
DECISION OF LEASEHOLD VALUATION TRIBUNAL
LEASEHOLD REFORM ACT 1967

Applicant: MRS M J BARBER
Respondent : MRS A J WATTON
Property : 45 Goodrest Avenue, Halesowen West Midlands B62 0HR
Valuation Date : 21st June 2006
Heard at : Birmingham Panel Offices
On : 25th May 2007
Appearances :
For the Applicant : Mr H Barber
For the Respondent : Mr A Brunt
Members of the Tribunal : Mr D Jackson (Chairman)
Mr V Chadha
Mrs E Everett
Date of decision :

1. BACKGROUND

This is a decision of a Leasehold Valuation Tribunal of the Midland Rent Assessment Panel on an application to determine the price payable for enfranchisement under section 21 of the Leasehold Reform Act 1967 ("the Act") in relation to 45 Goodrest Avenue, Halesowen, West Midlands B62 0HR ("the Property").

2. The Property is held under the terms of a Lease dated 3rd August 1933 and made between Joseph Levi (1) West Bromwich Building Society (2) and Horace Walter John Cluley (3) whereby the Property was demised for a term of 99 years from 25th December 1932 at a yearly rent of £7.

3. By Notice ("the Tenant's Notice") dated 21st June 2006 the Respondent gave "Notice of Tenant's Claim to Acquire the Freehold ". The Applicant's Notice in Reply dated 17th August 2006 admits the Respondent's claim to have the freehold of the Property.
4. On 19th February 2007 the Applicant applied to the Tribunal for determination of the price payable under section 9 of the Act and for determination of the Applicant's costs payable under section 9(4) of the Act.

5. INSPECTION

The subject Property comprises a semi-detached house built in approximately 1932 in a good residential area. The house is of two storey brick construction with a pitched tiled roof. The property was extended in approximately 1999. The accommodation comprises on the ground floor an integral garage, hall, 2 reception rooms, kitchen and wc. On the second floor there are 4 bedrooms and a combined bathroom/wc. There is a small garden and a shared drive at the front and large landscaped garden at the rear.

The Property has gas central heating and double glazing throughout.

Electricity pylons are visible from the rear of the Property. Although screened by trees at the time of inspection, noise is clearly audible from the M5 motorway at the rear.

The Tribunal also inspected the rear of the Property which backs on to a local recreation area. There are garages relating to another development at the rear with some evidence of recently removed graffiti.

The Property is situated on the outside of a bend in the road and has a limited frontage of approximately 5½ yards. However consideration of the Lease Plan shows an arrangement whereby the adjoining property, 44 Goodrest Avenue, has the right to pass and re-pass over part of the driveway whilst the Property enjoys similar rights over parts of the driveway of the adjoining property. Accordingly the Tribunal estimates the frontage, excluding the shared driveway to be 13-16 feet.

The parties have agreed that the plot is 910 square yards.

6. VALUATION

- 6.1 Valuation in accordance with section 9 (1) of the Act.
- 6.2 Valuation date – 21st June 2006.
- 6.3 Unexpired term 25.5 years.
- 6.4 Straightforward term and reversion valuation. In the absence of any evidence of cleared site sales the Standing House Method was used to determine the section 15 ground rent.

7. ISSUES FOR DETERMINATION

- 7.1 Entirety Valuation (Respondent - £240,000; Applicant - £260,000)
- 7.2 Site apportionment (Respondent - 35%; Applicant – 37%)
- 7.3 Deferral Rate – (Respondent - 6.75%; Applicant – 4.75%)
- 7.4 Costs payable under section 9(4) of the Act.

8. APPLICANT'S SUBMISSIONS

The Tribunal has had the advantage of reading a report dated 22nd May 2007 prepared by Mr Barber on behalf of the Applicant.

9. Mr Barber has produced a number of comparables the most helpful of which are

- 9.1 38 Goodrest Avenue – a semi-detached property with an attic conversion comprising a fourth bedroom. This property was sold on 17th March 2006 for £245,000.
- 9.2 57 Goodrest Avenue – a 3 bed roomed semi-detached property which has not been extended, sold on 7th July 2006 for £206,200.
- 9.3 50 Goodrest Avenue – a 3 bed roomed semi-detached property which has not been extended, sold on 14th July 2006 for £225,000.

10. Mr Barber told the Tribunal that the motorway is approximately 120 yards from the Property “in a cutting and well screened.” The pylons are “quite a distance away” on the other side of the motorway. Mr Barber maintained that the park at the rear was beneficial rather than detrimental. The garages were “well secured.” Any graffiti had been erased from the fence and only a small amount left on the garage.

11. Mr Barber submitted that the Property was more attractive than 38 Goodrest Avenue which had less parking, an attic conversion and did not have the benefit of additional facilities on the ground floor.

12. Mr Barber indicated that 35% would be the usual starting point for site apportionment in relation to a semi-detached property of this sort. However in this particular case he adopted 37% based on the “unusually large plot of land.” He argued that although the frontage was narrow any development could be set back.
 13. In relation to the deferment rate Mr Barber saw no reason to depart from Sportelli (see paragraph 21).
 14. RESPONDENT'S SUBMISSIONS
The Tribunal considered a report dated 23rd May prepared by Mr Brunt on behalf of the Respondent.
 15. Mr Brunt drew the Tribunal's attention to the following factors which he submitted would have a detrimental effect on the value of the property:
 - 15.1 Motorway traffic audible and visible (when the trees are not in leaf) from the rear.
 - 15.2 Nearby electricity pylons.
 - 15.3 Concern about public access and garages to the rear which could affect quiet enjoyment and security. Mr Brunt also referred to the graffiti although he accepted that most of it had recently been cleaned up.
- Accordingly Mr Brunt submitted the appropriate entirety value was £240,000.
16. Mr Brunt adopted a site apportionment of 35% based on the limited frontage and shared driveway.
 17. Mr Brunt adopted a rate of 6.5% for capitalisation of ground rent. “I cannot believe that investors would find the idea of an income of £7 per annum for just over 25 years to be at all attractive.”
 18. In relation to the deferment rent Mr Brunt submitted that the Tribunal was not bound by Sportelli. In particular Mr Brunt argued that the decision did not apply to Section 9(1) Valuations and concerned itself only with “the proper deferment rate to be applied to vacant possession values.” In addition:-

“In my view a semi-detached house on a long ground lease such as this in Halesowen will not be as attractive to property investors as the sort of properties in Central London which is

after all a special place. London attracts international investment in the residential market. Halesowen does not.”

19. TRIBUNAL 'S DETERMINATION – ENTIRETY VALUE

The Tribunal adopted as a starting point the sale of 38 Goodrest Avenue in March 2006 for £245,000. The Tribunal found that the Property was more attractive than 38 Goodrest Avenue particularly as it had been extended rather than a fourth bedroom attic conversion. However motorway noise would affect the value of the property. The electricity pylons are too far away to have any appreciable effect on value. In particular the narrow frontage and shared driveway would have an adverse affect on the value of a property of this sort. Accordingly the Tribunal determined an entirety value of £247,000.

20. TRIBUNAL'S DETERMINATION – SITE APPORTIONMENT

In view of the very narrow frontage the Tribunal determined site apportionment of 35%.

21. TRIBUNAL'S DETERMINATION – DEFERMENT RATE

The Tribunal has had regard to the guidance of the Lands Tribunal in Earl Cadogen and Cadogen Estates Limited (1) and Michele Francesco Sportelli and Lara-Lynn Victoria Lamont Sportelli (2) LRA/50/2005. In particular the Tribunal has considered paragraph 123:-

“The application of the deferment rate of 5% for flats and 4.75% for houses that we have found to be generally applicable will need to be considered in relation to the facts of each individual case. Before applying a rate that is different from this, however, a valuer or an LVT should be satisfied that there are particular features that fall outside the matters that are reflected in the vacant possession value of the house or flat or in the deferment rate itself and can be shown to make a departure from the rate appropriate.”

The Tribunal was not persuaded by Mr Brunt's submissions. The matters raised by him had already been taken into account in vacant possession values (see paragraph 19 of this decision). The reversion is in excess of 20 years (see paragraph 121 of Sportelli) and accordingly the Tribunal determines a deferment rate of 4.75%.

22. The Tribunal was however persuaded by Mr Brunt's argument in relation to capitalisation of ground rent and adopted his figure of 6.5%. However the Tribunal noted that the difference

between the parties in their term valuation (Respondent - £86.08; Applicant - £102) was less than £16. The Tribunal draws the parties' attention to the Lands Tribunal in Nicholson and others v Goff [2007] 13 EG 256:

"It would be disproportionate for valuers to dispute capitalisation rates in such circumstances and it was appropriate for the valuers to reach agreement on the rates to be applied whatever its basis."

23. TRIBUNAL'S VALUATION

Term

Ground rent p.a	£7 p.a.	
YP 25.5 yrs @ 6.50%	<u>12.29666</u>	£86.08

Reversion

Entirety Value	£247,000	
Site Apportionment @ 35%	£ 86,450	
Section 15 modern ground rent p.a.@ 4.75%	£ 4,106.37 p.a.	
YP in perp def'd 25.5 yrs @ 4.75%	6.449	<u>£26,482</u>
		£26,568

24. COSTS

The Tribunal was invited to exercise its jurisdiction under section 21 (ba) of the Act to determine the amount of reasonable costs payable by the Respondent.

25. The parties have agreed £200 plus VAT for valuation fees.

26. Mr Barber produced a letter from Messrs Pearson Rowe indicating legal costs of £400 plus VAT. Mr Brunt spoke to a figure of £325 plus VAT.

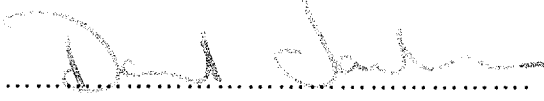
27. Using its own knowledge and experience the Tribunal determined legal costs at £375 plus VAT.

28. DETERMINATION

28.1 The price payable by the Respondent under section 9(1) of the Act is £26,568.

28.2 The reasonable costs payable by the Respondent under section 9(4) of the Act are £375 plus VAT in relation to legal fees and £200 plus VAT in relation to valuation fees.

In reaching its determination the Tribunal has had regard to the submissions of the parties, the relevant law and its own knowledge and experience as an expert Tribunal but not any special or secret knowledge.

Signed 

MR D JACKSON – Chairman

7 JUN 2007