

RESIDENTIAL PROPERTY TRIBUNAL

LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0044/01/16

In the Matter of: Lisburn Court, Lisburn Road, Ystrad Mynach, Caerphilly, CF82 7AS ("the Premises")

In the Matter of an Application under Sections 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act")

TRIBUNAL            David Foulds (solicitor)(chair)  
                             Roger Baynham MRICS (surveyor)

APPLICANTS:        John Matthew Williams & Marie Caroline Wood  
                             Timothy Mark Ellaway  
                             Anthony Herbert & Pauline Herbert  
                             Martin Arnold Jones & Helen Jones  
                             Deborah Jean Price  
                             Roger John Styles  
                             Pauline Mary Andrews (Nee Lynch)

RESPONDENTS:     Christopher John Williams  
                             Alan Whitcombe

Date of Hearing    6 February 2018

Date of Decision  14 March 2018

DECISION

1. The price to be paid for the freehold currently registered under Title Number WA521793 is the sum of £27,200
2. The interests to be conveyed by any vesting order are the same as those registered under Title Number WA521793
3. The rights with or subject to which the above stated interests are to be conveyed are the same as those registered under Title Number WA521793

## REASONS

### The Application

1. This case involves an application for determination of the terms of acquisition of the freehold interest in Lisburn Court, Lisburn Road, Ystrad Mynach, Caerphilly, CF82 7AS (“the Premises”) pursuant to the provisions of sections 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”). This case has been transferred to the Tribunal consequent upon the order of the County Court at Cardiff dated 6 October 2017, steps having been taken to trace the whereabouts of the respondent freeholder without success.

### Inspection

2. The Premises are located in the town of Ystrad Mynach which is situated some 5 miles north of Caerphilly. There are adequate shops and facilities in the town and all other amenities are available in Caerphilly.
3. The Premises comprises a small block of 8 purpose built flats built over 2 floors. The development which is approximately 28 years old is conventionally constructed of cavity brick exterior walls with a tiled roof. All of the properties have the benefit of double glazed UPVC windows and doors.
4. Due to the sloping nature of the adjoining land the ground floor flats (Nos. E, F, G, and H) are approached by an access road leading from Central Street while the first floor flats (Nos. A, B, C, and D) have direct access from Lisburn Road via a walkway which leads to their respective front doors. Consequently there are no communal stairs.
5. The 8 flats are all of similar size and basically have the same layout although some owners have made their own internal alterations. The Tribunal inspected 3 No. flats and the accommodation comprises an entrance hall, living room, kitchen, a double bedroom and a bathroom with bath, wash hand basin and a w/c. There is no gas to the development and all of the flats are heated by electric economy type night storage heaters. The rear communal area is paved while the at the front there are 8 designated car parking spaces for the relevant flats.

### The Evidence

6. The application is supported by a “Representation and Valuation” by Marc Llewellyn Williams FRICS dated 17 November 2017.
7. The report contains a declaration by Mr Williams in accordance with the Practice Statement and Guidance Notes “Surveyors acting as expert witnesses” prepared by the RICS “ (i) I believe in the accuracy and truth of

the matters contained in this submission (ii) This valuation includes all of the facts which I regard as being relevant to the opinion of value which I have expressed and I have drawn to the attention of the Tribunal any matter which I believe would affect or the ability to have that opinion (iii) To the best of my knowledge this submission complies with the requirements of the Practice Statement referred to above.”

### Valuation

8. The valuation is to be carried out in accordance with Schedule 6 Part II paragraphs 2 and 3 of the Leasehold Reform Act 1967. This has three component facts namely:
  - (i) The value of the freeholder’s interest as determined in accordance with paragraph 3
  - (ii) The freeholder’s share of the marriage value as determined in accordance with paragraph 4
  - (iii) Any amount of compensation payable to the freeholder under paragraph 5
9. The date of valuation is the date of issue of the claim to the County Court namely 22 September 2016.
10. Of the three comparables referred to by Mr Williams the Tribunal considered the most relevant and helpful comparable to be the sale of Flat D at Lisburn Court in June 2016 for £61,000.
11. Although Mr Williams contends in Clause 9.7 of his report for a virtual freehold value of £65,000 there is no explanation or calculations as to how this figure was obtained.
12. Mr Williams has contended for a figure of 93 % in respect of relativity and refers in Clause 10.2 of his report to several graphs of relativity. The Tribunal have examined these and other graphs of relativity and concur that a figure of 93 % should be adopted.
13. In order to arrive at the virtual freehold value it would appear that the Applicants Surveyor has either taken an uplift of the current leasehold value by 7 % which provides a figure of £65,270 ( i.e. £61,000 x 1.07 ) or alternatively as a percentage of the freehold, namely  $100/93.00 = 1.075269 \times £61,000$  which produces a figure of £65,591.
14. In view of the fact that both of these calculations produce a virtual freehold value within close proximity of Mr Williams figure of £65,000 the Tribunal are content that this figure is appropriate.
15. In considering the capitalisation rate Mr Williams has applied a rate of 6.5% and the Tribunal agrees with this rate.

16. When capitalising the ground rent the Tribunal has applied a remaining lease term of 72.68 years in place of the 73 years applied by Mr Williams.

17. In respect of the deferment rate the Tribunal has followed the decision in Sportelli there being no compelling evidence to support an alternative approach and the Tribunal accepts the rate of 5% used by Mr Williams.

18. Applying the above virtual freehold value and stated capitalisation and deferment rates The Tribunal arrives at a premium payable for the purchase of the freehold to be £27,200.

19. Attached to this Decision is the Tribunal's calculation.

Dated this 14<sup>th</sup> day of March 2018

A handwritten signature in black ink, appearing to read 'DM Foulds', written in a cursive style.

David Foulds  
Legal Chair

**Term**

Ground Rent	25.00		
8 No. Flats	<u>x 8</u>	200.00	
Y. P. for 72.68 years at 6.5 %		<u>15.2263</u>	3045.26

**To Virtual Freehold  
Value**

8 No. Flats at £65,000	520,000.00		
P. V. of £1 in 72.68 years at 5 %	<u>0.0288</u>		<u>14,976.00</u>
Landlords present interest			18,021.26

**Marriage Value**

Virtual freehold value		520,000.00	
Less Landlords present interest	18,021.26		
Leasehold interest			
520,000 x 93 %	<u>483,600.00</u>	<u>501,621.26</u>	
		18,378.74	
		<u>x 50 %</u>	<u>9,189.37</u>
			<b>27,210.63</b>

**Say £27,200**