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RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LEASEHOLD VALUATION TRIBUNAL

Property: 11 New Park Lane, Aston, Hertfordshire, SG2 7ED

Applicant Leaseholder: Ms D I Holba

Applicant's Solicitor: Boyes, Sutton & Perry, Solicitors, 20 Wood Street, Barnet, Hertfordshire EN5 4BJ

Respondent Freeholder: Unknown

Case number: CAM/26UD/OAF/2005/0007

Tribunal: Mr JR Morris (Lawyer Chair)
Miss M Krisko BSc (Est Man) BA FRICS
Mr JR Humphrys FRICS

Date of Court Order: 19th August 2005

Date of Hearing: 8th December 2005

An application to the Tribunal under Section 21(1)(A) Leasehold Reform Act 1967 (the 1967 Act) to determine the amount to be paid in to court pursuant to Section 27 of the 1967 Act

STATEMENT OF REASONS

Documents received:

1. Documents received are:
 - a) A Claim Form (CPR Part 8)
 - b) A Court Order dated 19th August 2005
 - c) Official Copy of Register Entry Title Number HD227088
 - d) An expert's Report and Valuation

The Property

2. The Property is an end of terrace two-storey house of brick under a slate roof constructed circa 1900. It is situated on the eastern side of the village centre of Aston

in a residential area. Aston is a small village located about 2½ miles from Stevenage Town Centre.

The Lease

3. The Property is registered with Good Leasehold Title Number HD227088. The Property and the Registered Title appear to correspond. The Property Register states that the Lease has been lost but that an Assignment dated 19th February 1952 made between (1) Keith William Percival Picton and (2) Kenneth Charles Game refers to the Lease being between (1) Sir John Butler and (2) Henry Kent and commencing 20th October 1564 for a term of 500 years. The Assignment also contained a recital that "it is believed that no rent has been paid or demanded in respect thereof for upwards of Sixty years past."
4. The Assignment further stated that the west boundary wall is a party wall and that there was a right to the benefit of the Property to pass water and soil through and into the pipes and cess pits shown by a broken line on the filed plan.
5. The Charges Register reserves a right by an Assignment of the Property dated 16th September 1959 made between (1) Elizabeth Wright and Marjorie Elizabeth Hewitt and (2) William Mc Pherson:

"subject to the right at all times during the remainder of the said term of the owners and occupiers (and their tenants and licensees) of the houses and land shown blue and yellow colours on the said plan to go pass and repass by day and by night over and along the way three feet wide which is approximately shown by the green lines and the letters AC and BC on the said plan."
6. The Register notes that the green lines lettered AC and BC referred to are shown by a blue broken line between points AC and BC on the filed plan. The land and houses coloured blue and yellow referred to are known as 7 and 9 and 1, 3 and 5 New Park Lane respectively.

The Application

7. The Applicant has applied to enfranchise the Property under the provision of the Leasehold Reform Act 1967. On the 4th August the Applicant applied to the Hitchin County Court stating that:
 - A lease made in or about 20th October 1564 for a term of 500 years from 1564 had been lost
 - The Applicant occupied the property as her only and main residence continuously since June 1987
 - The Applicant had never paid rent
 - The freehold reversion was unknown and could not be traced
 - The Applicant therefore claimed to be entitled to the freehold reversion of the Property
8. The Applicant requested the Court to direct that:
 - Further enquiry be dispensed with

- The matter is referred to the Leasehold Valuating Tribunal to determine the amount to be paid into court pursuant to Section 27 of the 1967 Act
 - On determination a draft transfer be filed
9. A Court Order dated 19th August 2005 directed that:
- Further enquiry be dispensed with
 - The matter is referred to the Leasehold Valuating Tribunal to determine the amount to be paid into court pursuant to Section 27 of the 1967 Act
 - On determination a draft transfer be filed

The Law

10. The Leasehold Reform Act 1967 as amended by the Commonhold and Leasehold Reform Act 2002 enables tenant of houses on long leases at low rent to enfranchise (acquire the freehold) their properties.
11. Section 21 of the 1967 provides that if the parties do not agree a price an application may be made to the Leasehold Valuation tribunal to determine the price. The valuation methods are set out in section 9 of the 1967 Act.
12. Section 27 of the 1967 Act provides for an application to the court where the landlord cannot be found to dispense with notice and require a Leasehold Valuation Tribunal to determine a price under s 9 to be paid into court and terms of transfer to be filed with the court.
13. Section 9 of the 1967 Act provides for one of three methods of valuation to determine the price depending on the rateable value of the property. The relevant method in this case is that set out in s9 (1) which requires the tribunal to assume that at the end of current term, the tenant has applied for and been granted an extended lease under section 14 of the 1967 Act for a term of 50 years from the date of the existing tenancy at an open market ground rent. The basic principle is that the enfranchisement price should compensate the landlord of the loss of rents (including any current arrears) until the extended term date and the loss of the freehold at that time.
- The tribunal must therefore, as at the valuation date:
- Ascertain and determine the current open market value of the property as it stands
 - Determine the site value of the property (as a percentage of the open market value)
 - Assess the open market ground rent at current prices (s15 Ground Rent)
 - Calculate the current value of the lost future rents (using actuarial tables)
 - Ascertain and add the amount of any recoverable arrears
 - Consider the likely state of the property at the end of the hypothetical lease
 - Assess the open market value of the property at that date at today's prices
 - Calculate the current value of that open market value (using actuarial tables)

The Inspection

14. The Tribunal inspected the Property in the presence of Mr Holba the Applicant's husband on the 8th December 2005. At the time of inspection building works were being undertaken to extend the house to the front side and rear to form two residential units. One unit is a mid terrace two bedroom house that at the time of inspection was nearing completion and comprised a living room from which rose stairs to the first

floor, kitchen and bathroom on the ground floor and two bedrooms on the first floor. The other unit is a three-bedroom end of terrace house, which Mr Holba informed us, would comprise of a living room, a second room behind this, a kitchen with dining area, utility room on the ground floor and three bedrooms and a bathroom on the first floor. The tribunal did not inspect the existing first floor of this property which was to be substantially altered. The Property is understood to have mains gas, electricity, water and drainage. Outside there is a garden to front side and rear. The ground slopes down to the road and the site has had to be excavated to enable to current development and the rear garden will need to be retained, as it is at a higher level than the ground on which the house is constructed.

The Hearing

15. A Hearing was held following the Inspection on the 8th December 2005. The Applicant's Solicitor attended but the Applicant's Surveyor did not. The Tribunal agreed that if it did not accept a significant fact in the evidence of the Surveyor's Expert report it would allow the Applicant a period of time to comment before issuing its determination.
16. The Applicant's Surveyor in a written Report stated that on inquiry at the Council Tax/Revenues Department of East Hertfordshire District Council no records of the rateable value for the Appropriate Day of 23rd March 1965 were available. He Surveyor assumed that at the Appropriate Day the rateable value of the Property would have been less than the prescribed out of London limit of £200 or £500 by 1990. Therefore the Surveyor valued the Property by the method specified in s 9(1) of the 1967 Act.
17. The Surveyor took a valuation date of 10th August 2005 as the deemed date of the service of the application form however the Applicant's Solicitor was able to confirm that the date of the Court application was the 4th August 2005. The Report stated that it had been assumed that the Lease had reserved a nominal rent of no current monetary value. A yield of 7% was applied for an unexpired term of 59 years.
18. The written Report referred to a comparable for assessing the current price of the entirety of the Property of 7 New Park Lane which is a two bedroom mid terrace house sold on the 19th November 2004 for £173,000. It was submitted that property values had not increased since the sale and that the evidence represented a good basis for establishing the value of the properties and hence the land.
19. On completion of the works being undertaken by the Applicants the Surveyor estimated that the Property will have a total value of £400,000 and that on the basis of a 40% equation between land values and realisation value, a present day land value of £160,000 was indicated.
20. The Surveyor's valuation was as follows:

Present ground rent capitalised	£0
Freehold Site Value	£160,000
Decapitalised @ 7%	<u>0.07</u>

Modern ground rent	£ 11,200	
YP perp deferred 59 years @ 7%	0.264	<u>£2,957</u>
Total		
Freehold Value say		£3,000

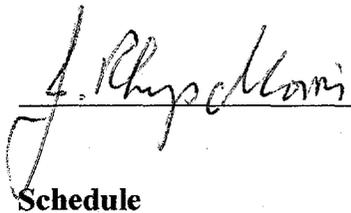
21. The Applicant's Surveyor therefore valued the freehold of the Property in accordance with s 9(1) and pursuant to s 27 of the 1967 Act at £3,000.
22. The Applicant's Solicitor, Mr Timmins, submitted a draft Transfer to the Tribunal and noted that the property had been described as 11 New Park Road and that this should read New Park Lane. He also agreed that the reservation referred to in the Charges Register and contained in an Assignment of the Property dated 16th September 1959 made between (1) Elizabeth Wright and Marjorie Elizabeth Hewitt and (2) William Mc Pherson for the benefit of 7 and 9 and 1, 3 and 5 New Park Lane respectively should be expressly stated in the Transfer.

Determination

23. The Tribunal agreed that the rateable value of the Property would have been less than the prescribed out of London limit of £200 or £500 by 1990. Therefore the Property was to be valued by the method specified in s 9(1) of the 1967 Act.
24. The Tribunal formally took the 4th August 2005 as the valuation date being the date of the Court application however this made no difference to the Applicant's Surveyors valuation where the 10th August 2005 had been used. The Tribunal agreed that the ground rent was of no current monetary value. It was further agreed that the yield of 7% used in the Surveyor's valuation should be applied and that the unexpired term was 59 years. In addition the Tribunal accepted that the site represented 40% of the total Property value.
25. The Tribunal agree that the sale of No.7 forms a good basis for establishing the value of the two-bedroom property. It considered from its own knowledge of similar properties in the area that a slightly higher value could be achieved for this unit. This house will be completely refurbished with all new facilities and services to provide attractive cottage style accommodation. The portion that is to be a three-bedroom end of terrace house is substantially larger than the two-bedroom portion as noted at the inspection. The Tribunal taking account of the evidence of the Applicant's Surveyor and adding to this the knowledge and experience of its members the Tribunal value the two bedroom unit of the subject property to be £195,000 and the three bedroom unit to be £290,000 making a total entirety value of £485,000.
26. In accordance with paragraph 15 of this Statement of Reasons a letter was sent to the Applicant's Solicitor on the 9th December informing the Applicant of the Tribunal's view that a higher entirety value was appropriate and stating that if the Applicant had any further representations these should be made by the 21st December. The

Applicant's Solicitor replied on the 20th December informing the tribunal that the Applicant had no further representations.

27. The Tribunal's valuation is set out in the Schedule hereto. The Enfranchisement Price is determined as £3,582.00
28. In relation to the draft Transfer in the form of the TR1 supplied by the Applicant's Solicitor the Tribunal found that any easements, conditions or stipulations for the benefit for the Property which were referred to on the Title Number HD227088 would be implied in the transfer by virtue of the relevant sections of the Law of Property Act 1925. However the Tribunal determined that the right reserved in the Charges Register and contained in an Assignment of the Property dated 16th September 1959 made between (1) Elizabeth Wright and Marjorie Elizabeth Hewitt and (2) William Mc Pherson for the benefit of 7 and 9 and 1, 3 and 5 New Park Lane respectively must be expressly stated in the Transfer.
29. The Tribunal also determined that the reference to New Park Road in the draft Transfer should be amended to New Park Lane and that the price of £3,582.00 determined by the Tribunal be inserted in the appropriate section. In all other respects the Tribunal were satisfied with the draft Transfer as supplied.
30. The Applicant's Solicitor provided the Tribunal with a copy of the amended draft TR1 on the 22nd December 2005, which is approved by the Tribunal.

 JR Morris (Chair)

Schedule

Leasehold Valuation Tribunal's Valuation

In accordance with The Leasehold Reform ct 1967 Section9 (1)

11 New Park Lane, Aston, Hertfordshire, SG2 7ED

Standing House Approach

Entirety Value	£485,000
Site Value 40%	£194,000
Section 15 Rent @ 7%	<u>£13,580 per annum</u>
Multiply YP in perpetuity	14.287
Multiply Present value 59 years @ 7%	<u>0.0184653</u>
Total	£3,582

Enfranchisement price £3,582