



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

Case Reference : BIR/00CR/OAF/2023/0010

Property : 7 Tamar Drive, Woodsetton, Dudley, West Midlands, DY3 1DA

Applicants : Stephen Robert John Taylor and Louise Taylor (leaseholders)

Representative : Talbots Law Ltd.

Respondent : William and Mary Taylor (missing landlord)

Representative : None

Type of Application : To determine the sum payable into Court by lessees to purchase a Freehold interest pursuant to Section 27 Leasehold Reform Act 1967 by Order of Dudley County Court of 27th June 2023.
Claim No.J00DD470

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
M.H.C. Alexander B.Sc.(Hons.) MRICS

Date and Venue of Hearing : None. Determined by paper submission

Date of Decision : **23 November 2023**

DECISION

Introduction

- 1 This is an application to determine the sum payable into Court by Lessees to purchase the Freehold interest in 7 Tamar Drive, Woodsetton, Dudley, West Midlands, DY3 1DA, where the landlord cannot be found, pursuant to Section 27 Leasehold Reform Act 1967 ('the Act').
- 2 The Lessees have been unable to locate the freeholder to serve Notice to acquire the Freehold and applied to Dudley County Court for a Vesting Order on 20th September 2022. This was granted on 27th June 2023 by Deputy District Judge Nadarajah, subject to assessment of the price by the First-tier Tribunal (Property Chamber).

The Law

- 3 There are two known interests in the property:

| | |
|-----------|---|
| Freehold | Owned by parties unknown. The lease had been granted by William and Mary Taylor to James Newman for 380 years from 26 th April 1712 at peppercorn ground rent. |
| Leasehold | The Leasehold interest was registered to the Applicants on 26 th August 1998. |

- 4 The Applicants are the current leaseholders in occupation and wish to acquire the Freehold. They have been unable to locate the Freeholders and applied to Dudley County Court for a Vesting Order under Section 27 of the Leasehold Reform Act 1967. The application was made on 20th September 2022 which is the valuation date for present purposes.
- 5 The Court issued a General Order of Judgment on 27th June 2023 subject to determination of the price by the First-tier Tribunal (Property Chamber).
- 6 The Tribunal has considered the facts and assesses the price under section 9(1) of the Act.

Facts Found

- 7 The Tribunal has not inspected the property and relies on the Submission made by A.R. Perrin MRICS of Messrs Fraser Wood Chartered Surveyors dated 22nd August 2023. The property comprises a two storey, three bedroom, detached house on a modern housing estate near Dudley built around 1988. The accommodation comprises an entrance hall with cloakroom, living room, dining room, kitchen and conservatory on the ground floor with a landing, three bedrooms and bathroom on the first floor. It has an attached single garage. The property has an open plan front garden and enclosed back garden.
- 8 It is two storey brick and tile construction with upvc double glazing, gas-fired central heating in good condition.

Issues

- 9 The Court Order requires the Tribunal to determine the price of the Freehold interest.

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

- 10 The Applicants submitted a Valuation Report prepared by A.R. Perrin MRICS of Messrs Fraser Wood Chartered Surveyors dated 22nd August 2023. The Tribunal's determination of each item of the valuation is set out below.

- 11 ***Unexpired Term***

Applicant
69.6 years.

Tribunal

The Tribunal accepts the term from the Land Registry entry and agrees the unexpired term at the valuation date, but for calculation purposes, rounds to 70 years.

12 ***Value of Term Ground Rent***

Applicant

Nil. The ground rent is one peppercorn per annum as recorded by H.M. Land Registry.

Tribunal

The Tribunal agrees.

13 ***Freehold Entirety Value***

'Entirety value' is the notional market value of the best house that could reasonably be expected to have been built on the plot at the valuation date, assuming the plot were fully developed.

Applicant

Mr Perrin values the Freehold interest at 20th September 2022 at £300,000 having checked on-line sales records of other properties on the estate:

| <u>Address</u> | <u>Description</u> | <u>Date</u> | <u>Price £</u> |
|-------------------|---|-------------|----------------|
| 17 Bosworth Close | 3 bed detached house in need of modernisation. | May 2020 | 210,000 |
| 78 Roper Way | 3 bed detached house. | Dec 2020 | 240,000 |
| 1 Wainsbeck Walk | 4 bed detached house with double garage. | Dec 2020 | 312,500 |
| 29 Roper Way | 3 bed detached house. | Dec 2021 | 225,000 |
| 7 Calder Rise | 3 bed detached house, single garage. This property is the closest comparable but needed modernisation. | May 2022 | 219,000 |
| 21 Roper Way | 3 bed detached house on the market but not sold. Enquiries of the local agents advised that the property has been under offer for some time at a price agreed in August 2023 of £295,000. | Aug 2023 | 299,950 |

Mr Perrin balanced the evidence and considered that if the subject plot were fully developed, the maximum value of a hypothetical house that could reasonably have been built on the plot, i.e. 'entirety value', would have been £300,000 at the valuation date.

Tribunal

The Tribunal, of its own volition, also researched the following two sales:

| | | | |
|---------------|--|----------|---------|
| 3 Neath Way | 4 bed detached house with attached double garage on the same estate. | Sep 2022 | 375,000 |
| 16 Eton Close | 4 bed detached house with no garage on the same estate. | Feb 2022 | 290,000 |

However, the Tribunal considered 3 Neath Way a better house as it had a fourth bedroom and double garage rather than a single and appeared to have a larger plot. These factors were advantages compared to the subject property and supported the view that 7 Tamar Drive should have been substantially less.

16 Eton Close had a fourth bedroom which may have given the impression that it was better than 7 Tamar Drive, but its lack of a garage and poorer location at the head of a cul-de-sac, on a tight site, accessed over a shared drive made it less attractive.

Considering the overall evidence, the Tribunal agrees with Mr Perrin's opinion of an Entirety Value of £300,000 at the valuation date.

14 ***Site Value as Percentage of Entirety Value***

Applicant

Mr Perrin contends for 37% as the value of the plot within the Entirety Value of the hypothetical house.

Tribunal

The Tribunal agrees this as a fair assessment.

15 ***Years Purchase***

Applicant

As there is a peppercorn ground rent the value of the term income is effectively nil and there would be no point determining the capitalisation rate.

Mr Perrin submits for a deferment rate of 5.25% based on case law (e.g. see footnote below) and other valuations determined by the First-tier Tribunal (Property Chamber).

Tribunal

The Tribunal agrees, although previous decisions of this Tribunal are not binding on the Decision in this application.

Cases cited by Mr Perrin:

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

² *Earl Cadogan v Sportelli* [2005] LRA 50

16 ***Freehold Standing House Value***

Applicant

£300,000. Mr Perrin considers the plot fully developed and deems the Standing House Value to be the same as the Entirety Value.

Tribunal

The 'standing house value' is the market value of the house built on the site, excluding the value of tenant improvements, assuming the Freehold is sold with vacant possession.

The Tribunal agrees that in this case the Entirety Value and Standing House Value should be treated as the same, which the Tribunal determines at £300,000.

17 ***'Clarise reduction'***

Under *Clarise Properties Limited* [2012] UKUT 4 (LC), [2012] 1 EGLR 83, Valuers sometimes make allowance for the prospect of occupiers remaining in occupation on expiry of the term which in this case would be April 2092.

Applicant

Mr Perrin makes no reduction to reflect the *Clarise* principle of the prospect of a lessee remaining in occupation on expiry of the lease under Schedule 10 to the Local Government and Housing Act 1989.

Tribunal

The lease expires in 70 years' time which the Tribunal considers too remote to require a *Clarise* reduction. Each case is considered on its merits but in this instance it is too far in the future and disregarded.

18 **Tribunal Valuation**

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

| | | | |
|---|-----------------|-----|---------------|
| <u>Term 1</u> | | £ | 0 |
| <u>Term 2</u> | | | |
| Entirety Value | £300,000 | | |
| x plot ratio | <u>0.37</u> | | |
| Plot Value | £ 111,000 | | |
| 5.25% return | <u>0.0525</u> | | |
| Equivalent rental value per s.15 of the Act | £ 5,828 | | |
| Years Purchase 50 years 5.25% | 17.5728 | | |
| Present Value 70 years 5.25% | <u>0.027826</u> | | |
| | | | £2,849 |
| <u>Reversion</u> | | | |
| Standing House Value | £ 300,000 | | |
| Present Value 120 years 5.25% | <u>0.00215</u> | | |
| | | | £ 645 |
| | | | <u>£3,494</u> |
| Freehold Value | | say | <u>£3,500</u> |

19 **Other sums due to the Freeholder**

The Court Order determined that no other sums are due to the Freeholder.

20 **Tribunal Determination**

The Tribunal determines the price of the Freehold interest in accordance with section 9(1) of the Leasehold Reform Act 1967 at £3,500 (Three Thousand Five Hundred Pounds).

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

Date: 23 November 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.