

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE

DECISION OF THE MIDLAND LEASEHOLD VALUATION TRIBUNAL
ON APPLICATIONS UNDER S27 OF THE LEASEHOLD REFORM ACT
1967

Properties: 48, 50, 52 and 54 Queen's Avenue, Ilkeston, Derbyshire

Applicants: Mrs J T Geary (tenant of 48)
Mr D T and Mrs M Trussell (tenants of 50)
Mr L A and Miss M A James (tenants of 52)
Mr M and Mrs S Slaney (tenants of 54)

Respondent: Landlord: whereabouts unknown

Date heard: 20 January 2006 at Ilkeston

Appearances: Mr Nicholas Bacon BSc MRICS IRRV (Nicholas Bacon,
chartered surveyors)
Mr R Pumfrey (Horton & Moss, solicitors)

Members of the leasehold valuation tribunal:

Lady Wilson
Mr J R Ravenhill FRICS
Mrs A Bartram

Date of the tribunal's decision:

27 January 2006

1. These are applications under section 27 of the Leasehold Reform Act 1967 ("the Act") to determine the price to be paid for the freeholds of four neighbouring houses: 48, 50, 52 and 54 Queen's Avenue, Ilkeston Derbyshire. The applications raise the same issues and were heard together. The landlord is missing and an order has been made in the Derby County Court on 6 July 2005 for the determination of the price to be referred to the tribunal.
2. The tribunal inspected each of the properties internally on 20 January 2006 in the presence of the respective tenants. At the hearing, after the inspections, the tenants were represented by Mr Nicholas Bacon BSc MRICS IRRV of Nicholas Bacon, chartered surveyors and Mr R Pumfrey of Horton & Moss, solicitors.
3. Each of the properties is of two storeys and is semi-detached and of traditional brick construction, built in the late 1940s. At 48, the three bedrooms have been converted into two by the tenant or her predecessor in title. 50 and 52 have the original three bedrooms. 54 has two bedrooms but has the advantage of a garage at the side of the property and of a bathroom on the first floor, neither of which advantages is possessed by the other three. 48, 50 and 54 have the benefit of significant improvements carried out by the tenants or their predecessors in title.
4. All four properties were the subject of a single lease dated 25 October 1948 for a term of 99 years from 25 October 1948 at a total annual ground rent of the equivalent of £16.80. By assignments dated 6 September 1954 the rents were apportioned equally between the four properties.
5. The rateable values of the properties are such that the valuation falls to be made under section 9(1) of the Act. The issues to be determined for the purpose of the valuation are the entirety value of each property, the appropriate site proportion and the capitalisation rate to be applied for the capitalisation of the existing rent and of the section 15 ground rent. The valuation date is 27 May 2005, the date of the application to the County Court for a vesting order (see section 27(2)(a) of the Act).
6. Mr Bacon proposed an entirety value for each property of £105,000 which he based on a number of comparables listed in his appendix 2. All were similar houses in the immediate locality which had been the subject of recent sales or were currently on the market. Having seen the subject properties and having considered the comparables, we were quite satisfied that Mr Bacon's proposed entirety value was very well supported by the comparable evidence and was reasonable and fair, and that his suggested value allowed for the sites to be exploited to their fullest extent. Like him, we accept that the entirety value of each of the properties is the same.

7. Mr Bacon suggested that the appropriate site proportion to establish the value of the sites is 30%. We accept this. The sites are somewhat cramped and are sloping. In a relatively low value area such as this we consider that 30% is a reasonable proportion to adopt as the value of these sites.
8. Mr Bacon capitalised the ground rents and arrived at the section 15 rents on the basis of a yield of 7% which he considered appropriate for the quality of this investment. Having taken into account the general guidance of the Lands Tribunal in *Arbib v Earl Cadogan* (LRA/23/2004) we agree that such a yield is appropriate in this instance, taking into account the relatively low prospects of future capital growth.
9. Finally, section 27(5)(b) of the Act requires the inclusion in the price of "the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid". No rent has been paid for some years because the landlord is missing and has not demanded rent. By section 166 of the Commonhold and Leasehold Reform Act 2002, which came into force on 28 February 2005 (see Commonhold and Leasehold Reform Act 2002 Commencement No 5 and Saving and Transitional Provision Order 2004) a tenant is not liable to pay rent unless the landlord has given him the appropriate notice. No such notices have been given and we therefore determine that no sums are due under section 27(5)(b).
10. We therefore determine that the price to be paid for each of the properties is £1890 as proposed by Mr Bacon.

CHAIRMAN.....

DATE..... 27 January 2006