



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

Case Reference : BIR/00CT/OAF/2021/0007

Property : 115 Eileen Gardens, Solihull, West Midlands, B37 6NJ

Applicant : Helen Mary Yard

Representative : Blackhams Solicitors, 67 Newhall St., Birmingham, B3 1NR

Respondent : Persons Unknown

Representative : None

Type of Application : To determine the sum payable into Court by a lessee to purchase a Freehold interest pursuant to Section 27 Leasehold Reform Act 1967 by Order of Birmingham County Court, 3rd March 2021
Claim No: GO0BM534

Tribunal Members : I.D. Humphries B.Sc.(Est.Man.) FRICS
Judge M. Gandham

Date and Venue of Hearing : None. Determined by paper submission

Date of Decision : **11 May 2021**

DECISION

Introduction

- 1 This is an application to determine the sum payable into Court by the Applicant to purchase the Freehold interest in property known as 115 Eileen Gardens, Solihull, West Midlands, B37 6NJ, pursuant to Section 27 of the Leasehold Reform Act 1967 ('the Act').
- 2 The Applicant had been unable to locate either the Freeholder or Head Leaseholder to acquire the Freehold interest and applied to Birmingham County Court for a Vesting Order on 27th January 2020 by Claim No. GOOBM534. The Court issued Directions and granted the Vesting Order on 3rd March 2021, subject to determination of the value of any interests superior to the Applicant's interest in the property and any outstanding rent by the First-tier Tribunal (Property Chamber).

The Law

- 3 There were three interests in the property:

Freehold Owned by parties unknown. The title is not registered and the Freeholder has not been found.

Leasehold Owned by parties unknown. The title is not registered and the Head lease has not been found. Accordingly, the Applicant has no knowledge of the ground rent paid by the Head Leaseholder to the Freeholder. It is understood from the Sub-Lease provided by the Applicant that the Head Lease had been granted to a company known as 'Danton Properties Ltd.'. Upon enquiry by the Applicant's Solicitors, Danton Properties Limited were unable to verify that they still held the head-leasehold title and the company was dissolved on 17th March 2020 according to Companies House. As there is no evidence that the head-leasehold title still exists, the Tribunal has assumed that the head-leasehold interest has been merged with the Freehold.

Sub-Lease The Applicant's sub-lease was granted by Danton Properties Ltd. to the Applicant's predecessors in title, John and Gillian Henson, for a term of 99 years less 3 days from 25th March 1965 at ground rent of £30 p.a. This is due to expire 21st March 2064. There are no records of any Deeds of Variation with the application and, accordingly, the Applicant is assumed to hold direct from the Freeholder on these terms.

- 4 The Applicant is the current leaseholder and wishes to acquire the Freehold. Although the Applicant's Solicitors have carried out thorough enquiries they have been unable to locate the Freeholder and applied to Birmingham County Court for a Vesting Order under Section 27 of the Leasehold Reform Act 1967. The application was made on 27th January 2020, which is the valuation date for present purposes.
- 5 The Court issued the Order on 3rd March 2021 subject to the price being determined by the First-tier Tribunal (Property Chamber).
- 6 The Tribunal has considered the Submission by the Applicant's Surveyor, D. Taylor Esq. B.Sc(Hons.), MRICS, Chartered Surveyor of Messrs Fishers, Harborne, Birmingham and determines the price under section 9(1) of the Act.

Facts Found

- 7 The Tribunal has been unable to inspect the property due to Government Covid Regulations and relies on the Submission of the Applicant's Surveyor.

- 8 According to the Submission the property is a two storey semi-detached house built around 1968 with a hall, lounge, kitchen and conservatory on the ground floor and two double bedrooms, box room and bathroom on the first floor. It has an integral single garage, drive and front and rear gardens. It is located on a residential estate with no prospect of further development.

Issues

- 9 The Court Order requires the Tribunal to determine the price of any interests superior to the Applicant's title (which, for the reasons detailed above, the Tribunal considers to only comprise the Freehold interest) and any outstanding ground rent.

The price payable under section 9(1) of the Act

- 10 The Applicant's valuation is based on various inputs and the Tribunal determination on each is as follows:

11 ***Unexpired Term***

Applicant

43.04 years

Tribunal

44 years from the date of application to the County Court. The additional two months from 27th January to 21st March 2020 have no material impact on the valuation.

12 ***Value of Term Ground Rent***

Applicant

£30 p.a. ground rent capitalised at 7%. The Applicant values the ground rent from 5th March 2021 which is the date of Court Order to produce a value of £405.28.

Tribunal

£30 p.a. ground rent capitalised at 6% which the Tribunal considers better reflects market practice. The Tribunal values from the date of court application in January 2020 to produce a value of £461.

13 ***Entirety Value of Freehold***

Applicant

£200,000. Mr Taylor bases this on reported sale prices of other houses in the locality:

38 Denise Drive, B37 6NN

An identical freehold semi-detached house sold for £190,000 in April 2019.

89 Eileen Gardens, B37 6NJ

An almost identical freehold semi-detached house with small rear extension, sold for £210,000 in October 2020.

In reliance on these comparables, Mr Taylor values the subject house at £200,000.

Tribunal

The 'entirety value' is a hypothetical value based on the maximum sale value of a house on the plot, not necessarily the existing house, assuming the plot to be fully developed to its highest potential. It is only relevant as a means of assessing the notional ground rent of the plot for the 50 year lease extension envisaged by section 15 of the Act.

The Tribunal is aware that market prices were rising over the period from April 2019 to October 2020 and, as the valuation date is between these dates, it agrees that £200,000 is a fair price to adopt.

14 **Site Value as Percentage of Entirety Value**

Applicant

33.3% as the subject house is semi-detached.

Tribunal

The Tribunal agrees.

15 **Years Purchase**

Applicant

5.25% for analysis of both the notional site value to a ground rent and capitalisation of the ground rent for the notional 50 year lease extension.

Tribunal

The Tribunal agrees.

16 **'Standing House' Value of Freehold**

Applicant

£200,000. Mr Taylor considers the plot fully developed and the Standing House Value and Entirety Value should be the same in this case.

Tribunal

The 'standing house' value is the market value of the house currently built on the site, excluding the value of tenant improvements, assuming the Freehold is sold with vacant possession. The Tribunal agrees the plot to be fully developed and agrees the Standing House value at £200,000.

17 **Tribunal Valuation**

Based on these inputs, the Tribunal determines the value at:

Term 1

Rent	£	30	
Years Purchase 44 years 6%		<u>15.3832</u>	
			£ 461

Term 2

Entirety Value	£200,000	
x plot ratio	<u>0.33</u>	
Plot Value	£ 66,666	
5.25% return	<u>0.0525</u>	
Equivalent rental value per s.15 of the Act	£ 3,500	
Years Purchase 50 years 5.25%	17.5728	
Present Value 44 years 5.25%	<u>0.10525</u>	
		£ 6,473

Reversion

Standing House Value	£200,000	
Present Value 94 years 5.25%	<u>0.00814</u>	
		£ 1,628

Freehold Value	say	£ 8,562
		£ 8,600

18 **Tribunal Determination of Freehold Value**

The Tribunal determines the price of the Freehold interest at £8,600 (Eight Thousand Six Hundred Pounds).

19 **Tribunal Determination of Head Leasehold Value**

The Tribunal determines the price of the Head Leasehold interest at nil, assuming it to be merged with the Freehold as described above.

20 **Tribunal Determination of Rent Due**

The Tribunal notes that ground rent had been paid to Danton Properties Limited until March 2019, in the mistaken belief by both parties that they still held the Head lease. As previously stated, on further enquiry this was found to be incorrect. Under the provisions of sections 47 and 48 of the Landlord and Tenant Act 1987 and section 166(1) Commonhold and Leasehold Reform Act 2002, there is a requirement to notify long leaseholders that rent is due. A tenant is not liable to make payment of rent under a lease unless the Landlord has given him notice relating to the payment. As no further rent demands have been received by the Applicant, the Tribunal determines no ground rent is payable.

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

Date: 11 May 2021

Appeal to the Upper Tribunal

Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber).

Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal and the result sought by the party making the application.