

Y TRIBIWNLYS EIDDO PRESWL  
RESIDENTIAL PROPERTY TRIBUNAL  
LEASEHOLD VALUATION TRIBUNAL

Reference: qA1039635.1

In the Matter of 1 Stafford Road Newport South Wales NP19 7DQ (the Property)

In the Matter of an Application under the Leasehold Reform Act 1967

TRIBUNAL P H Williams - Chairman  
D R Davies FRICS –Vice President  
N F G Hill FRICS – Surveyor

APPLICANTS: Mr Lloyd Rhys Jones and Mrs Charlotte Miriam Sophie Gantee- Jones

RESPONDENT: Person or Persons Unknown

DECISION

Introduction

1. We convened as a Leasehold Valuation Tribunal under the provisions of the Leasehold Reform Act 1967 as amended (the Act) on the 11<sup>th</sup> December 2012. We had before us an Order of the Newport Gwent County Court dated the 24<sup>th</sup> September 2012 requiring the Applicants to apply to the Leasehold Valuation Tribunal to make a determination of the value of the freehold reversion of the Property.

Background

2. The Applicants are the leasehold proprietors of the Property and wish to acquire the freehold pursuant to the Act. After exhaustive enquiries the freeholder of the Property cannot be traced. On the 18<sup>th</sup> September 2012 the Applicants made an Application to the Court and on the 24<sup>th</sup> September 2012 the Court ordered that the Application be transferred to the Residential Property Tribunal to make a determination of the value of the freehold interest in the Property. The Application was made by the Applicants' solicitors, Messrs Roger James, Clements and Partners.

## Lease

3. The Lease of the Property is dated the 10<sup>th</sup> May 1972. It was made between John Baden James (1) and Nicholas Penn (2) for the term of 99 years from the 10<sup>th</sup> May 1972 at a yearly ground rent of £17, payable half yearly. The Lease contains the usual obligations for the lessees to pay the outgoings, insure the Property and maintain it.

## Inspection

4. Prior to the Hearing we inspected the Property internally and externally in the presence of Mr Lloyd Rhys Jones. The Property is situated at the end of a terrace, built circa 1900 and constructed in solid brick render with a composite slate roof. There is a small forecourt fronting a busy access road with on street parking. There is a side lane which appeared to be adopted but there is no parking within the curtilage. The Property has a through lounge/ dining room and an adjoining kitchen and utility room which includes a water closet and sink unit. The majority of the kitchen and the whole of the utility room is comprised in a single storey extension which has a felt roof. A staircase leads off the entrance hall to the first floor which contains two bedrooms and a bathroom which itself contains a bath with shower over, a water closet and a wash hand basin. There is a further staircase leading from the landing to an attic which is used as a third bedroom. The Property benefits from a gas central heating system (save in the attic area), double glazing and all usual main services. A combination boiler feeds both the central heating system and the domestic hot water system. A patio door and kitchen door lead out onto an outside decking area and a paved area which leads to a Storeshed of brick and block render under a corrugated iron mono pitched roof.
5. There are some local shops in the immediate vicinity and a good sized shopping area, within half a mile, on Caerleon Road. The City Centre is approximately two miles distant. There is a regular bus service. Newport has all the usual urban amenities. The locality is primarily residential.

## Hearing

6. The Hearing took place on the 11<sup>th</sup> December 2012 and was by way of written representations which comprised a Valuation Report by Mr S G Parker FRICS of Nuttall Parker dated the 7<sup>th</sup> November 2012. Mr Parker adopted a four stage approach. He firstly capitalised the current ground rent for the remainder of the term, and secondly ascertained a modern ground rent for the Property, recapitalising that modern ground rent and deferring the result to the end of the current term, and thirdly deducted ten per centum from the Standing House approach in order to calculate the reversion pursuant to the case of Haresign –v- St John the Baptist’s College Oxford ( 1980 ) 255 EG 711. He had based this three stage approach on the decision of the Upper Tribunal in Clarice Properties Ltd ( 2012 ) UKUT 4 ( L C ) ( “ Clarice ” ) He adopted a 5% deferment rate compared



with 5 ½% used in Clarice. He then added a fourth step by including a valuation of the insurance tie in the Lease.

#### Consideration

7. Section 9 (1) of the Act requires us to determine “the amount which at the relevant time the house and premises, if sold in the open market by a willing seller ( with the tenant and members of his family not buying or seeking to buy ) might be expected to realise “. We are required to make certain assumptions, one of which is that the Property is being sold freehold but subject to the lease which, if it has not already been extended, has been extended. In other words the assumed term expires 50 years after the contractual term. In this case the contractual term ends in 2071, so that the assumed date when the Lease will expire is in May 2121.
8. Until Clarice the standard practice was the two stage approach of a capitalised current ground rent and a deferred capitalised modern ground rent, unless the three stage approach (to include a Haresign reversion) produced a valuation which was significantly higher. Clarice decided that good valuation practice was to separately assess every element of value unless there is good reason not to do so. This is a guidance rather than a constraint and the knowledge and experience of Local Valuation Tribunals are relevant in assessing whether the third stage is appropriate.
9. In Clarice the lease had a 28 ½ years unexpired term and hence an assumed term date of 78 ½ years. In this case the Lease has 58 ½ years to run and an assumed term date of 108 ½ years. Furthermore the Property is at least 112 years old and quite probably is 122 years old. In Mayfly (Corrib) Ltd’s Appeal (LRA /29/2002) “ the essential question ...is not whether the subject property will be standing [in that case] 62 years after the valuation date; but whether the purchaser in the hypothetical sale envisaged in Section 9 (1) of the 1967 Act would value the reversion to standing house value”. We consider that the market will simply not consider circumstances nor events that far ahead. We have therefore concluded that it is not appropriate to value the reversion on the basis that there will be a house standing on the site at the end of the extended term and that a two stage valuation process should be adopted. We shall accordingly proceed to value the reversion to site value and not to the house value.

#### Determination

10. Date of Valuation. We have considered our decision on the basis that the valuation date is the 18<sup>th</sup> September 2012, being the date of the Application to the Court.

## Capitalism

11. Mr Parker has used a capitalisation rate for the ground rent of 6 ½% .An investor purchasing the asset will view a return of £17 as small, particularly as there are administration costs for the collection of the ground rent. We consider that a figure of 6 ½% is appropriate and in keeping with other decisions of this Tribunal. We do not agree with Mr Parker's calculation of £312 although we used the same methodology. We took a mesne average of the tables for 58 and 59 years (14.986 and 15.010 ) and arrived at 14.998 and not 18.35. Our calculation is £245.97p

## Value of the Property

12. Although we are acquainted with the cost of development land as well as single plots, we have no comparable evidence of land values in the Stafford Road area. We therefore decided to proceed on the "Standing House "method. We have taken into account Mr Parker's valuation, his suggested comparables and also applied our own expertise and knowledge of the property market in the area. We were, however, unable to inspect Mr Parker's comparables as no house numbers were given but we are familiar with the streets. We agree with Mr Parker that the standing house value of the Property, on the basis that the house is in good condition and fully developed is £110,000 as at the valuation date.

## Plot Value

13. Mr Parker suggests a plot value of 25% of the standing house value. However, it is considered that a plot value of 27 ½% is more appropriate and more in line with other decisions of this Tribunal in the cities of Cardiff, Swansea and Newport. We therefore determine the plot value to be £30250.

## Decapitalisation/Recapitalisation Rates

14. Mr Parker has applied a rate of 5% for decapitalisation, the process used to ascertain the modern ground rent but he has used a rate of 5 ½% for recapitalisation. This creates an adverse differential favouring one of the parties. We have decided that a rate of 5% should be used for both calculations, which is in line with other decisions of the Tribunal and in our view produces a fair assessment of the modern ground rent attainable for the Property. Current rates of return in the market are currently at a low level, although they may not always remain so low. A decapitalisation rate of 5% produces a modern ground rent of £1512.50p.



## Deferment Rate

15. As stated Mr Parker has used a different rate of 5 ½%. Mansal Securities Ltd (LRA/185/2007) (“Mansal”) adopted a rate of 5 % following the principles set out in Cadogan –v- Sportelli [2007 ] 1EGLR 153 ( subsequently confirmed by the Court of Appeal (“Sportelli”) .The Land Tribunal’s reason in Mansal for increasing the “generic rate “ propounded in Sportelli was that “ since the reversion in the case of Section 9 (1) is to a ground rent only, a potential purchaser is likely to require a higher risk premium to compensate for the increased volatility and illiquidity than if the reversion also included a house standing on the site “. That is the situation here and we therefore determine that the appropriate deferment rate is 5%. This produces a figure of £1742.93p to which must be added the capitalised value of the ground rent of £254.97p, thereby valuing the freehold reversion at £1997.90p which we round up to £ 2000.

## Value of Insurance tie

16 As stated above Mr Parker has added in a fourth step into his valuation, namely the value of the insurance tie which he calculates at £200. However, Section 164 of the Commonhold and Leasehold Reform Act 2002 (“CLARA”) provides that a tenant is not required to effect insurance of the Property with the Landlord’s insurer if five conditions are met. Although we do not have evidence that the Applicants have met these conditions they could easily do so and hence we determine that it is not appropriate to include Mr Parker’s calculation in the purchase price.

## Freehold Valuation

17. Applying our findings we calculate the value of the freehold of the Property is as follows:

Ground Rent	£17.00	
58.5 years purchase at 6.5%	14.998	
		£254.97
Standing House value	£110000.00	
Plot value at 27.5%	£30250.00	
Modern ground rent at 5%	£1512.50	
Years purchase in perpetuity deferred		
58.5 years at 5%	<u>1.152.35</u>	<u>£1742.93</u>
		<u>£1997.90</u>
	Say	<u>£2000.00p</u>

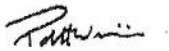
Ground Rent arrears.

18 Section 27 (5) (b) of the Act substituted by Section 149 of CLARA requires the leaseholder to pay "the amount or estimated amount of any pecuniary rent payable for the house...which remains unpaid ".The amount payable can only be the amount for which the freeholder can enforce payment. The evidence before us shows that no ground rent has been paid since at least 2003. We conclude therefore that the maximum recoverable is £17 for the period of 6 years, namely £102 and we consider that this sum is payable to the Court on behalf of the Respondent in addition to the sum of £2000.00p, making a total of £2102.00p. However, we note that the Court Order does not require us to make this calculation and hence it is for the District Judge to direct payment of the said sum of £102.

Summary

19. We determine that the total payable pursuant to the Order of the Newport Gwent County Court dated the 24<sup>th</sup> September 2012 is £2000.00p together with such ground rent as the Court shall determine.

Dated this 13<sup>th</sup> Day of December 2012



Chairman