



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

Case Reference : **CAM/22UC/OAF/2019/0007**

Property : **9 Faggot Yard, Braintree, Essex CM7 5SJ**

Applicant : **Richard Robert Harris**

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)**

Date of Decision : **2 December 2019**

DECISION

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DECISION

The Tribunal determines that the price payable for the freehold of the Property, 9 Faggot Yard, Braintree, Essex CM7 5SJ is £12,112 and the amount of unpaid pecuniary rent payable for the property up to the date of the Conveyance is nil.

BACKGROUND

1. In an undated application, the applicant Mr Richard Robert Harris, the leaseholder 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 30 July 2019 at the County Court at Chelmsford, District Judge Hodges found that the Claimant was 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 31 October 2019. The Directions were to the effect that the case could be dealt with without the need for an oral hearing and required the applicant to notify the Tribunal should they require an oral hearing to be held. The applicant did not request an oral hearing.

The Lease

6. The applicant acquired the leasehold interest in 9 Faggot Yard on 21 July 2017.
7. The property is registered at the Land Registry under title number EX413532.
8. In a witness statement made by Mr Michael Harman, Holmes and Hill LLP, we are told that the house is held under a lease dated 6 June 1555 for an original term of 500 years. No particulars of rent are provided. He also states that to the best of the Claimant's 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 original 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 it has been assumed to be June 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 C.C.Woodhouse FRICS describes the property as two storey end of terrace dwelling located in a popular and established residential location off Church Lane, Bocking - about half a mile from Braintree town centre.
13. The original house is of traditional timber frame construction with modern rendered elevations under a pitched and hipped thatch roof. There is a modern softwood timber single storey extension to the rear with a slate lean-to roof. The building is listed grade 2.
14. Accommodation is 2 receptions, kitchen and bathroom to the ground floor and 2 bedrooms to the first floor. There are small gardens to the front and side.
15. The property is in a reasonable state of repair for its age and type apart from the straw thatched roof which is said to need rethatching.

Evidence

16. The Applicant relies on the valuation report from Mr Woodhouse of Christopher Woodhouse Associates. He is a Fellow of the Royal Institution of Chartered Surveyors and a Registered Valuer.
17. Mr Woodhouse provides a short report in which he describes the property, outlines the tenure and provides a valuation. He relies on the sale of the subject property in July 2017 for £200,000 when he says it was in the same state as at the valuation date.
18. He also informs the tribunal of the sale of 1 Faggot Yard, a very small one bedroom, one reception room property that lacked the character of the subject property. This was sold for £175,000 on a long leasehold basis in March 2017. Mr Woodhouse believes that this would be worth around £195,000 in July 2019 on a freehold basis.

Determination

19. Mr Woodhouse has adopted a three-stage valuation and the Tribunal agrees with this approach.
20. 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 36 years is nil.
21. The second stage requires the Tribunal to determine and capitalise a modern ground rent. This requires the Tribunal to determine entirety value, site value apportionment and deferment rate.
22. In relation to entirety value Mr Woodhouse believes that the subject property is a 'one off' and that the best comparison is the sale of this property in July 2017 for £200,000. The Tribunal notes however, from the internet, that the property was offered at the time to 'cash buyers' only and 'at a reduced price due to required freeholder transfer'. He also has regard to the sale of 1 Faggot Yard – see paragraph 17. He values the freehold interest at £220,000.
23. Based on the comparables supplied by Mr Woodhouse and its own skills and knowledge the Tribunal believes that £260,000 more fairly represents the Entirety value.
24. Mr Woodhouse adopts a figure of 25% Site Apportionment explaining that he has adopted this due to the fact it is attached to another house and completely inaccessible except by footpath. The tribunal accepts the 25% as proffered by Mr Woodhouse – more for the latter reason than the former. We also adopt a capitalisation rate for the modern ground rent and a deferment rate of 6% as adopted by Mr Woodhouse. He states that he has agreed these rates in many cases over the last five or so years, and indeed they are not untypical.
23. At the third stage we must value the reversion to a standing house on the expiry of the 50 year lease extension. It is customary 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 unexpired term and case law precedent has adopted a 5% 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.

Tribunal Valuation - 9 Faggot Yard Braintree

			£
Value of unexpired term - no rent passing			0
Reversion to modern day ground rent			
Entirety Value	£260,000		
Plot value @ 25%	£65,000		
Ground rent @ 6%		£3,900	
YP 50 years @ 6%	15.7619		
PV £1 36 years @6%	0.1227	1.9340	
			£7,543
Reversion to standing house value			
£260,000			
Less Schedule 10 rights @5%	£247,000		
PV £1 86 years @ 4.75%	0.0185		£4,569
	Total		£12,112

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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.