

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL (WALES)
LEASEHOLD VALUATION TRIBUNAL

TRIBUNAL

David Evans LLB LLM
Ruth Thomas MRICS

In the matter of 36 Cefn Road, Bonymaen, Swansea, SA1 7HH

In the matter of an application under S.21(1)(a) of the Leasehold Reform Act 1967

APPLICANT : Nicola Victoria Williams

RESPONDENT : 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 Monday the 20th August 2012 at the Residential Property Tribunal Offices, Southgate House, Wood Street, Cardiff CF10 1EW for the purposes of determining the price to be paid by Ms Nicola Victoria Williams (the Applicant) for the freehold of number 36 Cefn Road, Bonymaen, Swansea SA1 7HH (the Property).

2 After exhaustive enquiries made on the Applicants' behalf the freeholder of the Property cannot be found. On the 2nd April 2012, the Applicant made an application to the Cardiff County Court claiming the right to purchase the freehold and on the 24th May 2012, the Court ordered that "the applicant shall obtain a certificate of the value of the purchase price for the freehold from a leasehold valuation tribunal under section 9 of the Leasehold Reform Act 1967."

LEASE

3 According to the Land Registry, the Lease of the Property is dated the 6th August 1896 and it was made between the Earl of Jersey (1) and John Leyshon (2). It is for the term of 999 years from the 25th March 1895 at an annual ground rent of £2. A lease of a neighbouring property has been produced which suggests that the leases are in a common form for leases of that era requiring the lessee to pay the outgoings, insure the Property and maintain it.

4 In view of the length of the lease and the nominal ground rent, we did not consider it necessary to inspect the interior of the Property.

5 There were no representations.

CONSIDERATION

6 Date of Valuation

We have considered our Decision on the basis that the valuation date is the 2nd April 2012 being the date when the Applicant issued proceedings in the Cardiff County Court. The lease is for 999 years from the 25th March 1895 which means therefore at the valuation date there were approximately 882 years unexpired.

7 Capitalisation rate

In the case of Sir Charles Christian Nicholson Bt, Sir Michael Bunbury Bt KCVO and William George Wilks (LRA/29/2006), the Lands Tribunal approved (at paragraph 10) certain issues as being relevant when determining the capitalisation rate to be applied when valuing the ground rent: the length of the lease unexpired, the security of recovery, the size of the ground rent and the period and nature of any review. Clearly, the less attractive the proposition, the higher the rate of return required by an investor. In this case, there are 882 years left on the lease, the ground rent (£2) is extremely small, the costs of administering the collection will be relatively high, the risk of default is also high and there is no review. There will come a point soon when the collection costs will exceed the amount due. Using our knowledge and experience, we consider that an investor in the open market would require a return of 10%, ie 10 years' purchase. Capitalising the ground rent of £2 pa at 10% produces a valuation £20.

8 Capital value of reversion

It is difficult to conceive of anyone who would be willing to pay anything for the freehold reversion, except, of course, the current leaseholder. There is simply no market in an asset which the buyer's successors will only be able to possess in 882 years' time. We are required by the Act (as it was amended to read) to disregard any potential bid by the leaseholder (see section 9(1) of the Act). As there is, therefore, no other market for the reversion, it cannot have any value. In our view, the capital value of the reversion is nil.

DETERMINATION

9 We therefore determine that the price payable for the freehold interest in the property, in accordance with section 9 of the Act, is £20.

10 Ground Rent Arrears

We refer the Court to Section 27(5)(b) of the Act, substituted by section 149 of the Commonhold and Leasehold Reform Act 2002, which requires the leaseholder to pay "the amount or estimated amountof any pecuniary rent payable for the house ...which remains unpaid". The amount so payable can only be the amount for which the freeholder can enforce payment. If it were otherwise, a leaseholder of an untraced freeholder would be required to pay more than a leaseholder whose freeholder's identity was known. The Applicant has not paid the ground rent since she purchased the Property in 2007. We do not know if the previous owners had paid ground rent. The maximum recoverable is £2.00 a year for the period of 6 years, namely £12.00. The actual amount payable is a matter for the Court.

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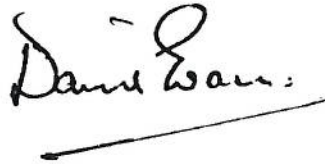
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SUMMARY

11 We determine the amount payable pursuant to the Order of the Cardiff County Court dated the 18th May 2012 to be £20.

Dated this 23rd day of August 2012

A handwritten signature in black ink, appearing to read "David Evans", with a horizontal line drawn underneath it.

Chairman

