



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

Case Reference : BIR/00CR/OAF/2023/0019

Property : 62 Marlborough Road, Woodsetton, Dudley, West Midlands, DY3 1BL

Applicants : Richard Thomas Moore and Santa Moore (Leaseholders)

Representative : Ladders Solicitors LLP

Respondent : William and Mary Taylor (missing landlords)

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 Birmingham County Court 4th September 2023. Claim No.K00BM683.

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr W. Jones FRICS

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

Date of Decision : **01 February 2024**

DECISION

Introduction

- 1 This is an application to determine the sum payable into Court by Lessees to purchase the freehold interest in 62 Marlborough Road, Woodsetton, Dudley, West Midlands, DY3 1BL 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 the County Court for a Vesting Order on 28th March 2023. This was granted by District Judge Dunn sitting in Birmingham County Court on 4th September 2023 subject to determination 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 Mr Richard Thomas Moore and Miss Santa Vizanova (as she then was) on 2 nd May 2018.

- 4 The Applicants are the current leaseholders and wish to acquire the freehold interest. They have been unable to locate the freeholders and applied to the County Court for a Vesting Order under Section 27 of the Leasehold Reform Act 1967. The application was made on 28th March 2023 which is the valuation date for present purposes.
- 5 The Court issued Judgment on 4th September 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 of Mr Jolyon Moore of Midland Valuations dated 2nd October 2023. The property comprises a traditional two storey, three bedroom end terraced house on a modern housing estate near Dudley built around 1988. The accommodation comprises a living-dining room, kitchen and utility on the ground floor with landing, three bedrooms and bathroom on the first floor. It occupies a corner plot with open plan front garden and enclosed back garden with single garage accessed from a track at the rear.
- 8 It is brick and tile construction with double glazing and gas-fired central heating.

Issues

- 9 The Court Order requires the Tribunal to determine the price of the freehold interest and any other sums due to the freeholder.

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

- 10 The Applicants submitted a Valuation Report prepared by Mr J. Moore of Midland Valuations dated 2nd October 2023 and the Tribunal's determination on each point is below.

- 11 ***Unexpired Term***

Applicant

69.12 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 Moore values the freehold interest Entirety Value at 28th March 2023 at £160,000, having checked on-line sales records of other houses on the estate:

<u>Address</u>	<u>Description</u>	<u>Date</u>	<u>Price £</u>
5 Bosworth Close	3 bed mid-terrace house sold freehold. For comparison purposes, Mr Moore increases the price in line with the Nationwide House Price Index to £160,826 in March 2023.	July 2021	150,000
18 Bosworth Close	3 bed mid-terrace house sold leasehold. Mr Moore attaches little weight to the evidence as the property was leasehold.	April 2022	127,500
5 Roper Way	2 bed terrace house. For comparison, Mr Moore indexes the equivalent price to £153,966 by March 2023 and adds £5,000 for the additional bedroom at the subject house, valuing 62 Marlborough Road at £159,000.	Feb 2021	135,950
41 Marlborough Rd.	3 bed terrace sold freehold. Mr Moore adjusts for inflation to make its equivalent value £164,028 at March 2023.	Nov 2020	144,000

Having weighed the evidence Mr Moore submits 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. the 'entirety value', on 28th March 2023, would have been £160,000.

Tribunal

The Tribunal of its own volition also researched the following sale:

18 Bosworth Close	3 bed mid-terrace house sold leasehold.	July 2023	161,000
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The evidence post-dates the valuation date and was leasehold but supports the general proposition of a freehold value of the subject property of around £160,000 in March 2023.

Considering the evidence overall, the Tribunal agrees with Mr Moore's opinion of an Entirety Value of £160,000 at the valuation date.

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

Applicant

Mr Moore contends for 30% as the proportion of the Entirety Value for the plot.

Tribunal

The Tribunal agrees.

15 ***Years Purchase***

Applicant

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

Mr Moore submits for a deferment rate of 5.25% based on case law (see footnote) 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 its Decision.

Cases cited by Mr Moore:

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

² *Earl Cadogan v Sportelli* [2007] 1 EGLR 153.

16 ***Freehold Standing House Value***

Applicant

£150,000. Mr Moore says that although the house is double glazed, the windows are timber framed which would make it less valuable than upvc, and the age of the central heating system would also make it less valuable than a fully modernised house valued at an entirety value of £160,000, the reduction being around £10,000.

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 were sold with vacant possession.

The Tribunal disagrees that timber framed double glazing is a comparative disadvantage and is unwilling to make a comparative reduction for the age of the heating system without full knowledge of the date it was installed and the dates heating was installed in the comparable houses. The Tribunal therefore finds the Standing House value to be the same as the Entirety Value in this case at £160,000.

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 Moore 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 would be too remote and is disregarded.

18 **Tribunal Valuation**

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

<u>Term 1</u>		£	0
<u>Term 2</u>			
Entirety Value	£ 160,000		
x plot ratio	<u>0.30</u>		
Plot Value	£ 48,000		
5.25% return	<u>0.0525</u>		
Equivalent rental value per s.15 of the Act	£ 2,520		
Years Purchase 50 years 5.25%	17.5728		
Present Value 70 years 5.25%	<u>0.027826</u>		
			£1,232
<u>Reversion</u>			
Standing House Value	£ 160,000		
Present Value 120 years 5.25%	<u>0.00215</u>		
			<u>£ 344</u>
			<u>£1,576</u>
Freehold Value		say	<u>£1,600</u>

19 **Other sums due to the Freeholder**

The Court Order requires the Tribunal to determine any other sums due to the freeholder. However, the ground rent is only a peppercorn which has not been demanded and the freeholder has incurred no costs.

The Tribunal therefore determines no other sums are due.

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 £1,600 (One Thousand Six Hundred Pounds).

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

Date: 01 February 2024

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.