



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

Case Reference : **MAN/00CG/OAF/2020/0006**

Property : **47 Hawthorne Avenue, Waterthorpe,
Sheffield, S20 7HQ**

Applicant : **Malcolm and Jennifer Lynne White**

Representative : **Fowler Sandford LLP**

Respondent : **Cherrybase Properties Limited**

Representative : **Stevensons Solicitors**

Type of Application : **Section 21(1)(a) of the Leasehold Reform Act
1967**

Tribunal Members : **Judge C. P. Tonge LLB, BA
Mr P. E. Mountain**

Date of Decision : **20 July 2020**

DECISION

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The price payable under section 9(1) of the Leasehold Reform Act 1967 is £4,375.

The application and background

1. On 20 February 2020 an application was made to the First-tier Tribunal (Property Chamber) under section 21(1)(a) of the Leasehold Reform Act 1967 ("the Act") for a determination of the price payable under section 9(1) of the Act.
2. The application was made on behalf of Malcolm and Jennifer Lynne White (the Applicants"), the registered proprietors of the leasehold interest in 47 Hawthorne Avenue, Waterthorpe, Sheffield, S20 7HQ ("the property").
3. Cherrybase Properties Limited ("the Respondent") is the freeholder of the property.
4. The sole issue to be determined is the price payable under section 9(1) of the Act.
5. The Applicants' served a Notice of Tenants' Claim to Acquire the Freehold, dated 19 November 2018.
6. The Respondent served a Notice in reply to the tenants' claim, dated 7 January 2019, admitting the Applicants right to purchase the freehold.
7. Directions were issued on 6 April 2020, indicating that the Tribunal will determine the case on the basis of written representation and evidence, without the need for an oral hearing, unless either party requested an oral hearing. Neither party requested an oral hearing. These Directions (made before the service of the evidence in the case) include an indication that the Tribunal will inspect the property.
8. This Tribunal notes that the evidence in the case includes photographs of the front and rear of the property, a full written description of the property, including the dimensions of rooms and a calculation of the gross internal area of the property, a description of the location on of the property on Hawthorne Avenue, Waterthorpe, Sheffield and a plan of the estate. As such the Tribunal determines that an inspection of the property will not assist the Tribunal in its determination of the price to be paid. Further, it should be noted that because of Covid 19 requirements as to social distancing it would only have been possible for the surveyor member of the Tribunal to undertake an external inspection of the property.

Description of the property

9. The property is a semi-detached bungalow built in the late 1970's. Construction is of load bearing masonry with a pitched and gabled roof framed up in timber and clad with single lap, concrete interlocking tiles. Window frames are uPVC double glazed units. There is a modular framed conservatory to the rear. There are gardens to the front and rear with off street vehicle standing on the driveway. The gross internal area of the property is approximately 565 square feet (52.49 square meters). It is situated on a cul-de-sac of similar private housing. It is incorporated in band b for the purposes of Council Tax. Internal dimensions of the rooms are:

• Living room	5.46 m x 3m
• Kitchen	3.68m x 2.15m
• Right handed bedroom	4.3m x 2.61m
• Left handed bedroom	2.69m x 2.71m
• Shower room	2.08m x 1.63m

Determination of the price to be paid

10. The Applicants' have served a statement from Martin David Holmes BSc, MRICS, together with a response to the Respondent's statement of case. The Respondent has served a statement from Geriant Evans FRICS, together with a statement in reply. The Tribunal treats each of these witnesses as an expert witness giving evidence on behalf of the party for whom they are giving evidence.
11. The Applicants' submit that price to be paid should be ££3,300. The Respondent submits that the price to be paid should be £5,030.
12. The two experts agree that a three stage valuation should be adopted as is then dealt with by each in their statements. The Tribunal adopts the same approach. They also agree that a 6.5% capitalisation rate is appropriate and that the apportionment of site value is 33.3333%. The Tribunal sees no reason why it should not adopt the same percentage figures.
13. The experts do not agree on the valuation date. The Tribunal notes that the Notice of Claim is dated 19 November 2018. Assuming that the Notice was posted the same day, then pursuant to the Civil Procedure Rules, service would have been effective on 21 November 2018. The Tribunal determines this to be the valuation date.
14. The Applicants hold the remainder of a lease with a term of 99 years, less three days, commencing 16 January 1978, with a ground rent of £25. As at the valuation date there remained an unexpired term of the lease of 58.15 years. Adopting a capitalisation rate of 6.5% , the Tribunal determines that

the capitalised value of the ground rent is £375. Both experts agree that this is the case.

15. The Tribunal moves on to consider the entirety value of the property. The expert on behalf of the Applicants has inspected the property. Mr Holmes provides comparable evidence of three properties, on the same street, with sale prices verified by land registry searches. All are larger inside than "the property". These comparable properties are:
 - number 33, purchased on 28 November 2016 at £135,000 a semi-detached bungalow.
 - Number 38, purchased on 5 June 2017 at £148,000, a semi-detached bungalow.
 - Number 34, purchased on 6 November 2017 at £130,000, a detached bungalow.
16. Allowing for an adjustment for inflation, the Applicants suggests a freehold entirety value £150,000. The Tribunal agrees that this is a reasonable approach to take.
17. The Respondent suggests an entirety value of £175,000. However, this is based upon taking the purchase price of the property and applying to it the Land Registry Index for the area. There is then an additional submission that the property could be further extended adding value to it. The Tribunal does not consider either submission to be useful. Applying an index cannot be as good a way of arriving at an entirety figure as considering comparable properties. The suggested extension would require the existing conservatory to be removed and the costs involved in this extension would, in our judgement, outweigh any value added to the Property.
18. The Tribunal agrees with the Applicants that £150,000 is the entirety value and that the site value is £50,000.
19. The Applicants submit that the 4.75% deferment rate set down in the Court of Appeal case of the Earl of Cadogan v Sportelli [2007] EWCA Civ 1042, should have an extra .5% added to it, but this is suggested with no evidence to persuade this Tribunal that this should be done. The Applicants seek to rely upon a previously decided First-tier Tribunal case of 3 St Helen's Close, Rotherham, MAN/00CF/OAF/2017/0033, in which that approach was taken. This Tribunal determines that it will not follow the First-tier Tribunal decision. This Tribunal is bound to follow the Sportelli judgement and it applies the deferment rate at 4.75%, there being no good reason to add to that figure. As such the section 15 rent is £2,375 and the 50 year extension figure is £3,034.

20. The Applicants submit that in consideration of the final reversion there should be a deduction of 2.5% from the entirety value of the property to reflect the fact that the tenants have the right to remain in possession as assured tenants, upon expiry of the extended lease, this right being granted pursuant to schedule 10 of the Local Government and Housing Act 1989. The Tribunal notes that in the previously decided case of *Contractreal v Smith* [2017] UKUT 178 (LC) the Upper Tribunal approved a deduction of 2.5%, that case involving a property with a longer period of lease remaining at the valuation date. This Tribunal agrees with the Applicants and makes a deduction of 2.5%. As such the final reversion is £965.

21. A valuation schedule is annexed to this decision.

22. The only impact that Covid 19 restrictions have had upon this case is that if an inspection had taken place of the property, it would have been an external inspection only, by the surveyor member of the Tribunal. In any event, the Tribunal determined that no inspection was necessary because of the matters detailed in paragraph 8, above.

Decision

23. The price to be payable under section 9(1) of the Act is £4,375, calculated in accordance with the appendix attached.

24. Appeal against this decision is to the Upper Tribunal. Any party wishing to appeal has 28 days from the date that this decision is sent to the parties to deliver to this First-tier Tribunal an application for permission to appeal, stating the grounds of appeal, the particulars of appeal and the outcome that the appellant seeks to achieve.

Judge C. P. Tonge
20 July 2020

Appendix

47 Hawthorn Avenue, Waterthorpe, Sheffield
Valuation date 21 November 2018

TERM

Ground rent	£25	
YP 58.15 years @6,5%	14.9896	£375

REVERSION TO SECTION 15 RENT

Entirety value	£150,000	
Site value 33,3%	£50,000	
Section 15 rent @ 4.75%	£2,375	£2,375

50 YEAR EXTENSION

Section 15 rent	£2,375	
YP 50 years @ 4.75%	18.9844	
PV £1 in 58.15 years @4.75%	0.0673	£3,034

FINAL REVERSION

Entirety value	£150,000	
Less 2.5% Sched 10 rights	£146,250	
PV £1 in 108.15 years @ 4.75%	0.0066	£965

TOTAL		£4,374
	Say £4,375	