



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

Case Reference : BIR/00CN/OAF/2020/0030

Property : 95 Audley Road, Stechford, Birmingham, B33 9BS

Applicants : Steven John Cooper and April Lynn Jones

Representative : Adcocks Solicitors of Lichfield Staffs., with valuation evidence by G.R.Bates FRICS

Respondent : Unknown

Type of Application : Application to determine the price payable for the Freehold interest pursuant to s.9(1) of the Leasehold Reform Act 1967 ('the Act') following an application to the County Court under s.27(5) of the Act where the landlord's identity is unknown.

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 : 11th February 2021

DECISION

- 1 The price of the Freehold interest is determined at £4,300 (Four Thousand Three Hundred Pounds) and the Applicant is also required to pay into Court the sum of £150.30 (One Hundred and Fifty Pounds Thirty Pence) comprising six years' ground rent.

REASONS

Introduction

- 2 The Applicants hold a lease of the property for a term of 99 years from 29th September 1970 at £25.05 p.a. ground rent and wish to acquire the Freehold interest. The demise comprises two parcels, the house and garden for which the reserved rent is £25 p.a. and a smaller parcel 10 feet wide to the rear of the house with reserved rent of £0.05 p.a. but both parcels are granted by the same lease. The Applicants were unable to locate the landlord despite extensive enquiries made by Adcocks and Tracing Agents. They then applied to the County Court under s.27(5) of the Leasehold Reform Act 1967 ('the Act') for the Freehold to be transferred to them subject to payment of costs into Court.
- 3 The Court gave Judgment 4th December 2020 requiring the Applicant to apply to the First-tier Tribunal for the price to be determined, together with any unpaid ground rent. (Birmingham County Court Claim No.G01BM146).
- 4 The Tribunal received the application 14th December 2020. It has been impossible to inspect the property due to Covid restrictions but the Tribunal has considered the Applicants' valuation and finds as follows.

The Law

- 5 The Tribunal has considered the submitted documents and is satisfied the price of the Freehold interest is to be determined in accordance with s9(1) of the Act.
- 6 In addition, s.27(5)(b) of the Act requires the Applicants to pay into Court any ground rent unpaid to the date of conveyance.

Facts Found

- 7 In reliance on the Applicants' Valuer's Submission, the Tribunal finds the property is a post-War former Council house in a former Council housing estate at Stechford, east Birmingham. It is the end of a terrace of four with front and rear gardens.
- 8 The accommodation comprises on the ground floor a hall, living room and kitchen and on the first floor two bedrooms, a box room and bathroom.
- 9 Mr Bates makes a 7.5%% deduction in his valuation to reflect 'the existing basic condition' but makes no further reference to condition. However, photographs submitted with the valuation show the front garden has been opened up to provide on-site parking, an enclosed porch has been added, the house appears to have double glazing, a replacement kitchen and replacement flooring in the living room, none of which suggest poor condition and the Tribunal finds as a matter of fact based on this evidence that the house is in reasonable condition.

Submission and Tribunal Determination on Valuation Points

10 There was no Hearing due to Covid restrictions but Mr Bates had provided a written submission.

11 Valuation Date

Applicant

Mr Bates does not specifically refer to the valuation date.

Tribunal

The Tribunal finds the valuation date to be the date of application to Court, 14th July 2020.

12 Ground Rent

Applicant

Mr Bates advises that the ground rent comprises £25.00 and £0.05, i.e. £25.05 p.a.

Tribunal

The Tribunal is provided with a copy of the lease dated 4th January 1971 between The Lord Mayor Aldermen and Citizens of the City of Birmingham (Landlord) and Anne Davies (Tenant) for a term of 99 years from 29th September 1970 at ground rent of £25.05 p.a. fixed for the term. Accordingly £25.05 p.a. is the correct figure.

13 Capitalisation Rate

Applicant

Mr Bates values the term at 7% due to the low, fixed ground rent.

Tribunal

The Tribunal agrees this is a fair capitalisation rate to apply in this case for a single property with fixed rent in this location.

14 Entirety Value

Applicant

Mr Bates cites sales of six houses in the same general area for comparison:

<u>Address</u>	<u>Price £</u>	<u>Date</u>
79 Audley Road	137,000	March 2020
9 Stud Lane	120,000	January 2020
43 Swancote Lane	130,000	March 2020
99 Glebe Road	135,000	March 2020
184 Wyndhurst Road	139,500	February 2020
7 Betley Grove	135,000	January 2020

He takes an average and values the subject house at £133,000.

Tribunal

The Tribunal has considered the evidence with particular weight applied to the sale of 79 Audley Road and finds the entirety value, in other words, the market value of a fully developed house on the plot, to have been £137,000 at the valuation date.

15 **Site Apportionment**

Applicant

Mr Bates submits that in his opinion the site value represented 30% of the entirety.

Tribunal

The Tribunal agrees, relying on its own general knowledge and experience.

16 **Deferment Rate**

Applicant

Mr Bates adopts a deferment rate of 5.25% reflecting Upper Tribunal guidance in *JGS Properties v King Sedro & Nunnington* [2017] UKUT 0233(LC).

Tribunal

The Tribunal finds no reason to depart from Upper Tribunal guidance and agrees the deferment rate at 5.25%.

17 **Standing House Value**

Applicant

Mr Bates adopts his entirety value of £133,000 and deducts 7.5% for 'the existing basic condition' and 2.5% for the tenant's security of tenure on lease expiry, per Schedule 10 The Local Government and Housing Act 1989. This produces a standing house value of £119,000.

Tribunal

The Tribunal finds no evidence to suggest the house was in basic condition and the photographs show the contrary. The Tribunal therefore rejects Mr Bates' contention for a 7.5% reduction.

Furthermore, the Tribunal finds it unlikely that a tenant in the house now would be likely to claim a tenancy in 99 years' time under Schedule 10 of the 1989 Act, and accordingly rejects Mr Bates' further 2.5% discount.

Having seen the evidence, the Tribunal finds the value of the existing house, assuming it to be Freehold with vacant possession, to have been £137,000 at the valuation date.

18 **Modern Ground Rent Assessment**

Applicant

Mr Bates devalues the standing house value at 5.25% to assess the 'modern ground rent' per s.15 of the Act, then re-capitalises to assess the present value of the modern ground rent for the second term.

Tribunal

The Tribunal agrees the basic principle of devaluing the standing house value to assess the s.15 modern ground rent, but in re-capitalising, Mr Bates makes an error by valuing the modern ground rent for 49 years instead of 50 under the Act, and defers by 50 years when it should be 49. The Tribunal assumes this to be a computing error and re-assesses on the statutory basis.

Decision

- 19 Based on the inputs above, the Tribunal assesses the price of the Freehold interest under s.9(1) of the Act as follows:

Term 1

Ground Rent	£ 25.05	
Years Purchase 49 years @ 7%	<u>13.7668</u>	344

Term 2

Freehold Entirety Value (EV)	£ 137,000	
Site Apportionment	<u>0.30</u>	
Site Value	£ 41,100	
S.15 Modern ground rent @ 5.25%	2,157	
Years Purchase 50 years @ 5.25%	17.5728	
Present Value £1 49 years @ 5.25%	<u>0.08149</u>	3,088

Reversion

Standing House value	£ 137,000	
Present Value £1 99 years @ 5.25%	<u>0.00630</u>	<u>863</u>
		4,295
s.9(1) Price rounded to	£	<u>4,300</u>

- 20 The Tribunal therefore determines the price of the Freehold interest under the Act at £4,300 (Four Thousand Three Hundred Pounds).
- 21 The Applicants advise that no ground rent demands have been received for at least six years. Accordingly, the Tribunal determines that in addition to the price of the Freehold interest, the Applicants are required to pay into Court the sum of £150.30 representing unpaid ground rent for the six years leading up to the date of the conveyance.

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

Date 11th February 2021

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.