



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

Case Reference : BIR/00CR/OAF/2022/0022

Property : 7 St.Andrew's Close, Lower Gornal, Dudley, DY3 3AD

Applicants : Mr David Baker and Mrs Sandra Baker

Representative : Wright Solicitors with Expert Evidence by K.Chew FRICS

Respondent : Persons Unknown

Type of Application : To determine the sum payable into Court by the Lessee to purchase the freehold interest under Section 27 of the Leasehold Reform Act 1967 by Order of Birmingham County Court dated 7 October 2022, Claim No. J00BM466

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS (Chairman)
Judge M.K. Gandham

Hearing : None. Paper Determination.

Date of Decision : 04 July 2023

DECISION

DECISION

- 1 The price of the freehold interest is determined at £13,160 (Thirteen Thousand One Hundred and Sixty Pounds).

REASONS

Introduction

- 2 The Applicants hold a lease of 7 St.Andrew's Close, Lower Gornal, Dudley, West Midlands, DY3 3AD, granted for a term of 99 years from 24 June 1963 at a ground rent of £18.00 p.a. and wish to acquire the freehold interest. Despite extensive enquiries, the Applicants' Solicitors had been unable to locate the freeholder to negotiate the purchase and applied to Birmingham County Court under s.27(5) of the Leasehold Reform Act 1967 ('the Act') on 5 October 2021 for a vesting order to transfer the freehold to the Applicants subject to payment of costs into Court.
- 3 By Order of Birmingham County Court dated 7 October 2022, the freehold was vested in the Applicants subject to transfer to the First-tier Tribunal (Property Chamber) for the price to be assessed under sections 9 and 27(5)(a) of the Act.
- 4 The Tribunal received the application on 21 December 2022, issued Directions, inspected the property with Applicants' Solicitor, Mr S.L. Williets of Messrs Wright Solicitors on 19 May 2023 and determines as follows.

The Law

- 5 The property is held by lease for a term of 99 years from 24 June 1963 granted by Stevens & Cole Ltd. (Landlord) to Zdzislaw Saplis (Tenant) at a fixed ground rent of £18 p.a. The use is restricted to a private dwelling house and the tenant is responsible for all repairs.
- 6 The valuation date is 5 October 2021 which was the date of application to the County Court.
- 7 The Tribunal has considered the facts and determines that the price is to be assessed under section 9(1) of the Act.

Issues

- 8 The Court Order requires the First-tier Tribunal to determine the price of the freehold interest.

The price payable under section 9(1) of the Act

- 9 The Applicants submitted a valuation prepared by Mr K.Chew FRICS Chartered Surveyor of Messrs Lawrence & Wightman, Birmingham, on their behalf and the Tribunal's decision of each component of the valuation is set out below.

- 10 ***Unexpired Term***

Applicants

40.72 years at the valuation date.

Tribunal

The Tribunal agrees the unexpired term at 40.72 years at the valuation date.

- 11 ***Value of Term Ground Rent***

Applicants

£18.00 p.a. capitalised at 6.5%, producing a capital value of £255.

Tribunal

The Tribunal agrees the 6.5% capitalisation rate as fair, based on its own expertise.

12 ***Freehold 'Standing House' and 'Entirety' values***

Applicant

The Applicants bought the lease in 1981 and the price paid at the time is of no assistance to determine the value in 2021.

Mr Chew considers the value at October 2021 to have been £265,000 having checked the sales records of similar semi-detached houses sold in the area around that date:

34 Straits Road	August 2021	£245,000
101 Longfellow Road	September 2021	£275,000
59 Wallowswood	December 2021	£259,950
65 Wallowswood	March 2022	£249,999

Tribunal

The Tribunal found the house to have been extended by converting the loft to provide additional accommodation, the garage had been converted to a bedroom, a timber shed and summer house had been built in the garden and the back garden remodelled by adding raised decking. It had also been improved by refitting the kitchen and bathroom, installing central heating and double glazing. There was nothing more that could reasonably be expected to have been carried out to further maximise the property's potential so, on this occasion, the Tribunal found the standing house and entirety values to be the same.

Bearing this in mind and having considered sales evidence in the local area, the Tribunal agrees with Mr Chew that the standing house value and entirety value were both fairly represented by the figure of £265,000 at 5 October 2021.

13 ***Site Value as a percentage of Entirety Value***

Applicants

34% of the entirety value.

Tribunal

This Tribunal agrees that this would have been in line with market expectations.

14 ***Deferment Rate***

Applicants

Mr Chew submits for a deferment rate of 5.25% based on case law and personal experience of negotiating numerous cases with other Valuers. Cases cited:

¹ *Zuckerman v Trustees of the Calthorpe Estates* [2009] UKUT 235 (LC)

² *Mansal Securities and Others* [2009] EW Lands LRA/185/2007

³ *Sinclair Gardens Investments (Kensington) Limited* [2014] UKUT 0079 (LC)

Tribunal

The Tribunal agrees the deferment rate at 5.25%.

15 ***'Clarise reduction'***

Applicant

Mr Chew considered whether a reduction should have been made from the standing house value to reflect the possibility of a tenant remaining in occupation at the end of the term and 50 year statutory extension, under the provisions of Schedule 10 to the Local

Government and Housing Act 1989. The originating case is *Clarise Properties Limited* [2012] UKUT 4 (LC) [2012] 1 EGLR 80. In the subject case where the reversion was over 90 years away, he submits that it would have been unrealistic and makes no reduction.

Tribunal

The Tribunal agrees that the reversion in the subject application would have been too remote to require a *Clarise* reduction. Each case is considered on its merits but in this instance it was too far in the future and should not be reflected in the valuation.

16 **Tribunal Valuation**

Based on these inputs, the Tribunal determines the value of the freehold interest as:

Term 1

Ground Rent	£	18	
Years Purchase 40.72 years 6.5%		<u>14.2212</u>	
			£ 255

Term 2

Entirety Value	£265,000	
x plot ratio	<u>0.34</u>	
Plot Value	£ 90,100	
5.25% return	<u>0.0525</u>	
Equivalent rental value per s.15 of the Act	£ 4,730	
Years Purchase 50 years 5.25%	17.5728	
Present Value 40.72 years 5.25%	<u>0.1245</u>	
		£10,348

Reversion

Standing House Value	£ 265,000	
Present Value 90.72 years 5.25%	<u>0.00964</u>	
		£ 2,554
		<u>£ 13,157</u>
Freehold Value	say	<u>£ 13,160</u>

17 **Tribunal Determination**

The Tribunal determines the price of the freehold interest under the Act at £13,160 (Thirteen Thousand One Hundred and Sixty Pounds) at the valuation date.

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Date 04 July 2023

Appeal to the Upper Tribunal

Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal and the result sought by the party making the application.