompanied by Mr Roger Hardwick of Brethertons Solicitors, together with Mr Justin Bennett FRICS a surveyor and valuer of LBB Chartered Surveyors. The Applicant also attends by way of Mr Howard Winston, a director of the applicant and Ms Hannah Winston, his daughter, also a director of the applicant. The Respondent has attended, again through its directors Mr K Rahman and Mrs K Rahman.
3. The brief procedural background to the matter is that by notice dated 24 August 2018, appearing at page 22 of the bundles supplied to the Tribunal

(Volume 1), the Applicant exercised its statutory right to purchase the freehold pursuant to the Act. At page 36 of the same bundle the Respondent served a notice in reply dated 18 October 2018 admitting the entitlement to acquire the freehold but contending that the appropriate valuation should be in accordance with Section 9(1)(A) of the Act. However, that point has now fallen away, and it was conceded in April of this year in a Statement of Agreed Facts, which appears at page 17 of Volume 2, that the valuation is to be undertaken in accordance with Section 9(1) of the Act.

4. By letter dated 13 June 2019, the Respondent applied to the Tribunal for an adjournment of the hearing today which had been fixed on 21 May 2019. The Applicant objected to any such adjournment or vacation of the hearing date, and the Tribunal by letter dated 20 June 2019 refused the Respondent's application.

The Hearing

5. It is against that background that the hearing took place before the Tribunal today. As indicated the applicant attended with Counsel and its Valuation Expert. The Respondent has attended through its directors but produces no evidence to the Tribunal. On the 7 June 2019, Mr Bennett, the Applicant's valuer, was informed by Mr Richard Murphy, the Respondent's then valuer, that he had been dis-instructed by the Respondent and no longer acted upon its behalf. Although the solicitors representing the Respondent have not, as understood by the Tribunal, similarly been dis-instructed by the Respondent, they have not attended on its behalf today, again as understood by the Tribunal, because the Respondent has told them not to do so. Accordingly, Mr and Mrs Rahman have courteously attended today and invited the Tribunal to scrutinise the

Applicant's case and evidence generally, and to form a finding based on that evidence. Mr Rahman informed the Tribunal that in his view the valuation achieved by Mr Bennett, on behalf of the Applicant, was too low, but accepted he had no evidence to put before the Tribunal to support that contention. He told the Tribunal that he agreed that he would leave matters to the Tribunal, subject to his entitlement to cross-examine Mr Bennett, if he considered it appropriate.

The Applicant's Evidence

6. The evidence of the Applicant is in the form of Mr Bennett's report appearing at page 1 of Volume 2, together with the bulky additions thereto, which constitute the documentary evidence for his valuation. The disputed items before the Tribunal are helpfully identified in the Statement of Agreed Facts and Disputed Issues appearing at page 17 of Volume 2. It will be seen from that statement that, happily, before he was dis-instructed, Mr Murphy agreed with Mr Bennett many of the valuation issues required to be considered. The remaining disputed issues were:
 - (i) The basis of the valuation: that is the "traditional basis" or the suggested "alternative basis"; and
 - (ii) In the context of the traditional basis of valuation:
 - a. the entirety value; and
 - b. The freehold value of the property (the Haresign addition).
7. Mr Radevsky, for the applicant, took the Tribunal helpfully through Section 9(1) of the Act explaining why this property which, on the face of it, is a 2 storey flat above a shop, in fact constitutes by virtue of a series of

decisions a “house”, satisfying the low rent and low rateable value tests of the Act. It is unnecessary to go through the statutory provisions in any further detail, as they are not effectively challenged by the Respondent and in any event, the Tribunal is satisfied, having considered those provisions, which are replicated in the hearing bundle ,and in particular appended to Mr Bennett’s report in the form of both the provisions themselves and extracts from the current edition of Hague, that these are indeed the applicable provisions in this case.

8. Reverting to Mr Bennett’s report (which was expanded in oral evidence) he explains at paragraph 1.10 of the report that the approach he has taken is the standard or traditional approach taken by valuers in cases of this kind, which is:
 - (a) to determine the compensation for the loss of the existing ground rent income;
 - (b) to calculate the compensation for the loss of the Section 15 rent income; and
 - (c) the reversion (the so called, “Haresign” additions, following the case of the same name).

9. The Tribunal has considered the comparable evidence produced by Mr Bennett, starting at page 6 of his report, and which comprises 4 property sales, all at Wood Lane RM8 3NH between 2016 and 2019.

10. After analysis of those comparables, with which analysis the Tribunal agrees, a gross initial yield of 6.33% is achieved.

11. Mr Bennett then at Section 5 of his report uses that rate together with other agreed rates set out in the above-mentioned Statement, to achieve the so called modern ground rent of £5,653. Using this, the reversion to the modern ground rent amounts to £47,666. A 2.5% discount has been allowed to take into account the fact that at the end of the notional 50

years, an assured tenancy would arise, and by the process set out at paragraph 5.54 of page 13 of the bundle the price payable is calculated to be £59,400 for the enfranchisement.

12. Although technically inadmissible before the Tribunal, Mr Bennett, in the effort to be even handed to the Tribunal, did consider a thick bundle of auction evidence which was compiled by Mr Murphy.
13. Mr Bennett rejected the relevance of that material in order to support Mr Murphy's possible "alternative basis" of valuation, which basis was in any event flawed. It appeared to involve taking as the enfranchisement price a proportion of the auction price of various freehold properties comprising shop with flat above. However, in none of those sales had extended leases been granted under the Act nor had enfranchisement claims been made by the lessee. There was no evidence that either the vendor or purchaser was even buying or selling a freehold which was governed by the provisions of the Act.
14. The Tribunal accepts this conclusion, and draws no assistance from that material, even had it been admissible, which the tribunal determines is not the case.
15. As already indicated the respondent had no material, either in the form of expert opinion evidence or other primary documentary evidence of sales, that it was able to put before the Tribunal. So far as the Tribunal was concerned, the applicant's legal analysis and expert evidence were both cogently argued and sound. The Tribunal is satisfied that they accurately support and represent the conclusion that the price payable for the freehold in this case is £59,400.

Conclusion

16. The determination of the Tribunal for the reasons set out above is that the price payable for the freehold in this case is **£59,400**, in accordance with the valuation prepared by Mr Bennett, which the Tribunal adopts.

JUDGE SHAW

11th JULY 2019