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

Case Reference : BIR/44UB/OAF/2014/0029

Property : 6 Trajan Hill, Coleshill, Warwickshire, B46 1TZ

Applicants : Mark Edward Dalton and Hazel Claire Dalton

Representative : A.W. Brunt FRICS

Respondent : Alexandros Christodoulou

Representative : N/A

Type of Application : Determination of the price of the Freehold interest under s.21(1)(a) of the Leasehold Reform Act 1967 and the landlord's costs under s.21(1)(ba)

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
P.J. Hawksworth (Lawyer)
Mrs N.Jukes

Date and Venue of Hearing : 29th July 2014 at the First-tier Tribunal Office, 35 Bull St. Birmingham

Date of Decision : - 5 SEP 2014

DECISION

- 1 The Freehold price is determined at £3,837 (Three Thousand Eight Hundred and Thirty Seven Pounds), the Freeholder's legal fees at £450 and Freeholder's Surveyor's fee at £450.

REASONS

Introduction

- 2 Mr and Mrs Dalton hold a long leasehold interest in residential property at 6 Trajan Hill, Coleshill, Warwickshire, B46 1TZ and served notice to acquire the freehold interest from their landlord, Mr A.Christodoulou, on 18th March 2014 in accordance with the Leasehold Reform Act 1967 ('the Act').
- 3 The Tribunal is unaware that any counter notice was served by the Freeholder.
- 4 On 27th May 2014 the Applicants' agent Mr Brunt applied to the First-tier Tribunal to determine the price of the Freehold and the landlord's reasonable costs in accordance with sections 21(1)(a) and 21(1)(ba) of the Act.
- 5 A hearing was held at the Tribunal office in Birmingham on 29th July 2014 where the applicant's agent, Mr Brunt, presented a valuation on behalf of his clients. No-one was present to represent the Freeholder although the Tribunal wrote to Mr Christodoulou on 14th July 2014 to advise him of the Hearing.

The Law

- 6 There is no dispute between the parties of the Applicant's right to acquire the Freehold. The valuation falls to be determined under s.9(1) of the Leasehold Reform Act 1967 and the landlord's costs under s.21(1)(ba) of the Act. The date of valuation is the date of service of the Notice on 18th March 2014.

Facts

- 7 The Tribunal inspected the property on 29th July 2014 with the Applicants' Surveyor, Mr Brunt of Messrs Anthony Brunt & Co. Chartered Surveyors. No one attended on behalf of the Freeholder.
- 8 The property comprises a standard 1980s semi-detached house with a hall, lounge and kitchen on the ground floor, three bedrooms and bathroom on the first floor. It has a drive to the left of the house, a small open plan front garden and enclosed back garden.
- 9 It is on a modern housing estate that includes numerous similar houses.
- 10 The lease was granted for a term of 99 years from 25th March 1978 at a ground rent of £45 p.a. for the first 33 years to 24th March 2011, £90 p.a. for the next 33 years to 24th March 2044 and £180 p.a. for the final 33 years to expiry of the lease on 24th March 2077. On the valuation date 18th March 2014 there were 63 years unexpired.

The Parties' Submissions

- 11 For the Lessees
Mr Brunt made submissions for each element of the valuation as follows:

12 Capitalisation Rate

Mr Brunt considered the appropriate rate to be 6% in this instance where the ground rent was fairly nominal. He cited another case where the Tribunal had adopted 6.5% (9 Church Road, Droitwich, Case Ref. BIR/47UF/OAF/2012/0011) and said that 6% fitted in with the general tone of agreements reached with other surveyors in private transactions.

13 Entirety Value

The subject property had been under offer at £167,000 on the basis of a Freehold sale although the sale had fallen through. By way of support, No.10 Trajan Hill had been sold Freehold for £160,000 in July 2013 but as that property did not have a garage he considered that No.6 should have been worth marginally more.

14 Site Apportionment

Mr Brunt submitted for 33.33%. In his experience builders often adopted a generalised figure of a third of the final property sale price when bidding for land but sometimes reduced the percentage to reflect site difficulties such as sloping sites or narrow plots. He gave examples of ten cases where the Tribunal had determined values ranging from 28%-33% in the Midlands.

15 Deferment Rate

Mr Brunt submitted for 5.5%, referring to the *Sportelli* decision (Cadogan and Another v Sportelli and Another [2007] EWCA Civ 1042) and *Zuckerman* (Zuckerman and Others v Trustees of the Calthorpe Estate LRA/97/2008) to consider the constituent parts of the deferment rate. He had also negotiated many other deals at this rate.

16 The 'Third Stage Reversion'

Mr Brunt deducted 4% to reflect the possibility of the Freeholder not obtaining possession at expiry of the 50 year assumed ground lease.

17 Valuation

Applying these elements, Mr Brunt valued the Freehold interest at £3,837.

18 Costs

Mr Brunt offered legal fees in the sum of £450 to cover the items in paragraphs (a)-(d) of s.9(4) of the Leasehold Reform Act 1967.

He also offered £450 for the Freeholder's surveyor's fee as a Mr Smith had inspected the house to carry out a valuation for the Freeholder after the enfranchisement notice had been served but before the application had been made to the Tribunal.

19 For the Lessor

The Tribunal received no submissions from Mr Christodoulou.

Decision

The Tribunal carefully considered each element of the submission and finds as follows:

20 Capitalisation Rate

The Tribunal finds a rate of 6% in this instance to be fair and reasonable.

21 Entirety Value

The value of the house has been market tested and is in line with the sale of No.10. In the Tribunal's opinion it has no further development potential and accordingly the Tribunal finds the Freehold entirety value to be £167,000.

22 Site Apportionment

The Tribunal agrees Mr Brunt's analysis and determines the site apportionment at 33%

23 Deferment Rate

The Tribunal is familiar with the two cases cited and agrees with the 5.5% submitted by Mr Brunt. The Tribunal accepts the points made and calculates the rate from first principles comprising the following elements:

-	Risk free rate	2.25%
-	Real growth rate	2.00%
+	Risk Premium	4.50%
+	Obsolescence	0.25%
+	Poorer long term growth than central London (PCL)	0.50%
	Deferment Rate	5.50%

24 The 'Third Stage Reversion'

In the absence of any evidence to the contrary the Tribunal finds the 4% submitted by Mr Brunt to be fair and reasonable. However, the rate would depend on the facts of each case and may differ for other properties.

25 Valuation

The Tribunal therefore values the Freehold interest as follows:

Term

Ground Rent	£	90	
YP 30 years 6%		<u>13.7648</u>	
			£1,238
Ground Rent	£	180	
YP 33 years 6%		14.2302	
PV £1 30 years 6%		<u>0.1741101</u>	
			£ 445
Modern Ground Rent			
Entirety Value	£	167,000	
Site Apportionment 33%	£	<u>55.666</u>	
s.15 rent 5.5%	£	3,061	
YP 50 years 5.5%		16.9315	
PV £1 63 years 5.5%		<u>0.0342843</u>	
			£1,776
<u>Reversion</u>			
Entirety Value less 4%	£	160,320	
PV £1 113 years 5.5%		<u>0.0236</u>	
			£ 378
Freehold Value			£3,837

The Tribunal finds the premium to acquire the Freehold interest in accordance with the Leasehold Reform Act 1967 as amended to be £3,837 (Three Thousand Eight Hundred and Thirty Seven Pounds).

26 Costs

The Tribunal considered Mr Brunt's submissions to be fair and reasonable and in line with market practice. Accordingly the Tribunal determines the landlord's legal fees at £450 and surveyor's fee also at £450 payable by the Applicants.

Appeal Procedure

27 If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property). Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties.

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

Date - 5 SEP 2011