



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

Case Reference : BIR/00CR/OAF/2024/0010

Property : 2 Wansbeck Walk, Woodsetton, Dudley, West Midlands,
DY3 1DD

Applicants : Adam Thomas Faizey and Suzanne Margaret Faizey
(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 Birmingham County Court of 8 April 2024.
Claim No.J00BM723

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
V. Ward B.Sc FRICS

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

Date of Decision : **16 August 2024**

DECISION

Introduction

- 1 This is an application to determine the sum payable into Court by Lessees to purchase the freehold interest in 2 Wansbeck Walk, Woodsetton, Dudley, West Midlands, DY3 1DD 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 interest and applied to Birmingham County Court for a Vesting Order on 18 March 2022. This was granted on 8 April 2024 by District Judge Mody 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 April 1712 at a peppercorn ground rent.
Leasehold	The Leasehold interest was registered to the Applicants on 6 July 2020.

- 4 The Applicants are leaseholders in occupation and wish to acquire the freehold interest. They had been unable to locate the freeholders to serve notice of acquisition and applied to Birmingham County Court for a Vesting Order under Section 27 of the Leasehold Reform Act 1967. The Order specifies the deemed date of service of a Notice as 8 July 2020 which is the valuation date for present purposes.
- 5 The Court issued a General Order of Judgment on 21 April 2024 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 Miss S.L. Abel MSc MRICS of Messrs Lawrence & Wightman Chartered Surveyors dated 19 June 2024.
- 8 The property comprises a two storey, three bedroom detached house on a modern housing estate near Dudley built around 1988. It is located at the corner of Wansbeck Walk and Tamar Drive. The property is two storey brick and tile construction. The accommodation comprises a porch, downstairs toilet, living room, dining room, kitchen, utility and study on the ground floor with a landing, three bedrooms, bathroom and airing cupboard on the first floor. It was built with an integral garage that has since been converted to a study. The property has a front drive and rear garden.
- 9 The property is in good condition.

Issues

- 10 The Court Order requires the Tribunal to determine the price of the freehold interest.

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

- 11 The Applicants submitted a Valuation Report prepared by Miss S.L. Abel MSc MRICS of Messrs Lawrence & Wightman Chartered Surveyors dated 19 June 2024. The Tribunal's determination of each element of the valuation is below:

- 12 ***Unexpired Term***
Applicant
71.8 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 72 years.

13 ***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.

14 ***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

Miss Abel values the freehold interest with vacant possession at 8 July 2020 at £210,000 based on 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 of the same design and construction as the subject house.	May 2020	210,000
1 Wansbeck Walk	4 bed detached house with double garage.	Dec 2020	312,500
29 Roper Way	3 bed detached house of similar design and construction to the subject house.	Dec 2021	225,000

Bearing in mind the comparable evidence, Miss Abel 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. its 'entirety value', would have been £210,000 at the valuation date.

Tribunal

The Tribunal finds the sales of 17 Bosworth Close and 29 Roper Way support Miss Abel's valuation. The sale of 1 Wansbeck Walk is less relevant as a 4 bedroom property but the Tribunal appreciates its inclusion to present an overall impression of values in Wansbeck Close around the valuation date.

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

2 Calder Rise	3 bed detached house.	Nov 2017	210,000
78 Roper Way	3 bed detached house.	Dec 2020	240,000
7 Calder Rise	3 bed detached house.	May 2022	219,000

The properties are of similar design and accommodation.

No.2 Calder Rise sold for £210,000 in November 2017 for the same value advocated by Miss Abel but 3 years prior to the valuation date. From images on line, which may have been taken more recently, it appears well maintained and in excellent condition and the fact that the sale pre-dated the subject valuation date at a time of rising values would tend to suggest the value of 2 Wansbeck Walk ought to be higher.

No.78 Roper Way at £240,000 only five months after the subject valuation date, may also suggest £210,000 for the subject house to be low, but in fact, 78 Roper Way is at the far end of a cul-de-sac with no houses to its left in a far quieter position than 2 Wansbeck Walk which is at the corner of two roads. The Tribunal finds that 78 Roper Way would be likely to achieve a higher price than 2 Wansbeck Walk and its sale supports Miss Abel's valuation.

Equally, No.7 Calder Rise which is again similar, achieved £219,000 in March 2022, eight months after the valuation date on a rising market, supporting Miss Abel's valuation of £210,000 in July 2020.

It is rare that all the evidence forms an exact pattern and this case is no different, but where 4 comparables support a figure of £210,000 and only 1 supports a higher figure, the Tribunal places more evidential weight on the sales of 17 Bosworth Close, 29 Roper Way, 78 Roper Way and 7 Calder Rise than 2 Calder Rise and agrees with Miss Abel.

Accordingly, having considered the relevant evidence, the Tribunal agrees with Miss Abel's entirety value of £210,000 at 8 July 2020.

15 ***Site Value as Percentage of Entirety Value***

Applicant

Miss Abel contends for 35% as the value of the plot within the Entirety Value of the hypothetical house.

Tribunal

The Tribunal agrees this to be a fair assessment.

16 ***Years Purchase***

Applicant

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

Miss Abel submits for a deferment rate of 5.25% based on case law (see footnote) and personal experience of negotiating settlements in the West Midlands.

Tribunal

The Tribunal agrees.

Cases cited by Miss Abel:

¹ *Zuckerman v Trustees of the Calthorpe Estates* [2008] LRA 97.

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

17 ***Freehold Standing House Value***

Applicant

£210,000. Miss Abel 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 £210,000.

18 **'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 in 72 years' time.

Applicant

Miss Abel 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 72 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.

19 **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	£210,000		
x plot ratio	<u>0.35</u>		
Plot Value	£ 73,500		
5.25% return	<u>0.0525</u>		
Equivalent rental value per s.15 of the Act	£ 3,859		
Years Purchase 50 years 5.25%	17.5728		
Present Value 72 years 5.25%	<u>0.025119</u>		
			£1,703
<u>Reversion</u>			
Standing House Value	£ 210,000		
Present Value 122 years 5.25%	<u>0.00194</u>		
			<u>£ 407</u>
			<u>£2,110</u>
Freehold Value	rounded to		<u>£2,100</u>

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 £2,100 (Two Thousand One 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.