



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : **MAN/16UD/OAF/2014/0009**

Property : **7 Etterby Terrace, Carlisle,
Cumbria, CA3 9JE**

Applicant : **Ms C. R. Burton (Leaseholder)**

Representative : **Bell Park Kerridge, Solicitors**

Respondent : **Ms C. Heaton (Missing Landlord)**

Representative : **No appearance**

Type of Application : **Leasehold Reform Act 1967 Section
27 (Missing Landlord)**

Tribunal Members : **Judge Lancelot Robson
Mr I. Jefferson TD BA BSc MRICS**

**Date and venue of
Hearing** : **Carlisle Magistrates Court**

Date of Decision : **29th September 2014**

DECISION

Decision Summary

- (1) The Tribunal assessed the price of the freehold reversion at £2,500 (to which any arrears of rent or other sums due to the missing landlord under the leases shall be added). This sum shall be paid into Court.
- (2) The Draft Transfer Form TR1 offered by the Applicant shall be amended as noted below to record the terms of the transfer approved by the Tribunal.

Preliminary

1. This case relates to an application made under section 27 of the Leasehold Reform Act 1967, (as amended) for a determination of the price to be paid for a freehold house where the landlord is missing. The application was made in the County Court at Carlisle on 1st May 2014 (Claim No 3CA0024). The case was transferred to this Tribunal for assessment of the value of the freehold reversion and determination of the terms of the acquisition pursuant to an Order of District Judge Park dated 11th April 2014 vesting the freehold interest in the property in the Applicants.
2. Pursuant to Directions issued by the Tribunal on 17th June 2014 the Tribunal considered the matter on the papers at a meeting after an inspection of the property on 16th September 2014.
3. The Applicants instructed Mr Jonathon Lightfoot MRICS to prepare a report and valuation relating to the freehold acquisition. He described himself as acting as an independent valuer owing his primary duty to the Court. A copy of his valuation summary is Appended below as Appendix 1, but as the copy received by the Tribunal is indistinct, the Tribunal has included an abridged version in its decision.

Inspection

4. The Tribunal inspected the property. The property is a brick built end of terrace house with a pitched tiled roof, over 100 years old, with cement render painted white on the external walls. There was a narrow unadopted lane to the front, with vehicular access only to the garden at the rear of the property. It is possible to park at least one car in this drive. There is a small front garden, with a much larger, roughly triangular, garden to the side facing the River Eden. Beyond the right of way along the riverside is a floodgate in the flood barrier. The footprint of the property is complex, but on the ground floor it comprises a small porch on the end elevation, with an inner hall and stairs, two good sized living rooms facing the garden, a large kitchen, and a bathroom, the latter in the ground floor extension, a small single bedroom on the half landing, and two large double bedrooms on the first floor.
5. The lessee had installed an attractive ensuite shower room off the main bedroom, double glazing almost throughout, gas fired central heating throughout, and modernised the kitchen and bathroom to a good standard. She had also installed new fireplaces in the living rooms, as well as redecorating and recarpeting the property. Upon enquiry the lessee stated that the property had been flooded in 2006, before her ownership, but had not

flooded since the flood alleviation works were completed, again prior to her ownership.

6. The Tribunal inspected externally two comparable properties mentioned by Mr Lightfoot, No 3 and No 6 Etterby Terrace. Both properties were mid terrace and looked quite small, with smaller gardens.

Evidence

7. The Tribunal considered Section 27 of the Leasehold Reform Act 1967 and considered the Report and Valuation of Mr Lightfoot dated 31st July 2014. It contained the necessary statement of truth and declaration of independence as required by his professional body and in accordance with CPR Practice Direction 35 relating to Experts and Assessors. His initial report did not give a breakdown of his calculations, but at the request of the Tribunal he provided figures shortly before the hearing.
8. Mr Lightfoot inspected the property on 30st July 2014. He did not specify his valuation date but seems to have given a valuation as at the date of his report, i.e. 31st July 2014. His handwritten summary valuation was;

Assumptions

Assumed Freehold Value (excl improvements) (based on comparables)	£125,000
Ground Rent £2.5s 10d	but assume £3
Term	63 Years

Part A calculation

Term	63 years
Ground Rent	£3.00
Years Purchase for 63 years @ 8%	12.4020
£3 x 12.4020	= £37.20

Part B - First Reversion

First Reversion	£125,000
Site apportionment at 48%	60,000
Section 15 Modern Ground Rent @6%	3,600
Years Purchase; 50 years @ 6%	15.7619
PV £1 in 63 years @6%	0.254525
First Reversion – 3,600 x 15.7619 x 0.0254525	= £1,444

Part C - Second Reversion

Standing House Value	£65,000
Purchase Value £1 in 113 years @ 6%	0.00135 = £87
Freehold Price £37 + £1,444 + 87	= £1,568 Freehold Price

Decision

Valuation

9. The Tribunal was mindful of its duty to the missing landlord, and applying its own knowledge and experience made its valuation as set out at Appendix 2 to this decision. The Tribunal agreed with the principles of Mr Lightfoot's valuation, but with some amendments and comments below.
10. Valuation Date – 30th October 2013, being the date of the application to the County Court.
11. Term: Ground Rent – the Tribunal noted the slightly complex informal rent apportionments made in the past. It eventually concluded that Mr Lightfoot's assumed figure was too high. The Tribunal decided that an apportioned ground rent of £2.5s.10d should be reflected as £2.26 and used this figure in its valuation.
12. First Reversion: Entirety Value - the Tribunal noted Mr Lightfoot's treatment of the comparable properties and agreed the current valuation of the property at £150,000 before deducting tenant's improvements. However Mr Lightfoot did not identify the tenant's improvements. The Tribunal asked the Applicant about this matter at the inspection, and she was able to confirm the main items undertaken, and the approximate cost including decorative items and floor coverings was slightly in excess of £20,000. Mr Lightfoot suggested a figure of £25,000 for the improvements, and that the Entirety Value of the property less tenant's improvements was £125,000. The Tribunal adopted a figure of £20,000 in respect of relevant tenant's improvements thus arriving at a figure of £130,000 in respect of Entirety value, excluding tenant's improvements.
13. Site Value – Mr Lightfoot suggested 48%, which the Tribunal thought too precise and preferred a figure of 47.5%.
14. Section 15 Modern Ground Rent – instead of 8% the Tribunal applied a more usual figure of 5.5% to this calculation, consistent with case law, particularly Clarise Properties Ltd UT [2012] UKUT 4 (LC) LRA 170/2010.
15. Second Reversion: Standing House Value – Mr Lightfoot adopted £65,000, but without any evidence. The Tribunal adopted £105,000 by using a percentage more consistent with Clarise (Supra).
16. Thus the Tribunal valued the freehold reversion at £2,500, in preference to Mr Lightfoot's valuation of £1,568. The Applicant shall pay into Court the sum of £2,500 for the freehold reversion (to which should be added any arrears of rent or other matters).

Transfer

17. the Applicant offered a completed Land Registry Form TR1. The Tribunal noted several items which required amendment:
Box 4 – Delete all and insert “Caroline Heaton (pursuant to a Vesting Order under Section 27 of the Leasehold Reform Act 1967 made by Judge Park in the County Court at Carlisle dated 1st May 2014 under claim number 3CA00254) after “Transferor”.

Box 8 – delete standard wording and insert; “The Transferee has paid into Court the sum of £2,500 pursuant to the Court Order dated 1st May 2014”

Box 9 – Delete “No Title Guarantee” and insert an “x” against the box “limited title guarantee”

Box 11 – Insert a further additional provision as follows: “The Property transferred is also subject to the rights granted by the Deed of Grant dated 29th July 1960 made between Mrs Caroline Heaton (and others) and the Mayor Aldermen and Citizens of the City of Carlisle noted as item 1 in the Charges Register of Title CU255502.

Box 12 – Delete standard wording and insert “ signed as Deed by [] as a duly authorised officer of the Court.

18. This case is now referred back to the County Court at Carlisle to effect the Vesting Order.

Chairman: Judge Lancelot Robson

Signed: Lancelot Robson

Dated: 29th September 2014

Appendix 1 – Mr Lightfoot’s calculation – See attached

Appendix 2 – Tribunal’s valuation – See attached

1. Net Sales (100%) 100.00

2. Cost of Goods Sold (30%) 30.00
3. Gross Profit (70%) 70.00
4. Operating Expenses (15%) 15.00
5. Operating Income (55%) 55.00

6. Interest Expense (5%) 5.00
7. Income Before Tax (50%) 50.00
8. Tax Expense (10%) 5.00
9. Net Income (40%) 40.00

10. Dividend Payout (10%) 10.00
11. Retained Earnings (30%) 30.00
12. Total Assets (100%) 100.00
13. Equity (70%) 70.00
14. Debt (30%) 30.00

7 Etterby Terrace
Carlisle CA3 9JE

Leasehold Reform Act 1967 Section 9(l)

Term

Ground Rent	£2.26	
YP for 63 years @ 6.5%	15.094	£34

First Reversion

Entirety Value	£130,000	
Site Apportionment 47.5%	£61,750	
Section 15 Modern Ground Rent @ 5.5%	£3,396	
YP 50 years at 5.5%	16.932	
	<u>£57,505</u>	
PV £1 in 63 years @ 5.5%	0.03428	£1,971

Second Reversion

Standing House Value	£105,000	
PV £1 in 113 years @ 5.5%	0.0047	£494
		<u>£2,499</u>

Say £2,500