

Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL  
LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0056/11/13

In the matter of 14, Club Road, Tranch, Pontypool, NP4 6BH

In the matter of an Application under Section 21(1)(b) of the Leasehold Reform Act 1967

TRIBUNAL David Evans LLB LLM  
Roger Baynham FRICS

APPLICANT Mr Geoffrey George Margam Sandercock as personal representative of Beatrix  
Rosalie Elizabeth Ford (deceased)

RESPONDENT Mr Edwin Rowlands

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 16<sup>th</sup> July 2014. We had before us an Application dated the 21<sup>st</sup> November 2013 which on the face of it was to determine the price payable by Mr Edwin Rowlands (the Respondent) for the freehold reversion of 14 Club Road, Tranch, Pontypool NP4 6BH (the Property). It was accepted that the application was in fact to determine the ground rent to be payable by the Respondent under section 15 of the Act for an extended lease of the Property.

BACKGROUND

2 The Applicant, Mr Geoffrey George Margam Sandercock, is the personal representative of Beatrix Rosalie Elizabeth Ford (deceased) who at her death was the freehold proprietor of the Property. The Applicant registered the freehold at the Land Registry Wales Office with title absolute on the 25<sup>th</sup> September 2009. There has unfortunately been a certain amount of controversy concerning the Respondent's title. We have, however, been provided with an Abstract of Title dated 1968 which shows that the Property with other property was on the 1<sup>st</sup> December 1908 leased by a certain Francis James to Ernest Frederick Sumner for 99 years from the 1<sup>st</sup> March 1906 at the yearly ground rent of £5.10.- (£5.50p)(the Original Lease). A mortgage dated the 9<sup>th</sup> March 1910 refers to the property in the Original Lease as comprising land with "five houses thron". Mr Ernest Frederick Sumner died in 1960 and on the 31<sup>st</sup> January 1963, Letters of Administration were granted to Mr Eric Frederick James Sumner (Mr Sumner) who on the 2<sup>nd</sup> December 1968 granted an underlease of the Property to the Respondent for the term of 37 years less one day from the 1<sup>st</sup> March 1968 at a yearly ground rent of £1.00 for a consideration of £750 (the Underlease). On the 3<sup>rd</sup> December 1968, Mr Sumner loaned the Respondent the sum of £690 - presumably to fund the purchase of the Underlease - and the Respondent mortgaged the Property to secure the repayment of the loan. The Respondent understood that at some point he had purchased the freehold, but there is no documentary evidence to support this and in the light of the decision of the Land Registry to grant

title absolute to the Applicant, we have little choice other than to accept the Applicant's version of events as supported by the Abstract, the Underlease and the mortgage. Accordingly we conclude that the Underlease expired on the 27<sup>th</sup> February 2005 with the Original Lease expiring on the 28<sup>th</sup> February 2005. No steps have been taken to determine the Respondent's interest in the Property and the Respondent and his wife remain in occupation.

3 On the 11<sup>th</sup> January 2005 - ie before the expiry of the original term - the Respondent, acting with the assistance of Shelter Cymru served on the Applicant's firm of Solicitors a notice under the Act claiming the right to an extended lease of the Property. On the 25<sup>th</sup> January 2005, the Applicant admitted the right of the Respondent to an extended lease. In the ensuing years, the parties have failed to reach an agreement as to the amount of the ground rent payable and so the Applicant has issued the present application. Neither party has raised any issue concerning the notices - which they both accept - nor with regard to the delay.

#### THE VALUATION DATE

4 Section 15(2) of the Act states that "the new tenancy shall provide that as from the original term date the rent payable... shall be a rent ascertained...as follows...:

(a) the rent shall be a ground rent in the sense that it shall represent the letting value of the site (without including anything for the value of buildings on the site)...

(b) the letting value for this purpose shall be in the first instance the letting value at the date from which the rent based on it is to commence...

(c) ...

5 Under section 15(6) of the Act, "where a tenancy is granted after the original term date, the first reference in subsection (2) to that date shall have effect as a reference to the grant of the new tenancy..."

6 The combined effect of these subsections is that the new rent is payable from the date of the grant of the new tenancy and that the letting value is to be ascertained as at that date - in this case, current value.

7 In our Directions dated the 7<sup>th</sup> March 2014, we had inadvertently referred to the valuation date as the date when the Respondent served his notice of claim. However, we subsequently invited the parties to consider the question of the correct valuation date. The Applicant's firm, by letter dated the 19<sup>th</sup> June 2014, agreed with the Tribunal's revised assessment of the valuation date. The Respondent did not deal with the issue. We shall therefore determine the section 15 ground rent on the basis of the current value.

#### INSPECTION

8 Prior to considering the application, we inspected the Property internally and externally. We were accompanied on our visit by the Respondent and Mrs Rowlands. The Applicant did not attend. The Property is a small mid-terrace two storey house with rendered brick main walls and with a modern slate roof. There is a small forecourt at the front and a small steeply tiered and overlooked rear garden. Downstairs, there is an entrance hall, a living room with a bay window, a dining area and a kitchen. At the rear there is a small "lean-to" which houses the bathroom. Upstairs there are two bedrooms approached by a steep staircase - one double and one single. A third small bedroom had been converted into a bathroom with a disabled shower. The house benefits from uPVC double glazed windows and central heating. The Property is in reasonable condition and it is evident that many of the modern features have been put in by the Respondent. There is no garage but there is a small area of communal parking opposite.

9 The Property is located in Tranch on the south western outskirts of Pontypool. It is not particularly convenient for shops and its elevated location and steep access roads, as well as the steeply tiered small rear garden will restrict the market for the Property.

## THE EXPERT REPORTS

10 We received the following reports:

- (a) Mr E B Morgan FRICS of Beverley Morgan & Co - 24<sup>th</sup> March 2014;
- (b) Mr D H Martin FRICS of Newland Rennie - 1<sup>st</sup> April 2014;
- (c) Mr Morgan - Comments on Mr Martin's Report - 17<sup>th</sup> April 2014;
- (d) Mr Martin - Comments on Mr Morgan's Report - 16<sup>th</sup> April 2014;
- (e) Mr Martin - Further Report - 10<sup>th</sup> June 2014;
- (f) Mr Morgan - Further Report - 16<sup>th</sup> June 2014.

11 Both experts agreed that as there was no comparable evidence of building plot values in the Pontypool area, it was appropriate to calculate the section 15 ground rent by using the "Standing House" method. This approach involves ascertaining what is usually referred to as the entirety value of the Property on the basis that it is in good condition and fully develops the site and applying an appropriate percentage to calculate the plot value. The section 15 ground rent is a percentage return on that plot value.

12 The initial reports and comments were geared to the 2005 valuation date and whilst Mr Martin states in his further report that house prices today are not significantly different than in 2005, if anything slightly less, we are more inclined to consider only those properties located in Club Road which were sold at that time. We also prefer to use as comparables those properties in nearby localities which have been sold or marketed more recently as they will give a better understanding of prices obtained or obtainable on a local basis.

## COMPARABLES

13 We have inspected the following externally:

- (a) 12 Club Road - a mid-terrace house, next door but one to the Property - sold 20<sup>th</sup> June 2003 for £64,250.
- (b) 16 Club Road - a mid-terrace house, next door but one - sold 3<sup>rd</sup> February 2010 for £55,000.
- (c) 17 Club Road - an end of terrace house with rear access, a slightly larger plot with a garage - sold 26<sup>th</sup> September 2003 for £71,500 and again at peak value on the 20<sup>th</sup> July 2006 for £102,500.
- (d) Bank House, Albion Road - an end of terrace house with a small forecourt, small rear garden and a detached garage. We considered this to be in a better location than the Property, but the steps up to the front door might put off buyers with small children and the elderly - sold 29<sup>th</sup> May 2014 for £73,000. However, the particulars provided showed an asking price of £85,000.
- (e) 12 John Street - an end of terrace stone fronted property with a large two storey extension. There was no forecourt but it had a reasonable rear garden. There was private parking adjacent to this property. John Street is a better location and closer to the local facilities, than Club Road. Prices in this area would be expected to be higher than in Club Road - sold in June 2013 for £89,500.
- (f) 2 John Street - a mid-terrace stone fronted property, similar to number 12, and again with a large two storey extension and a further single storey extension - sold in September 2013 for £87,500.
- (g) 1 Woodview Terrace, Coed Cae - a smart looking red brick frontage in a quiet close. The site falls away from the front which has enabled the builder to construct a third storey at the back. Again this is an area in which we would expect houses to achieve higher prices than in Club Road - sold in February 2014 for £101,000.

- (h) 36 Twmpath Road - an attractive mid-terrace house with a forecourt, and a “double” single storey extension. It has a good sized garden, a corrugated iron garage and a parking space at the rear. It has open views over allotments at the back. We would again expect that this would achieve a much higher price than a property in Club Road - sold December 2013 for £93,000.
- (i) 2 Campbell Terrace, Wainfelin - a mid-terrace stone fronted property with a small forecourt with steps up from the road and a triangular shaped back garden with street access. There is also an attic room - sold in January 2014 for £105,000.
- (j) 7 Nightingale Terrace, Pontnewynydd - a mid-terrace house with a large flat roofed extension to the back which cuts into the rising ground and a reasonable sized front garden with a carport for two cars and a timber summerhouse. The front and rear access lanes are unadopted - sold September 2013 for £90,000.
- (k) Ashley House, Ffrwd Road, Abersychan - a bay fronted semi-detached house with a small forecourt at the front and a single storey extension at the rear - sold on 22<sup>nd</sup> April 2014 for £80,000.
- (l) 3 Park View Terrace - a stone fronted mid-terrace house opposite a park. It has a small front garden and an extension and parking to the rear - sold in October 2013 for £83,000.

The last two properties were some distance from the Property. However as the experts mentioned them we took the opportunity to inspect them.

## CONSIDERATION

### Date of Valuation

14 For the reasons mentioned in paragraph 6, we have considered our decision on the basis we are to determine the current letting value of the Property.

### Entirety Value of the Property

15 In his further report, Mr Morgan, on behalf of the Applicant, has suggested a current value of £90,000. Mr Martin, for the Respondent, in both his reports considers that a figure of £70,000 would be more appropriate.

16 There have been three houses in Club Road which have been the subject of a sale and purchase over the last 11 years - numbers 12, 16 and 17. Number 12 sold in June 2003 for £64,250. As Mr Morgan points out we do not know the condition of this property - nor, it must be said, of any of the comparables. Number 17 sold in September 2003 for £71,500 and was re-sold 3 years later in what Mr Martin refers to as “the overheated market in that particular year” for £102,500. On the other hand the price achieved for number 16 (sold February 2010 for £55,000) “reflects the extent of the market recession following the peak values in 2007”. We would expect number 17, as the end of terrace house with a larger plot and a garage, to fetch a higher price than both 12 and 16 which are more like the Property both in style and location in the terrace. However, the price for number 12 was over 10 years ago and house prices have generally increased since then. Prices have also recovered somewhat since the depths of the market recession whilst nowhere near attaining the level of the peak prices in 2007. We would therefore expect the Property to achieve a higher price than that achieved by both number 12 and 16 at the times of their recorded sales.

17 Having inspected the properties in John Street (£89,500 and £87,500), we are satisfied that they are both in a higher value area and both appear somewhat larger than the Property. Bank House on Albion Road was on the market at £85,000 but sold for only £73,000. The reduction of

£12,000 to achieve a contract price suggests that there may be special issues which affected the bargain. 1 Woodview Terrace and 36 Twmpath Road are in our view different kinds of properties, both in their location and the accommodation provided. We would expect a fairly substantial difference in the prices achieved for both these properties when compared with properties in Club Road. 2 Campbell Street, in Wainfelin, is a little removed from the main concentration of the comparables and Ashley House in Abersychan, 7 Nightingale Terrace, Pontnewynydd and 3 Park View Terrace are an even further distance away and offer little assistance in determining the current value of the Property.

18 To us, the properties in John Street offer the best comparable evidence. They are better located with similar size plots, but without the steeply tiered back gardens, and with two storey extensions which would account for their prices of £89,500 and £87,500. Their prices are also consistent with each other with slightly more being paid for the end of terrace house. For this reason we do not accept Mr Morgan's valuation of £90,000. The question for us is how much more would a purchaser pay for a house in John Street than one in Club Road. Mr Martin's valuation of £70,000 suggests a differential of £17,500 to £19,500. In our view that is too high. We are satisfied that there would be a substantial difference, more in the region of £10,000 - £15,000 for the mid-terrace property. In our view the entirety value of the Property is £75,000.

#### Plot Value

19 In his reports, Mr Morgan suggests a plot value of 40% of the entirety value. He has referred us to five properties where plot values have been agreed. He does not provide any details with regard to the relative sizes of the plots concerned. Four of the agreements were made between 2001 and 2005. The other is undated. One agreement is said to have been negotiated with a firm of chartered surveyors. In his view the plot value is £36,000.

20 Mr Martin suggests that the percentages generally applied are between 25% for the more restricted plots and 40% for plots more suited for modern development. In his view the plot comprised in the Property is "very small and tiered with limited area for development on the site. The building cost would represent a relatively higher proportion of the cost of the finished house than a site without these features". In his initial report, he suggests a percentage of 25% as "the maximum" but in view of evidence of structural movement, he considers that additional costs would be involved in using raft or pile foundations which would increase construction costs and reduce the plot value by 10%. In Mr Martin's view the appropriate percentage is 22½%. He initially placed the plot value at £15,750.

21 We were concerned at the wide discrepancy between the valuers and invited them both to consider their valuations in the light of the relevant passages in Hague and also in the light of this Tribunal's decision in the case of 67 The Avenue Pontycymmer, a copy of which was sent to them. Having considered the issues raised, Mr Morgan referred us to Gibbons & Wilson ("Leasehold Enfranchisement Explained") which suggests that the site element might range from 25% to 40% of the entirety value depending on the land market and the attributes of the site. Referring to the examples set out in his original report, he considered that 40% was still the appropriate percentage, placing the plot value at £36,000. Mr Martin took the view that, as with 67 The Avenue, Pontycymmer, the Property was a poor site in a low value area and, on reflection, the appropriate figure should be 20%. From this, however, he deducted a further 10%, as before, for ground conditions making his percentage 18% and his assessment of the plot value to be £12,600.

22 We should not lose sight of the fact that the purpose of this exercise is to ascertain the value of a serviced building plot. It is not a theoretical exercise. Whatever the method used, it should arrive at a realistic value which a purchaser would willingly pay in the open market for the plot. With respect to Mr Morgan, we cannot see that his suggested plot value of £36,000 in any way reflects what the plot would be capable of achieving in the open market. We prefer Mr Martin's reasoning. In our view, the site is narrow and has a small steep tiered rear garden. It would be

extremely difficult to develop and, as Mr Martin points out, it has uncertain ground conditions. The cost of building a house on the plot would represent a high proportion of the value of the property eventually constructed there. This has to be reflected in the percentage applied. We also recognise that Club Road is a low value area so that building costs are relatively high in relation to the eventual sale price of the finished house. We must, of course, be careful not to double discount - the low entirety value will inevitably result in a low plot value whatever percentage is used. We are inclined to accept Mr Martin's assessment (20%). This is in line with this Tribunal's decision in 67 The Avenue, Pontycymer (for which leave to appeal was refused by the Upper Tribunal) and two more recent decisions in 12 and 13 Crofton Drive, Baglan, both difficult sloping sites where a plot value of 20% was also determined by this Tribunal. We do not consider it appropriate to deduct a further percentage for the ground conditions as suggested by Mr Martin. In our view, the figure of 20% fairly takes into consideration any additional costs that may arise as a result and is the appropriate proportion of the entirety value attributable to the plot. We therefore determine the plot value to be £15,000.

### Decapitalisation

23 In his original report, Mr Morgan states that the section 15 ground rent is the return that a freeholder would expect on a site let for 50 years with a provision for review after 25 years and the future prospect of the site and building reverting to the freeholder at the end of the term. It is not, of course, the return which the freeholder "expects", but the "letting value" which has to be determined. Mr Morgan suggests that the Tribunal has previously determined "a percentage in the range 6% to 8%". He settles on 7% and calculates the section 15 ground rent to be £2,500 pa.

24 Mr Martin applies a rate of 4% to decapitalise the plot value, in his view, adopting the rate used in *Arbib -v- Earl Cadogan* [2005]3 EGLR 139. However, as Mr Morgan points out in his comments on Mr Martin's original report, the rates in *Arbib* were actually deferment rates and not decapitalisation rates (in fact, Mr Morgan refers to *Earl Cadogan -v- Sportelli* [2008]UKHL 71). In his subsequent report, Mr Martin adopts the rate of 5% which is that used in 67 The Avenue, Pontycymer on the basis that it is more consistent with other decisions of this Tribunal. It was also, in fact, the rate this Tribunal adopted in the two Crofton Drive cases.

25 The rate must always be a question of fact and depend on the circumstances of the case. Current rates of return are currently at a low level and may remain low for a while longer, but they will not always remain this low. We have to bear in mind that the section 15 ground rent is fixed for many years. However, 5% is currently a good return and whilst it may not increase for many years, it is secure. There will also be a review 25 years from the original term date and 50 years after the expiry of the original term, the property will revert with whatever is built upon it. There is also the rise in property values which enhances the capital value and will affect the rent review.

26 The leaseholder, on the other hand, will lose what is built on the site at the end of the extended lease, but will have the benefit of a fixed rental followed by a review and a further period of 25 years of fixed rental gradually eroding in value over the review period. On balance we prefer Mr Martin's approach. In our view 5% produces a fair assessment of the section 15 ground rent attainable for the Property in today's market, a decision which is, as Mr Martin says, in line with other decisions of this Tribunal. Applying a decapitalisation rate of 5% produces a section 15 ground rent of £750.00 pa.

### DECISION

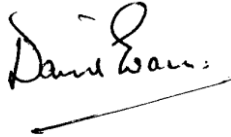
#### Valuation of the Section 15 Ground Rent

27 Applying the above findings, we calculate the value of the section 15 ground rent as follows:

Entirety value	£75,000.00
Plot value @ 20%	£15,000.00
Section 15 ground rent @ 5%	£750.00

28 WE DETERMINE the section 15 ground rent for 14 Club Road, Tranch, Pontypool, NP4 6BH to be £750 pa.

Dated this 5<sup>th</sup> day of August 2014

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

CADEIRYDD/CHAIRMAN