

534

LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL

Ref: BIR/00CS/OAF/2005/0129

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967

Applicants: Mr A. Fraser and Ms M. G. Hammond (leaseholders)

Respondent: Rock One Limited (freeholder)

Subject property: 73 Templemore Drive
Great Barr
Birmingham
B43 5HF

Tenants' notice: 31 March 2005

Application to the LVT: 3 June 2005

Hearing: 27 July 2005

Appearances:

For the applicants: Mr A.W. Brunt

For the respondent: The Respondent did not appear

Members of the LVT: Mr. A. P. Bell MA LLB
Mr. D. Satchwell FRICS
Mr.G.G.W.Chidlow ACIS

Date of determination: 15 AUG 2005 2005

Introduction

1. This is a decision on an application under the Leasehold Reform Act 1967 ("the 1967 Act") made to the Leasehold Valuation Tribunal by Mr A. Fraser and Ms M.G. Hammond, the leaseholders of 73 Templemore Drive Great Barr Birmingham B43 5HF ("the subject property"). The application is under section 21(1)(a) of the 1967 Act for the determination of the price payable under section 9 of the 1967 Act for the freehold interest in the subject property and the legal costs.
2. The subject property is held under a Lease dated 7 November 1969 for a term of 99 years from 25 March 1967. The unexpired term at the effective date of the tenants' claim to acquire the freehold ("the relevant date") was 61 years.
3. The applicants served on the respondent a tenant's notice dated 31 March 2005 claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act, and they subsequently made the present application.
4. The Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

Subject property

5. The property comprises a mid terraced house built in about 1969 on an average sized plot immediately surrounded by similar houses as the subject property. The house is a two storey brick construction with a pitched tiled roof.
6. The accommodation comprises a hall, living room and kitchen on the ground floor and a landing, three bedrooms and a bathroom/ wc on the first floor. There is a garage at the rear of the property.

Inspection and hearing

7. The Tribunal inspected the subject property on 27 July 2005 in the presence of one of the applicants' daughters and Mr A.W. Brunt, the representative of the applicants. The Tribunal also inspected externally 23 Templemore Drive referred to by Mr. Brunt in his written representations to the Tribunal.
8. The subsequent hearing was attended by Mr. A.W. Brunt (representing the applicants). The respondent did not appear nor were they represented.

Representations of the parties

9. Mr. Brunt's referred to details of four sales, one in Templemore Drive and two in nearby Stanton Road and one in Woodfort Road where details of sale prices had been obtained by him from the Land Registry with varying prices between £90,000 and £154,000 during the period from November 2003 to April 2005.

He submitted, however, that the most helpful comparable was 23 Templemore Drive Great Barr, which he had been informed by the selling agent had been sold, subject to contract, for £150,000.

10. Mr Brunt submitted that the appropriate yield throughout the calculation was 7% since in his view a lower figure of 6.5% was only appropriate where the unexpired term of the lease was very short, say 14 years or less.

11. On the basis of those figures Mr. Brunt submitted the following valuation:

Term:

Ground Rent	£30.00 per annum	
YP 61 years @7%	14.055	£421.66

Reversion:

Entirety Value	£145,000.00	
Site apportionment @35%	£47,850.00	
Section 15 Rent @ 7%	£3,349.50 pa	
YP in perpetuity deferred 61 years @ 7%	0.23	<u>£770.38</u>
		£1,192.04

say £1,192

12. The Tribunal considered the written representations of Rock One in their letters of 18 July 2005 and 26 July 2005 and the enclosures which accompanied these letters. The primary issue raised in these letters is that the yield rates should be lower than 7% on the basis that the respondent had in June 2005 sold to a property investor fifteen ground rent properties in Birmingham at a price which reflected an initial yield of 6% and a reversionary yield of 5.75%. Rock One submitted that interest rates now being applied to property investment had reduced dramatically, especially for one as secure as ground rent income, as had the interest rate of the Bank of England. The respondent sought a price of £2,340 but no calculation in support of this valuation was supplied. The respondents also sought the sum of £325 for their legal costs.

Decision

13. Using its general knowledge and experience (but no special knowledge) of property prices in the locality of the subject property, and taking into account the positive and negative features of the subject property and all other relevant factors and considerations, the Tribunal determines that the standing house value of the subject property at the relevant date was £145,000.

14. The Tribunal considered the submission made by the respondent that the appropriate percentage yield rate should be an initial yield of 6% and a reversionary yield of 5.75% rather than 7% throughout, but found that money market rates, which could fluctuate substantially in the short term, were not necessarily related to property yields. With regard to block sales to a property investor (the example given by the respondent) or auction sales' results the prices achieved depend on other factors, including the speculative element of the sale and the possibility that purchasers may be buying without full knowledge of the legislative provisions contained in the 1967 Act. Accordingly, the Tribunal attach limited weight to this evidence. Consistently with previous practice, and in the absence of any circumstances suggesting a compelling reason for a departure from that practice, the Tribunal holds that the appropriate percentage yield rate to be applied at all stages of the valuation calculation should be 7 per cent.
15. The Tribunal agrees with Mr. Brunt that the entirety value is £145,000, that the appropriate percentage to be applied to the standing house value in calculating the value of the site should be 35% and that the percentage yield rate to be applied at all stages of the valuation calculation should be 7%. Accordingly the Tribunal determines the price payable by the applicants under section 9 of the 1967 Act for the freehold interest in the subject property at £1,192 in accordance with the calculation made by Mr. Brunt set out in paragraph 11 above, and also, in accordance with section 9(4) of the 1967 Act and the recent practice of Leasehold Valuation Tribunals of the Midland Rent Assessment Panels, that the sum of £300.00 plus VAT (if applicable) and the cost of the official entries at the Land Registry be awarded for the respondent's legal costs.

A P Bell

.....
A P Bell

Chairman

Dated

15 AUG 2005 2005