



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

Case Reference : BIR/00CN/OAF/2023/0020

Property : 337 Northfield Road, Harborne, Birmingham, B17 0TS

Applicant : Man-Wai Lee

Representative : N. Plotnek LLB

Respondents : Kulwant Singh and Raj Rani Kaur

Representative : Allerton & Gladstone Solicitors

Type of Application : To determine the price of the Freehold interest pursuant to section 9(1) of the Leasehold Reform Act 1967.

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
D.J. Satchwell FRICS

Date and Venue of Hearing : 20 February 2024. On-line video Hearing.

Date of Decision : **11 March 2024**

DECISION

Introduction

- 1 This is a determination of the price of the Freehold interest in a house pursuant to section 9(1) of the Leasehold Reform Act 1967 ('the Act').
- 2 The Applicant served notice dated 27 April 2023 to acquire the Freehold interest and the Respondent replied by counter-notice dated 27 June 2023.
- 3 The Tribunal issued Directions on 9 October 2023 and revised Directions on 20 December 2023 followed by an on-line video Hearing on 20 February 2023. The Tribunal did not inspect the property as details of the location, description, construction and accommodation had been provided by the parties.

The Law

- 4 The property was leased by Tavahomes Limited to P.D. Allison for a term of 99 years from 25 March 1968 to 24 March 2067 at a fixed ground rent of £33 p.a. The Landlord's interest is vested in the Respondents and the Tenant's interest in the Applicant.
- 5 At the valuation date, 27 April 2023, there were 43.9 years unexpired.
- 6 The Applicant has the right to acquire the Freehold under the Act.
- 7 The Applicant submits that the valuation should be made under s.9(1) of the Act and the Respondent, without reference to the Act, values to include Marriage Value. The basis of valuation is crucial and the parties' positions are set out below.

Facts Found

- 8 The Tribunal relied on the parties' descriptions.
- 9 The property is a 1960s semi-detached house in Harborne, a popular residential area about 3 miles west of Birmingham city centre. It is of brick and tile construction with a separate garage accessed from Lismore Drive to the rear. The accommodation comprises a hall, lounge and kitchen / diner on the ground floor with three bedrooms and a bathroom on the first floor. It has gas-fired central heating and pvcu double glazing.
- 10 The plot is considered to be fully developed for the purposes of the Act.

Agreed Facts

- 11 The parties had agreed the following points:

1	Lease commencement	25 March 1968
2	Term	99 years
3	Ground Rent	£33 p.a.
3	Applicant: Freehold entirety value	£250,000
	Standing House value:	£250,000
	Respondent: Market value	£250,000

Issues

- 12 The parties' differ on:
 - 1 Date of Valuation
 - 2 Unexpired term

- 2 Basis of valuation
- 3 Price of Freehold

Submissions

Applicant

- 13 The Applicant's Valuer, Mr Plotnek, provided a written Submission before the Hearing and attended on-line to present his valuation.

His valuation was based on the following inputs:

- 1 Date of valuation

In common with established law he submitted that the valuation date should be the date of application to the Tribunal, 27 April 2023.

- 2 Unexpired Term

At that date, he calculated the unexpired term at 43.91 years.

- 3 Basis of Valuation

Mr Plotnek said the Rateable Value on the day the house entered the Valuation List had been £105 and was £270 on 31 March 1990. He provided a copy of a Severn Trent water bill to confirm and as this was less than £500 and the other statutory conditions had been met, he contended it should clearly be valued under s.9(1) of the Act.

- 4 Capitalisation Rate

Mr Plotnek referred to the leading case on capitalisation rates, *Nicholson v Goff* [2007] LRA/29/2006. He said in his opinion the ground rent of £33 p.a. was small but not negligible and in common with market practice, valued the income at 6.5% p.a.

- 5 Deferment Rate

Mr Plotnek referred to:

Clarise Properties Limited [2012] UKUT 4(LC)

JGS Properties v King & Others [2017] UKUT 233(LC)

Earl Cadogan v Sportelli [2007] 1 EGLR 153

Zuckerman v Calthorpe Estate Trustees [2009] UKUT 235(LC)

Marshall v Chime Properties Ltd. [BIR/00CN/OAF/2016/0009]

Taking account of these cases which are widely cited in Tribunal Hearings, Mr Plotnek assessed the deferment rate at 5.25%.

- 6 Entirety and Standing House values

Mr Plotnek produced sales evidence of six houses in the area, five of which were semi-detached, ranging in value from £220,000 to £293,000 between April 2021 and July 2023. Having weighed the evidence he considered the Standing House value to be £250,000. He said the plot was fully developed and that with no further potential the Entirety Value should be the same figure. In fact, his first valuation had been £230,000 but he increased it to £250,000 to try and narrow the issues with the Respondent's Valuer although in the end this proved a fruitless exercise as the Respondent's Valuer said he was not instructed to negotiate and took no part in the Hearing.

7 Schedule 10 Reduction

Valuers sometimes reduce estimates of standing house and entirety values to reflect the possibility of a tenant remaining in occupation on expiry of the lease under Schedule 10 to the Local Government & Housing Act 1989. However, as the lease had another 43.9 years to run, Mr Plotnek considered this highly unlikely and made no reduction in his values.

8 Plot Ratio

Mr Plotnek valued the plot at 33% of the Entirety value for the purposes of the Act. He considered it ought really to have been less but adopted 33% as it was more likely to have been agreed by the Respondent.

14 Taking these factors into account, he valued the Freehold interest at £10,571.94 under the Act.

Respondent

15 Messrs Allerton & Gladstone, Solicitors, put forward a valuation which they said was an expert valuation report prepared by their Valuer Mr A.M. Shareef, Chartered Valuation Surveyor and RICS Registered Valuer.

16 It stated the valuation date as 23 October 2023. The mechanics of the valuation were not set out but it was said to be based on a Market Value of £250,000, 'relativity' of 68.3%, a figure of £20,525 representing diminution in the value of the Landlords' interest and a Marriage Value figure of £29,414 which combined to produce £49,940, rounded to £50,000 for the Freehold interest.

17 The Report was addressed to the Freeholders personally with no reference to the Tribunal and did not contain a Statement of Truth.

Decision

18 The Applicant's Valuer Mr Plotnek provided clear evidence that it was to be valued under s.9(1) of the Act having satisfied the statutory criteria. He had given careful consideration to all elements of the valuation. His evidence was clear and concise and he gave oral evidence at the Hearing. The Tribunal found all the valuation inputs in line with market practice and their own experience of valuing this type of interest in the West Midlands.

19 The Respondents did not attend the Hearing and were not represented by either their Solicitors, Messrs Allerton & Gladstone, or Valuer, despite the Solicitors advising that he had provided an Expert Report. In fact, on reading its content, the Tribunal found it to be a Report purely for their client as it had not been addressed to the Tribunal and contained none of the information normally expected in valuations under the Leasehold Reform Act 1967. It was of little assistance to the Tribunal at all, other than confirming the ground rent and a Market Value of £250,000 which reduced the time necessary to analyse comparable evidence.

20 The Tribunal received no information from the Respondents or their advisers that they intended to attend the Hearing and after waiting ten minutes to give them a chance of appearing, commenced proceedings in their absence.

21 On balance, the Tribunal agrees the date of valuation as 27 April 2023 and all Mr Plotnek's inputs and values the Freehold interest under the Act as set out below at £10,500.

Valuation

22 Applying these inputs, the Tribunal values the Freehold interest as follows:

<u>Term</u>		
Ground Rent	£ 33	
x Years purchase 43.9 yrs @ 6.5%	<u>14.41578</u>	£ 475
<u>Reversion No.1</u>		
Entirety value	£ 250,000	
Plot ratio	<u>0.33</u>	
Site Value	£ 82,500	
s.15 Rent @ 5.25%	£ 4,331	
Years Purchase 50 years 5.25%	17.5728	
Present Value 43.91 years @ 5.25%	<u>0.1058</u>	£ 8,049
<u>Reversion No.2</u>		
Standing House value	£ 250,000	
Present Value 93.91 years @ 5.25%	<u>0.00819</u>	£ 2,047
		<u>£10,571</u>
<u>Price of Freehold</u>	rounded to	£10,500

Summary

23 Accordingly, the Tribunal determines the value of the Freehold interest in accordance with section 9(1) of the Leasehold Reform Act 1967 at £10,500 (Ten Thousand Five Hundred Pounds).

Other Matters

24 By the date of Application to the Tribunal the Applicant had not received a draft contract and asked the Tribunal to determine the terms.

25 The Tribunal therefore grants liberty to apply to the Tribunal to determine the terms in due course.

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

Appeal to 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.