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Case Ref. BIR/OOCN/OAF/2005/0274

MIDLAND RENT ASSESSMENT PANEL

DETERMINATION OF THE LEASEHOLD VALUATION TRIBUNAL

Leasehold Reform Act 1967

On an application under Section 21(1)(a) to determine the price payable for the Freehold interest and Section 21(1)(ba) to determine costs payable under Section 9(4)

31 STRATHDENE ROAD, SELLY OAK, BIRMINGHAM, B29 6QB

Applicant Mr D.J.A. Mumford (Tenant)
Respondents Mr and Mrs S.J. Norris (Landlords and Freeholders)
Date of Notice 6th October 2005
Date of Application to Tribunal 8th December 2005
Heard at The Panel Office
On 22nd February 2006

Members of the Leasehold Valuation Tribunal:

Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr W.H. Hatcher Esq., Solicitor
Mrs N. Jukes

Date of Tribunal Determination:

Determination:	Freehold Premium	£7,680
	Legal Fee	£275.00 plus VAT
	Valuation Fee	Nil

1 Introduction

- 1.1 This is an application by Mr D.J.A. Mumford, the long leaseholder of a semi-detached house in Birmingham to the Leasehold Valuation Tribunal to determine the price payable for the Freehold interest to his landlords the Freeholders, Mr and Mrs S.J. Norris, and costs pursuant to the application under the Leasehold Reform Act 1967.

2 Legal Provisions

- 2.1 Mr D.J.A. Mumford holds a lease of property known as 31 Strathdene Road, Selly Oak, Birmingham, for a term of 99 years from 25th March 1935 at a ground rent of £5.75 p.a. fixed for the duration of the term.
- 2.2 Mr Mumford served Notice to acquire the Freehold interest from his landlords on 6th October 2005. The Notice was served by the tenant's agent, N.Plotnek LL.B. of Nick Plotnek Associates, 20/24 High Street, Harborne, Birmingham.
- 2.3 The landlord did not acknowledge receipt.
- 2.4 The tenant's agent applied to the Leasehold Valuation Tribunal on 8th December 2005 for the Tribunal to determine the Freehold price under sections 21(1)(a) and 9(1) of the Leasehold Reform Act 1967 and the landlord's costs under s.21(1)(ba) and 9(4) of the Act.

3 Facts Found

- 3.1 The Tribunal inspected the property on 22nd February 2006 in the presence of the tenant's wife Mrs Mumford. The landlord was not represented at the inspection.
- 3.2 The property is the left hand side of a pair of 1930s semi-detached houses in an estate of similar houses in Selly Oak, about 4 miles south west of Birmingham city centre. It is two storey brick and tile construction with a single storey lean-to kitchen extension to the rear. The accommodation comprises an entrance porch, lounge, dining room and kitchen on the ground floor with landing, three bedrooms and shower room on the first floor. There are small front and back gardens and a sectional concrete garage accessed from an unmade track at the rear. According to the lease, the site area is 233 sq.yds. and the frontage is 20 ft. but it measures 19 ft. on site.

4 Hearing

- 4.1 A Hearing was held at the Midland Rent Assessment Panel offices in Birmingham on 22nd February 2006.
- 4.2 Mr Plotnek attended and gave evidence on behalf of the tenant.
- 4.3 The landlord was not present or represented.

- 4.4 Mr Plotnek said the Tenant's Claim to acquire the Freehold had been sent by recorded delivery and the Royal Mail website showed it had been delivered. Furthermore, he had received a letter from a firm of Valuers advising that they would be instructed to act for the Freeholders but had heard nothing more from them. However, this confirmed that the Notice had been received.
- 4.5 Mr Plotnek described the property and background and addressed the Tribunal on four points relevant to the valuation:
- 1 the appropriate method of valuation;
 - 2 the value of the freehold interest with vacant possession;
 - 3 the appropriate site value as a proportion of the Freehold value and
 - 4 the capitalisation rate.

The submissions on each point are set out below.

4.6 **Method of Valuation**

Mr Plotnek had looked for sales evidence of plots in the area similar in size to the subject plot but had found no evidence. In the absence of comparables, he proposed that the interest should be valued adopting the standing house approach based on *Farr v Millerson Investments Ltd. (1971)*.

4.7 **Value of Freehold Interest with Vacant Possession**

Mr Plotnek produced sales evidence of five houses in Strathdene Road:

42 Strathdene Road	£147,500	August 2005
53 Strathdene Road	£144,000	September 2005
45 Strathdene Road	£130,000	'recently sold by Rice Estates'
55 Strathdene Road	£145,000	'sale recently agreed by Dixons'
69 Strathdene Road	£142,000	January 2006

Mr Plotnek described each house, compared it with the subject and based on the evidence he valued No.31 Strathdene Road at £142,000 at the date of Notice.

4.8 **Appropriate Site Value as a Percentage of the Freehold**

Mr Plotnek referred to three previous cases; *Nash v Castell-y-Mynach Estate (1975)*, *Burford Estate & Property Co. Ltd. v Creasy (1986)* and *Eadon-Allen v Nawaz & Riaz BIR/OAF/2005/0196*. Based on these cases and his own experience he considered the value of the site to represent 32% of the value of the Freehold with vacant possession.

4.9 **Capitalisation Rate**

Mr Plotnek advised that he acted for both landlords and tenants and wished to take a balanced view for the Tribunal. He referred to the recent Lands Tribunal decision in *Arbib v Earl Cadogan (LRS/62/2004)* and two decisions of the Leasehold Valuation Tribunal, *Ford v Business Flats Ltd. (BIR/00CN/OAF/2005/0208)* and *Eadon-Allen v Nawaz & Riaz BIR/OAF/2005/0196*, and taking an overall view, submitted that the appropriate discount rate should be 6.5%.

4.10 **Premium**

Applying these points, Mr Plotnek submitted that the value of the Freehold under the Leasehold Reform Act 1967 would be £7,628.

4.11 **Respondent's Fees under s.21(1)(ba)**

Mr Plotnek asked the Tribunal to determine the Respondents' legal fees at £275 plus VAT but said that a valuation fee should not be paid as there was no evidence that a valuation had been carried out pursuant to the Notice.

5 Determination

5.1 Having heard the evidence we find as follows:

5.2 **Method of Valuation**

In the absence of local sales evidence, the Tribunal find the most appropriate method of valuation to be the standing house approach based on *Farr v Millerson Investments Ltd. (1971)*.

5.3 **Value of Freehold Interest with Vacant Possession**

The Tribunal inspected each comparable property externally and noted the following points:

42 Strathdene Road £147,500 August 2005

The property was better than the subject as the accommodation was larger and projected over the front porch. Furthermore, the back garden was south facing which was an advantage compared with the subject which was north facing.

53 Strathdene Road £144,000 September 2005

A similar house to the subject but with a slightly better plot and better location in the road.

45 Strathdene Road £130,000 'recently sold by Rice Estates'

This property was less attractive than the subject and required modernisation. The sale price was below the expected value of the subject house.

55 Strathdene Road £145,000 'sale recently agreed by Dixons'

Another similar house but with a slightly better plot and location than the subject.

69 Strathdene Road £142,000 January 2006

A similar house that had been extended to the rear but the front bay had louvre windows that were less attractive than those of the subject.

Having considered the comparables, the Tribunal adopt a Freehold vacant possession value of £143,000 for 31 Strathdene Road at the date of Notice.

5.4 **Appropriate Site Value as a Percentage of the Freehold**

The Tribunal consider that in the current market the plot value as a percentage of the market value is increasing but in this case, the increase is offset by the relatively narrow frontage. Taking this into account and in the absence of direct sales evidence, we find the appropriate percentage to be 32%.

5.5 **Capitalisation Rate**

5.6 We have considered the decision in *Arbib v Earl Cadogan* and accept, as guidance, that in the absence of dependable evidence in the property market and we have none before us in this case, that the starting point for the capitalisation rate is the yield on a risk-free investment which, in the absence of contrary evidence, was 2% on the date, derived from index-linked gilts.

5.7 We accept, as guidance, and in the absence of contrary evidence, that an allowance for comparative illiquidity should be made as part of the risk of a Freehold property investment and find in the present instance that 1% is appropriate.

5.8 We note that in *Cadogan*, the property was high value London property and that there is greater risk in respect of a house in Birmingham than may be inferred in London generally. To achieve a fair and just result we find an allowance of 3.5% to include requisite management costs, the risk of destruction, the potentially expensive costs of realisation at the expiry of the term and attractiveness of the house as an investment.

5.9 We therefore adopt a capitalisation rate of 6.5%.

5.10 **Premium**

Accordingly, our valuation is as follows:

Term			
Ground Rent	£	5.75	
Years purchase 28.5 years @ 6.5%		<u>12.827</u>	
			£ 74
Reversion			
Entirety Value	£143,000		
Site apportionment @ 32%	£ 45,760		
Section 15 rent @ 6.5%	£ 2,974		
Years Purchase of reversion to perpetuity post 28.5 years 6.5%		<u>2.55763</u>	
			<u>£7,606</u>
Premium			<u>£7,680</u>

5.11 **Legal Costs and Valuation Fee per s.9(4) and s.21(1)(ba).**

5.12 **Legal Costs**

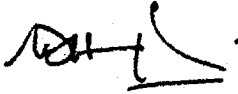
We determine the Freeholders' legal fees at £275.00 plus VAT.

5.13 **Valuation Fee**

We have been provided with no evidence that the property has been inspected by a representative of the Landlord or that a valuation has been prepared pursuant to the tenant's Notice. We therefore find that no fee is payable.

5.14 **Summary**

Accordingly, we determine the premium payable in accordance with s.21(1) and s.9(1) of the Leasehold Reform Act 1967 to be £7,680 (Seven Thousand Six Hundred and Eighty Pounds) and legal costs in accordance with s.21(1)(ba) and s.9(4) of £275.00 (Two Hundred and Seventy Five Pounds) plus VAT.



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

Date: 23 MAR 2006