



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

Case Reference : BIR/00CR/OAF/2023/0023

Property : 5 Calder Rise, Woodsetton, Dudley, West Midlands, DY3 1DB

Applicants : (1) Janet Ann Cherrington
(2) Louise Taylor
(3) Clare Morris
(4) Nicola Cherrington-Powney

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 10 October 2023. Claim No.KO0DD479

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
Judge C. Payne

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

Date of Decision : **17th of April 2024**

DECISION

Introduction

- 1 This is an application to determine the sum payable into Court by Lessees to purchase the freehold interest in 5 Calder Rise, Woodsetton, Dudley, West Midlands, DY3 1DB, 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 18 August 2023. This was granted on 10 October 2023 by Deputy District Judge Spooner subject to assessment of the price by the First-tier Tribunal (Property Chamber). County Court case reference KOODD479.

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 in March 2021.

- 4 The Application for a Vesting Order was made under Section 27 of the Leasehold Reform Act 1967 on 18 August 2023 which is the valuation date for present purposes.
- 5 The Tribunal has considered the facts and assesses the price under section 9(1) of the Act.

Facts Found

- 6 The Tribunal has not inspected the property and relies on the Submission by A.R. Perrin MRICS of Messrs Fraser Wood, Chartered Surveyors, dated 24 November 2023.
- 7 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 with archway to dining room, extended kitchen and conservatory on the ground floor with three bedrooms and a 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 of brick and tile construction with upvc double glazing, gas-fired central heating and is in good condition.

Issue

- 9 The Court Order requires the Tribunal to determine the appropriate sum to be paid into Court for the price of the Freehold interest.

Applicants' Submission and Tribunal Determination on Valuation Inputs

- 10 ***Basis of Valuation***

Applicants

Mr Perrin submits that the valuation should be undertaken in accordance with section 9(1) of the Leasehold Reform Act 1967.

Tribunal

The Tribunal agrees.

- 11 ***Unexpired Term***

Applicants

68.69 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 69 years.

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

Applicant

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

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 provides the following records of property sales on the estate for comparison:

<u>Address</u>	<u>Description</u>	<u>Date</u>	<u>Price £</u>	<u>Index</u>
2 Calder Rise	Similar design and layout.	Nov 2017	210,000	303,000
7 Calder Rise	Similar design and layout.	Mar 2022	219,000	239,000
17 Bosworth Close	3 bed detached house requiring modernisation.	May 2020	210,000	283,000
78 Roper Way	3 bed detached house.	Dec 2020	240,000	298,000
29 Roper Way	3 bed detached house.	Dec 2021	225,000	257,000
3 High Arcal Drive	3 bed detached house.	May 2021	232,000	238,000
30 High Arcal Drive	3 bed detached house.	Sep 2021	250,000	289,000
21 Roper Way	Asking price from June 2023.	Unsold.	(299,950)	N/A

Mr Perrin submits that values have increased since 2020/21 when most of these sales were agreed and provides the index figures to re-base the prices in line with the Land Registry index of house price sales to the valuation date of 5 Calder Rise, 18 August 2023.

Based on this research, Mr Perrin 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 in August 2023, i.e. the 'entirety value', would have been £300,000.

Tribunal

Having considered the 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 the value of the plot as 37% of the Entirety Value.

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 (see below) and other valuations of the First-tier Tribunal (Property Chamber) in recent years.

Tribunal

The Tribunal agrees, although previous Tribunal decisions are not binding on the Decision.

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 to be 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 any tenant improvements and that the Freehold is sold with vacant possession.

The Tribunal agrees that in this case, the Entirety Value and Standing House Value can 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 69 years' time which the Tribunal considers too remote to require a *Clarise* reduction. Each case is considered on its merits but 69 years is too far in the future and disregarded.

.../(cont.)

18 **Tribunal Valuation**

Based on these 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 69 years 5.25%	<u>0.029286</u>			
				£2,999
<u>Reversion</u>				
Standing House Value	£ 300,000			
Present Value 119 years 5.25%	<u>0.00226</u>			
				<u>£ 678</u>
				<u>£3,677</u>
Freehold Value		say		<u>£3,700</u>

19 **Other sums due to the Freeholder**

The Court Order determines 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 to be £3,700 (Three Thousand Seven Hundred Pounds).

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

Date

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.