



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

**Case Reference** : BIR/00CN/OAF/2015/0012

**Property** : 20 Eton Road, Sparkhill, Birmingham, B12 8AY

**Applicant** : Mr Zaheer Akram

**Representative** : Mr S. Boot B.Sc.(Hons.) MRICS of Messrs Pennycuik Collins Chartered Surveyors

**Respondent** : Unknown

**Type of Application** : Application to determine the price payable for the Freehold interest pursuant to s.9(1) of the Leasehold Reform Act 1967 ('the Act') following an application to the County Court under s.27(5) of the Act where the landlord's identity is unknown.

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

**Date and Venue of Hearing** : 18th May 2015 at the First-tier Tribunal Office, 35 Bull St. Birmingham

**Date of Decision** : 28th May 2015

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**DECISION**

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- 1 The price of the Freehold interest is determined at £25,728 (Twenty Five Thousand Seven Hundred and Twenty Eight Pounds) and the Applicant is also required to pay into Court the sum of £15 (Fifteen Pounds) comprising three years' ground rent.

## **REASONS**

### **Introduction**

- 2 The Applicant holds a lease of 20 Eton Road, Sparkhill, Birmingham, granted for a term of 65 years from 25th March 1955 at a ground rent of £5 per annum and wishes to acquire the Freehold interest. He was unable to locate the landlord to negotiate terms and applied to the County Court on 20th August 2014 under s.27(5) of the Leasehold Reform Act 1967 ('the Act'), for the Freehold to be transferred to him subject to payment of costs into Court.
- 3 The application was subsequently transferred to the High Court which ordered the Applicant to apply to the First-tier Tribunal (Property Chamber) for determination of the price of the Freehold and any rent due to the date of conveyance. (High Court of Justice Chancery Division, Birmingham District Registry, Claim No.A30BM454).
- 4 The Tribunal received the application on 4th March 2015, inspected the property and held a Hearing on 18th May 2015 and having considered the application determines as follows.

### **The Law**

- 5 The Tribunal has considered the submitted documents and is satisfied that the price of the Freehold interest is to be determined in accordance with s9(1) of the Act.
- 6 In addition, s.27(5)(b) of the Act requires the Applicant to pay into Court any ground rent that remains unpaid up to the date of the conveyance.

### **Facts Found**

- 7 The Tribunal inspected the property on 18th May 2015 in the presence of the Applicant and his Surveyor, Mr Boot.
- 8 It comprises a three storey end-terraced Victorian house in a densely populated part of Sparkhill, a suburb about two miles to the south east of Birmingham city centre. It is within walking distance of local schools and amenities and there is a good bus service from Sparkhill to the city centre. The surrounding streets are developed with similar terraced housing built at about the same time. There is street parking available outside the property but the plot is small and completely developed apart from a small yard leaving no room to build a garage or accommodate any off-road parking.
- 9 The house is of brick and slate construction with a single storey, slate roofed extension to the rear.
- 10 The accommodation comprises two reception rooms, a kitchen and bathroom on the ground floor, a landing and two bedrooms on the first floor and playroom in the attic. The property is fully developed on its plot.

### **Submission and Tribunal Determination on Valuation Points**

- 11 Mr Boot attended the Hearing and provided a written submission to support his valuation of £24,969 for the Freehold. The Tribunal's decision on each part of the valuation is summarised below:

12 **Valuation Date**

Applicant

Mr Boot valued the Freehold at the date of application to the County Court, 20th August 2014 and calculated the unexpired term at 5.3 years.

Tribunal

The Tribunal agrees that this is the correct valuation date but assess the unexpired term at 5 years 7 months (5.58 years).

13 **Ground Rent**

Applicant

Mr Boot advised that the ground rent was £5 p.a.

Tribunal

The Tribunal was provided with a copy of the Lease made 27th August 1955 between Beatrice Matilda Wilding (Landlord) and Louis Carl Dilke (Tenant) granted for a term of 65 years from 25th March 1955 at a ground rent of £5 per annum fixed for the term. Accordingly £5 p.a. is the correct figure.

14 **Capitalisation Rate**

Applicant

Mr Boot valued the ground rent at 7% to reflect the short unexpired term of the lease, the security of recovery, the relatively low rent and lack of a rent review.

Tribunal

The Tribunal agrees that this is a fair capitalisation rate to apply in this case.

15 **Entirety Value**

Applicant

Mr Boot helpfully provided details of 40 property sales in the area including sales of houses in Eton Road, Dennis Road, Ernest Road and Stoney Lane over a period from May 2003 to May 2014 in order to provide a balanced opinion of value.

Having assessed the evidence, he concluded that the value of the Freehold interest in a fully developed house on the subject plot would have been £110,000 at the valuation date.

Tribunal

The Tribunal considered the evidence and inspected the surrounding roads. Based on the reported sales, the Tribunal finds the value of the Freehold interest in the subject property with vacant possession, fully developed at the date of valuation, to have been £110,000 as submitted by Mr Boot.

16 **Site Apportionment**

Applicant

Mr Boot referred to three Tribunal decisions where the Tribunal had determined the value of undeveloped plots relative to the value of fully developed houses on the plots ('entirety value') as follows:

Address	Case Ref.	Plot %
68 Golden Hillock Road Victorian terraced house	BIR/OOCN/OAF/2013/0042	27
135 Chipperfield Road 1930s semi-detached house	BIR/OOCN/OAF/2014/0034	30
39 Kingshurst Road 1930s semi-detached house	BIR/OOCN/OAF/2013/0040	30

Taking an overall view and the fact that the house occupies virtually all of the plot with only a small back yard and no off road parking, Mr Boot assessed the site element at 27%.

#### Tribunal

The Tribunal agrees. The object of carrying out this type of valuation is to assess the value of the plot to a potential developer as if it were advertised vacant and to let. This is a confined plot and in these circumstances the Tribunal agrees 27% to be fair.

### 17 **Deferment Rate**

#### Applicant

Mr Boot adopted a deferment rate of 5.25% to reflect Lands Tribunal guidance in the *Sportelli* case (LRA/50/2005) and subsequent court and tribunal decisions.

#### Tribunal

The Tribunal considered the authorities and Lands Tribunal guidance and agrees with a deferment rate of 5.25% for this valuation. This is based on the *Sportelli* decision and calculated as follows:

	Risk free rate	2.25%
Less	Real growth rate	2.00%
Plus	Risk premium	4.50%
Plus	Additional risk premium to reflect the difference between a s.9(1) and s.9(1A) valuation per <i>Mansal Securities</i> (LRA/185/2007)	0.25%
Plus	Additional risk premium to reflect lower growth outside prime central London	0.50%
Less	Reduced risk premium for short unexpired term	0.25%
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	Net Adjusted Rate	5.25%
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### 18 **Reversion**

#### Applicant

Mr Boot adopts a 20% discount from the entirety value to assess the Standing House value on expiry of the 50 year hypothetical lease.

#### Tribunal

The Tribunal agrees this to be a fair reduction from the entirety value to reflect the security of tenure available to a hypothetical tenant on expiry of the 50 year extended lease in this case.

## 19 Applicant's Valuation

Mr Boot submitted a valuation of £25,345 but at the Hearing it became apparent that the correct valuation date was the date of the initial application to the County Court on 20th August 2014, rather than the later date of application to the High Court. Bearing this in mind, the Tribunal gave permission for Mr Boot to revise the valuation which was received by the Tribunal on 20th May 2015 where he submitted a revised valuation of £24,969.

## Decision

- 20 The Tribunal accepts the inputs above but noted an error in the assessment of the unexpired term at the date of valuation which was 5 years 7 months (5.58 years), rather than the terms assessed by Mr Boot which varied from 5.59 years in the summary heading to the revised valuation, to 5.3 years in the calculation. The Tribunal adjusts the unexpired term to 5 years 7 months and determines the value as follows:

### Term 1

Ground Rent	£	5	
Years Purchase 5 years 7 months @ 7%		<u>4.501</u>	22

### Term 2

Freehold Entirety Value (EV)	£110,000		
Site Apportionment x	<u>0.27</u>		
Site Value	£ 29,700		
S.15 Modern ground rent@5.25%		1,559	
Years Purchase 50 years @ 5.25%		17.5728	
Present Value £1 5 yrs 7 months @ 5.25%		<u>0.75149</u>	20,587

### Reversion

Standing House value @ 80% x EV	£88,000		
Present Value £1 55 yrs 7 months @ 5.25%		<u>0.05818</u>	<u>5,119</u>

s.9(1) Price £ 25,728

- 21 The Tribunal therefore determines the price of the Freehold interest under the Act at £25,728 (Twenty Five Thousand Seven Hundred and Twenty Eight Pounds).
- 22 Mr Boot advised that his client had received no demands for ground rent since he bought the lease in 2012. Accordingly, the Tribunal determines that in addition to the price of the Freehold, the Tenant is required to pay into Court the sum of £15 representing unpaid ground rent for the period of three years leading up to the date of the conveyance.

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

Date 19<sup>th</sup> June 2015