



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

Case Reference : **MAN/00BY/OAF/2021/0041**

Property : **6, Stapeley Gardens, Liverpool L26 9YG**

Applicant : **Carol Anne Woodruff (represented by Orme Associates)**

Respondents : **Gray's Inn Capital Ltd (represented by Stevensons Solicitors)**

Type of Application : **Leasehold enfranchisement**

Tribunal Members : **Mr J R Rimmer
Mr J Faulkner**

Date of Decision : **7th October 2022**

Order : **The price payable for the freehold of the Property is £833.33 to which may be added the reasonable conveyancing costs of the Respondent**

A. Application and background

- 1 The Applicant is the leasehold owner of the property situate at and known as 6, Stapeley Gardens Liverpool L26 9YG The Respondent is the owner the freehold interest in the property whose title is registered at HM Land Registry.
- 2 The Applicant is the purchaser of the lease of the property by an assignment dated 13th April 2015. The lease runs for a term of 999 years from 1st January 1997 at a rent of £50.00 a year. It is registered at HM Land registry under title number MS426295. The landlord's title is registered under title number MS519722.
- 3 A notice under Part 1 of the Act setting out the Applicant's intention to purchase the freehold was sent to the Respondent on 29th June 2021. The Respondent formally admitted the claim on 23rd October 2021.
- 4 A number of matters arising from the admission of the Applicant's right to acquire the freehold have been determined between the parties, but there remained outstanding the issue of the price to be paid for the freehold interest and also relating to the precise contents of the covenant(s) within the conveyance of the freehold where a consensus had not been achieved by the parties.
- 5 An application was therefore made to the Tribunal dated 28th October 2021 under Sections 21(1) and 21(2) of the Leasehold Reform Act for determination, respectively, of the price to be paid and the nature and content of the covenants relating to outstanding issues between the parties. The valuation date relevant to the determination of the price is 29th June 2021, the date of the Applicant's Notice of Claim. At that time the unexpired term of the lease was approximately 975 years.
- 6 The parties are in agreement that the unexpired term effectively represents a lease extending in perpetuity and there is no value in the reversion to a modern ground rent and to the standing house value.
- 7 The Tribunal was informed at the start of the hearing which took place on 27th September 2022 that as a result of recent proposals made by the Applicant's representatives the outstanding matters, other than the price to be paid were now agreed. The application that now remains for determination by the Tribunal is the price to be paid which the Respondent submitted should be assessed under the provisions of Section 9(1) of the Act.

- 8 Directions as to the future conduct of the matter before the Tribunal had been provided by a Deputy Regional Judge on 21st April 2022 and were complied with by the parties. The Tribunal has before it the opinions of Mr Andrew Orme, on behalf of the Applicant and Mr Geraint Evans on behalf of the Respondent as to the price payable for the freehold interest.
- 9 In compliance with the temporary arrangements in place for matters to progress in the aftermath of the Covid-19 pandemic the Tribunal did not inspect the subject property, but was able to conduct a hearing by video means in order to conclude the matter.
- 10 The mechanism to establish the price payable is set out in section 9(1) Leasehold Reform Act 1967 as being the price payable on a conveyance of the house, subject to the existing lease, on the open market by a willing seller, subject to certain statutory assumptions contained within that section.
- 11 Mr Orme, on behalf of the Applicant, provides a number of examples of relatively recent activity in the market-place in relation to the purchase ground rents. They are referred to in the observations he makes at page 4 onwards in the tenant's bundle of documents provided in support of the Application. They are used by Mr Orme to support a suggested capitalisation rate for the ground rent of 7.5%, resulting in a value for the freehold of £666.00.
- 12 Mr Orme was questioned at some length by Mr Evans as to the precise nature and relevance of those examples. The Tribunal is inclined to agree with Mr Evans in the view that the examples quoted provide details of multiple ground rents ranging from 4 to 47 in number within the separate transactions, relating both to flats as well as houses. The purchase of such interests not only involves the collection of ground rents, but in the case of flats the provision of services and collection of service charges which is much more management intensive and suggestive of a less attractive investment. They would therefore suggest a lower price, represented by a higher capitalisation rate.
- 13 On behalf of the landlord, Mr Evans offers a very simple solution. He uses the formula for the redemption of rentcharges under the Provision of the Rentcharges Act 1977 to produce a capitalisation rate of 1.32%, a ground rent such as that being considered here being, in his view, analogous to a rentcharge of a similar size and amount.

Determination

- 14 The Tribunal is unhappy to adopt the approach suggested by Mr Evans. The formula provided by the 1977 Act is one specifically provided for the

redemption of rentcharges and no evidence has been provided of its assistance in providing an appropriate market value for a ground rent which is either the subject of purchase, or redemption.

- 15 Equally, the observations set out above in relation to the evidence of Mr Orme suggest that his valuation is of limited assistance. The Tribunal makes the observations that it has in the knowledge that there is very little evidence of any market transactions that can be of significant assistance to its deliberations.
- 16 It does however have considerable knowledge and experience of those applications that are brought before it over the area of its jurisdiction and the capitalisation rates that are adopted and have been so for a considerable period of time since the inception of the Leasehold Reform Act.
- 17 The Tribunal is confident that against such a background a single ground rent would attract a capitalisation rate of about 6% and that would be an appropriate rate to adopt in this case. The result would be a purchase price of £833.33 and the Tribunal is satisfied that this represents an appropriate price for the purchase of the freehold interest in 6, Stapeley Gardens.
- 18 The Tribunal therefore determines that the price payable under Section 9(1) Leasehold Reform Act 1967 for the freehold interest in 6, Stapeley Gardens, Liverpool shall be £833.33. The Applicant is reminded that there will still be the additional conveyancing and Land Registry costs of the Respondent to be met.

J R RIMMER (CHAIRMAN)

© CROWN COPYRIGHT 2022

