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Our Ref: 2393

**MIDLAND RENT ASSESSMENT PANEL**

Leasehold Reform Act 1967

Housing Act 1980

**DECISION OF LEASEHOLD VALUATION TRIBUNAL**

**ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Applicant: Mr B.J. Whitehouse  
Respondent: Ray Investments Ltd  
Re: 112 Barn Lane, Olton, Solihull, Birmingham, B92 7NB  
Date of Tenants Notice: 29<sup>th</sup> October 2001  
RV as at 1.4.73: £229.00  
Application dated: 30<sup>th</sup> January 2002  
Heard at: The Panel Office  
On: 05<sup>th</sup> April 2002

APPEARANCES:

For the Tenant: Mr A.W. Brunt FRICS  
For the Landlord: Mr T.M. Thurstfield FRICS

Members of the Leasehold Valuation Tribunal:

Mr T.F. Cooper BSc FRICS FCI Arb (Chairman)  
Mr D.R. Salter LLB  
Mrs N. Jukes

Date Of Determination

**03 MAY 2002**

**DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL ON  
THE PRICE PAYABLE ON ENFRANCHISEMENT  
IN THE CASE OF**

**WHITEHOUSE  
V  
CAPITAL INVESTMENTS LTD**

**RE: 112, BARN LANE, OLTON, SOLIHULL, BIRMINGHAM B92 7NB**

**Background:** Mr B J Whitehouse is the **Tenant** of the dwelling house and premises at the above property (the '**Property**'). The **Freeholder** is Capital Investments Ltd. By a notice dated 29 October 2001 (the '**Date**') the Tenant claims to acquire the freehold under the Leasehold Reform Act 1967 (as amended) (the '**Act**'). By an application dated 30 January 2002 the Tenant applies to us to determine the price payable on the acquisition of the freehold of the Property under section 9 of the Act. We inspected the Property on 5 April 2002 and a hearing was held on the same day.

The Tenant holds the Property by a lease (the '**Lease**') for a term of 99 years from 29 September 1934 at a ground rent of £5.50 pa.

The unexpired term of the Lease on the Date - which is the relevant date for the determination of the price payable - was about 32 years. We and the parties accept that the qualifying conditions for entitlement to enfranchise under the Act have been met.

The Property comprises a semi detached house of traditional brick and tile construction in an established residential area of similar properties. The accommodation includes:- on the ground floor – hall, two living rooms, kitchen; on the first floor – three bedrooms, bathroom with wc. The house includes a two storey extension at the rear. The Property has a vehicular right of way, in common with others, over a rear roadway to the rear of it. The site frontage is 6.1m, the width is maintained throughout the depth of the site and the total site area is 230m<sup>2</sup>.

Mr A W Brunt FRICS appeared for the applicant Tenant, ; Mr T M Thursfield FRICS appeared for the Freeholder. We thank them for the careful attention they have given to this matter and for their written summaries of their evidence.

**Common Ground:** The best method to value the reversion is the standing house method.  
The unexpired term of the Lease for the valuation is 32 years.  
7% is the yield rate throughout the valuation.

[Continued]

**Valuations:**

By Mr Brunt for the Tenant - £3,893.  
By Mr Thursfield for the Freeholder - £4,430.

More specifically:

For the Tenant:

The term:

Ground rent	£5.50 pa	
YP 32 years at 7%	<u>12.64</u>	£69.00

The reversion (by the Standing House method):

Entirety value	£100,000	
Site proportion at 33% of entirety value	£33,333	
Section 15 modern ground rent at 7% of £33,333	£2,333 pa	
YP in perpetuity deferred 32 years at 7%	<u>1.639</u>	£3,824.00

Price £3,893.00

For the Freeholder:

The term:

Ground rent	£5.50 pa	
YP 32 years at 7%	<u>12.64</u>	£69.00

The reversion (by the Standing House method):

Entirety value	£114,000	
Site proportion at 1/3 of entirety value	£38,000	
Section 15 modern ground rent at 7% of £38,000	£2,660 pa	
YP in perpetuity deferred 32 years at 7%	<u>1.63916</u>	£4,360.00

Price £4,429.00  
Say £4,430.00

**Issues in Dispute:** The issues in dispute are:

(1) The entirety value. Mr Brunt says £100,000, possibly £102,000, Mr Thursfield £114,000, possibly £112,000/£113,000.

(2) The site proportion of the entirety value. Mr Brunt says 33%, Mr Thursfield 1/3.

**Issue (1):** At our inspection we were shown that a lockable gate had been erected across the rear vehicular right of way to the Property at the rear of boundary between nos. 104 and 106. The Tenant says that he is not able to use the right of way due to the gate and primarily due to the unreasonable attitude of his neighbours. Mr Brunt, for the Tenant, says that his entirety value of £100,000 reflects the right of way problem but if we decide that we shall take no account of the problem he would increase the entirety value to £102,000. On the same assumptions Mr Thursfield's respective values are £112,000 to £113,000 and £114,000. We find and hold that we shall determine the entirety value taking account of the legal rear

right of way included in the Lease. We take no account of the problem referred to us. Accordingly Mr Brunt's entirety value is £102,000 and Mr Thursfield's is £114,000.

Both Mr Brunt and Mr Thursfield refer us to comparable evidence of newspaper advertisements and sales of similar houses. Mr Brunt introduces evidence of press advertisements of similar properties for sale at around the Date at between £81,000 and £96,950 but accepts that prices of property may vary considerably. He refers us to a sales valuation of the Property dated 8 October 2001 made by a local firm of estate agents, recommending marketing the freehold with vacant possession at offers around £95,000 - £100,000. In cross examination Mr Brunt denies any suggestion that the valuation was obtained in contemplation of this reference to us. Mr Brunt says that there are unusual personal circumstances surrounding the marketing of no. 110 (next door) at an asking price of £119,950 in that the sellers should be regarded as unwilling sellers. Mr Thursfield takes account of the two storey rear addition to the Property and introduces, in addition to no. 110, evidence of four houses in Barn Lane on the same side as the Property. Three of them are for sale at between £109,500 and £124,950 and a sale of no. 90 has just been agreed at £95,000. He provides a copy of a letter from the selling agent for no. 67 (on the opposite side from the Property) confirming a sale at £86,000 which, he says, was the result of an offer made in October 2001.

We place greatest reliance on the evidence of sales and significantly less reliance on asking prices. We have the evidence of the recent provisional sale of no. 90 at £95,000 and the sale of no. 67, sold at £86,000 after the offer made at around the Date. Mr Brunt and Mr Thursfield agree that values have risen by about £2,000 to £3,000 for houses similar to the Property between the Date and currently. So, we make appropriate adjustments to the evidence. It is not contested that asking prices often depend on selling agents' opinions which can vary. In weighing the evidence, including what we saw at our inspection, as a matter judgement, and reflecting the principles of entirety value [the value of the Property in good condition and fully developing the potential of its site provided always that the potential identified is realistic and not fanciful], we find that Mr Brunt's opinion of the entirety value at £102,000 is more inherently likely than that of Mr Thursfield.

We therefore determine the entirety value at £102,000.

**Issue (2):** There is only 0.333 (recurring) % difference between Mr Brunt (33%) and Mr Thursfield (33<sup>1</sup>/<sub>3</sub>). We prefer the evidence of Mr Brunt as percentages for a site apportionment have, in other cases, tended to vary in single figure increments, not fractions of a percent.

**Summary of our Decisions on the Issues in Dispute:**

- (1) The entirety value is £102,000.
- (2) The site proportion is 33%, namely £33,660.

[Continued]

**Valuation of the Tribunal:** Adopting our decisions on the issues, the valuation of the Tribunal - adopting YPs to the nearest three decimal places - is:

The term:

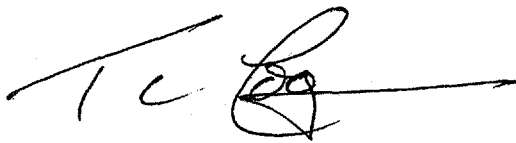
Ground rent	£5.50 pa	
YP 32 years at 7%	<u>12.65</u>	£69.58

The reversion (by the Standing House method):

Entirety value	£102,000	
Site proportion at 33% of entirety value	£33,660	
Section 15 modern ground rent at 7% of £33,660	£2,356.20 pa	
YP in perpetuity deferred 32 years at 7%	<u>1.639</u>	
		<u>£3,861.81</u>
Price		£3,931.39
Say		£3,930.00

**Conclusion on the price payable:** We determine that taking account of all the evidence adduced, our evaluation of it, using our general knowledge and experience but not any special knowledge and our inspection, that the sum to be paid by the Tenant for the acquisition of the freehold interest in accordance with section 9 of the Leasehold Reform Act 1967, as amended, is £3,930 (Three thousand nine hundred and thirty pounds) plus the Freeholder's reasonable costs in accordance with section 9(4) of the Leasehold Reform Act 1967 and Schedule 22, Part I, para. 5. of the Housing Act 1980. In default of the parties' agreement on the amount of any costs payable under section 9(4) under the provisions of section 21(1)(ba), application may be made to the Leasehold Valuation Tribunal for a determination of such costs.

Date: **103 MAY 2002**



T F Cooper  
Chairman

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