

Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL WALES

LEASEHOLD VALUATION TRIBUNAL

(Application for a determination of the price to be paid under Leasehold Reform Act 1967 (the 'Act') regarding Missing Landlord Procedure on referral from County Court at Swansea)

Reference: LVT/0052/20/20

Property: 23 Gellionen Road, Clydach Swansea SA6 5HE

Claimants: Michael James Byrne and Anthony Colin Byrne

Representatives: Trevor Thomas Scott & Jenkins Solicitors

Defendant: Missing Landlord

Committee: Chairman: J Rostron

Surveyor: Andrew Lewis FRICS

The Tribunal determines that the price to be paid is £66,164.00.

REASONS FOR THE DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

Introduction.

1. We convened as a Leasehold Valuation Tribunal under the provisions of the Act on the 8 July 2020. We had before us an order from the County Court at Swansea dated 4 February 2020 which stated:
 - 1.1 "Before District Judge Collins sitting at the County Court at Swansea, Swansea Civil Justice Centre, Caravella House, Quay West, Quay Parade, Swansea, SA1 1SP, upon reading the statement of Emma Feathers a solicitor instructed by the claimant dated 27th of January 2020.
 - 1.2 It is ordered that.
 - 1.3 1. The claim herein be transferred or otherwise referred to the Residential Property Tribunal Wales for that tribunal to determine the appropriate considerations to be paid by the claimant for the acquisition of the freehold reversion of the property known as 23 Gellionen Road, Clydach Swansea SA6 5HE (the "property").

1.4 2. Upon determination of that consideration the claim be remitted to this court and relisted on request by the claimant's solicitor for final directions to be given".

Claimants' Statement of Case

2. The Claimants' relevant statement of case consists of a valuation undertaken by R J Chartered Surveyors dated 10th March 2020 which states... "a) Based on our valuation assessment as detailed herein we consider the market value, in accordance with the Leasehold Reform Act 1967, of the freehold interest of the subject property with existing lease in place, is in the region of £46,900 [Forty six thousand nine hundred pounds], b) Due to the missing landlord situation, an additional payment of 6 years of ground rent is to be paid £12.32 x 6 years = £73.92, c) Total price to be paid is £46,973.92".
3. In arriving at their valuation, the Claimants' surveyor had adopted the conventional three stage approach. Stage 1 - capitalising the existing ground rent; Stage 2 – Determining the Modern Ground Rent employing the "Entirety Value" of the house on site (£170,000), and adopting 33.33% of same as the "Site Value" (£56,667), thereafter applying 5% return to arrive at a "Modern Ground Rent" of £2,833 per annum which was capitalised for 50 years deferred 6 years at the usual rates; Stage 3 – calculating the final reversion adopting the "Standing House Valuation" allowing for Schedule 10 rights and thereafter deferred 56 years at the usual rate.

Inspection

4. The property was inspected on 8th July 2020 by the Tribunal Surveyor. The inspection was undertaken by the Tribunal Surveyor on his own and limited to the exterior because of the Covid 19 Pandemic. Comparable local property values were ascertained by the Tribunal Surveyor.
5. Neither the Claimants' nor their representatives attended the inspection.
6. According to the Claimants' Chartered Surveyor's Report dated the 10th March 2020 the property is described as follows: -

"a) The property is a detached two storey, three bedrooomed house.

b) The property was constructed in the late 1920's. The construction comprises of brickwork walls with a rendered external finish with a mixture of timber and Upvc double glazed windows under a timber pitched roof which is clad with slates. The property has a two-storey rear extension which has a flat felted roof.

c) Externally, the property has a small raised front garden and pedestrian paths to the side of the house leading to a long sloping rear garden. The grounds are extremely overgrown. On street parking is available in front of the property.

d) The property has been vacant for a long time and has been vandalised. The property is in a very poor condition and is currently not habitable....

The accommodation briefly comprise as follows:

Ground floor:	Hallway	
	Living room	4.64 x 3.96m
	Kitchen	4.43 x 2.42m
	Dining room	3.62 x 3.85m
First floor:	Front right bedroom	3.23 x 4.12m
	Front left bedroom	3.26 x 4.04m
	Rear bedroom	3.89 x 3.64m
	Bathroom	2.42 x 4.44m...

... The internal of the property has dated fittings and decoration. The property has not been maintained or updated for a long time and has been subjected to vandalism. The property is currently not habitable”.

Decision

7. According to the Official copy of the registered title dated 12th March 2020 the property is leasehold and based on a lease dated 27 February 1928 for a term of 99 years from 25 March 1927.
8. The Tribunal reviewed the Claimants’ Surveyor’s Report dated 10th March 2020 and could not accept its findings for the following reasons. Firstly, it stated to comply with the RICS Practice Statement – Surveyors acting as expert witnesses – 3rd Edition. However, it is not compliant with the current 4th Edition, and specifically Practice Note 5.4. Secondly, lack of comparable evidence sufficient to assist the Tribunal. Thirdly, the statement at point 3.2(n) the surveyor is “uncertain if the property is to be valued in its existing condition”; the Tribunal expects expert evidence not to contain such uncertainty or at least express how the uncertainty can be resolved in the preparation of a valuation upon which the Tribunal is asked to arrive at such a decision. The above Tribunal’s concerns were sent to the Claimant’s representative.
9. At the inspection two comparables were ascertained by the Tribunal: - Land adjacent to Whitehaven Lon Eithrym, Clydach, Swansea SA6 5ER and Graig Terrace, off Ynys-Y-Mond Road, Glais, Swansea. The former was priced at £95,000 and the latter £85,000. Both comparables were disclosed to the Claimants. The Tribunal further informed the Claimants that they considered the Site Value was £85,000 and invited the comment of the Claimant.
10. The Claimants’ Surveyors submitted a revised valuation dated 15th July 2020 suggesting a total price to be paid £56,073.92. The resultant increase arose as the “Entirety Value” within Stage 2 of the valuation had been increased to £200,000, with the “Plot Value” being 35% of same, leading to a Modern Ground Rent of £3,500 per annum. The other elements of the valuation remained unchanged.

11. The Tribunal considered the revised Claimants' Surveyors Report and was disappointed that it did not respond to the Tribunal's submitted comparable evidence or value for the Site. Further the Claimants' Surveyors did not supply the comparable evidence to which they referred within their reports and had been requested on two occasions to supply to the Tribunal.
12. In this reference adequate comparable evidence was available of the value of single plots for development of a detached house similar to that occupying the site. Accordingly, the Tribunal took the view that it was incorrect to arrive at a valuation of the site in Stage 2 by adopting the "Entirety Value" approach as employed by the Claimants' Surveyor, and preferred direct comparable evidence, and accordingly adopted £85,000.
13. The Claimants' Surveyors incorrectly stated the ground rent within their valuations which should have been recorded as £6.50 per annum.
14. The Tribunal has calculated the price to be paid for the freehold title as follows:

Stage 1

Ground rent	£6.50	
YP 6 years @ 6.5%	<u>4.841</u>	
		£31

Stage 2

Site value		£85,000
Modern Ground Rent @ 5%		£ 4,250
YP 50 years @ 5%	18.2559	
PV 6 years @ 5%	<u>0.746215</u>	
		<u>13.6228</u>
		£57,897

Stage 3

Standing House	£140,000.00	
Less Schedule 10 @ 10%	£126,000.00	
PV 56 years @ 5%	<u>0.0651</u>	
		<u>£8,199.00</u>
		£66,128.00
		<u>Say £66,125</u>

Due to missing landlord situation 6 years ground rent is payable: - £6.50 x 6 = £39.00

Total price for freehold £66,164.00

Dated this 10th day of August 2020

J Rostron
Chairman

