

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0036/01/24

In the Matter of: Newhaven, Llanllienwen Close, Ynysforgan, Swansea, SA6 6LY

In the matter of: An Application under the Leasehold Reform Act 1967

APPLICANTS: Ian Barry Rapsey and Lisa Dawn Rees (Executors of the Estate of Desmond Rapsey Deceased)

RESPONDENTS: Persons Unknown (missing landlord)

TRIBUNAL: Tribunal Judge Kelly Byrne
Hefin Lewis, Surveyor Member

VENUE: Determined on the papers

DECISION

1. On 25th April 2024, the Tribunal determined that the appropriate sum to be paid into Court pursuant to section 27(5) of the Leasehold Reform Act 1967 (“the Act”) is £11,200 being the price payable in accordance with section 9 of the Act and £48 being the pecuniary rent payable pursuant to section 27(5)(b) of the Act, the consideration payable by the Applicant for the freehold of the Premises.

Background

2. The matter before the Tribunal is the determination of the valuation of the appropriate price to be paid by the Applicant for the freehold reversion of Newhaven, Llanllienwen Close, Ynysforgan, Swansea, SA6 6LY (“the property”).
3. On 12th September 2023, the Applicant made an application via Part 8 of the Civil Procedure Rules to Swansea County Court, pursuant to s.1 and s.27 of the Leasehold Reform Act 1967 (as amended) (“the Act”) for the purchase of the freehold reversion of the property. The case was transferred from Swansea County Court to the Leasehold Valuation Tribunal to determine the value of the freehold reversion.
4. The Applicants are Executors of the estate of Mr Desmond Rapsey Deceased; the property forms part of the estate. Mr Rapsey acquired the property from Katie Elizabeth Morris by a lease dated 18th October 1960 for a term of 99 years commencing on 29th September 1960.
5. Mr Rapsey died on 26th June 2021. The Applicants extracted a Grant of Probate on 14th September 2021.

6. The Applicants as the Executors of the estate wish to exercise Mr Rapsey's right to buy the freehold of the property. They have made an application to Swansea County Court within two years of the date of the Grant of Probate, in accordance with Section 6A of the Act.

Inspection

7. On 15th April 2024, a site inspection was undertaken by the Tribunal Judge and Surveyor Member. One of the Applicants, Mrs Rees was also in attendance, together with their solicitor Mr Jacobi of Messrs Peter Lynn and Partners

Description

8. The property comprises of a mature three bedroom semi-detached bungalow constructed in approximately 1960.
9. The main walls are of cavity construction with rendered elevations under a pitched, hipped timber frame roof, clad with interlocking concrete tiles.
10. The property is situated within Cwmrhydyceirw, a predominantly mixed residential area approximately 5 miles from Swansea City Centre, and 1 ½ miles from Morriston Town Centre.

General Condition

11. Elements of the property appear to be in poor condition having regard to its age and type of construction with some works of repair, maintenance and upgrading required.

The Law

12. Under the Act, the Tribunal must determine the purchase price on the relevant day. The relevant day in this case is the date of application to the County Court, namely the 12th September 2023 ("the valuation date.")
13. The purchase price, according to section 27(5) of the Act is: (a) such amount as may be determined by the appropriate tribunal to be the price payable in accordance with section 9 of the Act; and (b) the amount of any pecuniary rent payable for the house and premises up to the date of the conveyance.
14. The valuation method for determining this price is set out in section 9 of the Act, which provides two different methods of valuation depending upon which category the Property and Lease fall into.
15. In the case of a property with a low rateable value outside London, that is less than £500 on 31 March 1990, the valuation methodology is the s.9(1) valuation. This is the valuation methodology that is applicable to the Property.
16. Under s.9(1) the price payable is the amount which on the valuation date, the site, if sold in the open market by a willing seller (with the tenant and members of his family not seeking to buy) might be expected to realise on certain assumptions, including the assumption that the tenant has complied with his covenants and disregarding any tenants' improvements. It is further assumed that the tenant would exercise his right to claim an extended lease under section 14 of the Act. If the lease is extended under s.14, it gives rise to a further statutory

term of the lease with the ground rent (known as the modern ground rent) being set by section 15 of the Act. The statutory term is for 50 years, with a review at 25 years.

17. Under s.9(1) the task of the Tribunal is to determine, as at the valuation date, the present capital values of the rent due for the remainder of the term of the lease and thereafter the value of the reversion.

Applicants' case

18. In response to the Tribunals Directions Order, the Applicants served on the Tribunal an Expert Report prepared by Robert N. Cowley FRICS (Consultant) from Astleys Chartered Surveyors, dated 18th May 2023. Given that the valuation was not prepared on the relevant date, being the date of the application, the valuer was invited to resubmit his valuation with the correct date. However, a corrected valuation was not submitted other than a letter dated 26th February 2024, confirming that the valuation of £12,000 as stated in the report of 18th May 2023, is the valuation on the 12th September 2023.

19. The Applicants valuation report relies on the following comparable evidence. Commentary and analysis from the Tribunal is added at column 4 :

Address	Property Type	Sale Price/Date of Sale	Tribunal Analysis
Hazeldene, Llanllienwen Close, Ynysforgan, SA6 6LY	Semi-detached bungalow in the same street. EPC 67 sqm	£164,500 DEC 2022	Situated opposite. Better condition with garage and solar panels fitted. No loft conversion. Updated valuation according to average of O.N.S and Nationwide House Price Index = £161,220 (down 1.75%)

25 Llanilienwen Road, Cwmrhydyceirw, SA6 6NB	Three bedroom mid terrace house.	£97,000 Dec 2022	Disregard as not being compatible with the subject property
31 Butterslade Grove, Ynysforgan, SA6 6QU	Detached 3 bedroom bungalow with Conservatory and detached garage	£178,000 12 August 2022	Better location, detached with garage and conservatory Updated valuation according to average of O.N.S and Nationwide House Price Index = = £168,322 (down 5.44%)
115 Llanllienwen Close, Ynysforgan, SA6 6NF	Semi-detached 3 bedroom house	£145,000 21 Feb 2022	Disregard as not being compatible with the subject property

20. The author of the report, Mr Cowley, concludes that in his opinion that the market value of the freehold reversion of the property in its present condition and in accordance with his report and the information supplied to him, on 12th September 2023 is £12,000

21. Mr Cowley provides a copy of his valuation calculations as an appendix to his report, which is summarised below:

Valuation date

Lease 99 years from 29th September 1960

Unexpired Term: 33 years

Ground Rent: £8

Valuation

Ground Rent	£8	
YP for 33 Years @ 6.5%	13.4591	
	£107.67	£108

Reversion to M.G.R

CV	£160,000	
SV @ 32%	£51,200	
M.G.R. @ 5%	£2,560	
YP 50 years @ 5%	18.2559	
PV £1 33 years @ 5%	.01998725	
Multiplier	3.6489	
	£9,341.06	£9,341

2nd Reversion

CV	£160,000	
Less 10%	£16,000	
Adjusted CV	£144,000	
PV £1 83 years @ 5%	0.0174296	
	£2,509.86	£2,510
		£11,959

**Say £12,000
+ costs**

Decision and Reasoning

22. Having considered the evidence and in particular the report of Mr Cowley, dated 18th May 2023 and the letter dated 26th February 2024, the Tribunal make the following determination:

Comparable Evidence

23. Comparable 1 is the strongest evidence albeit completed 8 months prior to the relevant date. This is supported less by comparable 3 which was completed 12 months before the relevant date. Comparable evidence 2 and 4 are disregarded as not being compatible with the subject property. Using the average of the O.N.S and Nationwide House Price Index to the relevant date, comparable evidence 1 and 3 is adjusted to £161,220 and £168,322 respectively. Accordingly, when adjusted to the valuation date of 12th September 2023, the value of the subject property in comparable condition would be fairly represented in the sum of £160,000.

24. The expert valuer contends for a standing House value of £160,000. The Tribunal agrees.

Valuation date

25. The valuation date is 12/09/2023, namely the date of the application to the Court (Section 27 (1) (2)(a)), this is not in dispute.

Unexpired Term

26. The unexpired term as at the relevant date is 36.04 years. The unexpired term in the valuation report is incorrectly reported as 33 years.

Freehold Entirety Value

27. 'Entirety value' is the notional market value of the best house that could reasonably be expected to have been built on the plot at the valuation date, assuming the plot was fully developed.

28. The majority of neighboring properties, including those either side of the subject property, have a loft conversion. It is therefore a reasonable assumption that if the property was 'fully developed', it would also incorporate a loft conversion.

29. We agree with the expert valuation report that the value without a loft conversion is fairly represented in the sum of £160,000, based largely upon the sale of Hazelden located opposite (comparable 1). However, it is necessary to make an addition to reflect the value of a notional loft conversion. In the absence of any direct evidence in this regard, the Tribunal, using its own judgement, considers that an addition of £15,000 would be appropriate in this instance. Accordingly the 'Entirety Value' is considered to be fairly represented in the sum of £175,000.

Site Value as Percentage of Entirety Value

30. Applicants' valuer contends for 32% as the value of the plot within the Entirety Value of the hypothetical house.

31. The Tribunal agrees that this apportionment is appropriate.

Capitalisation, Decapitalisation and Deferment Rates

32. The Tribunal adopts a figure of 5 percent for both capitalisation and decapitalisation rates which is in line with other decisions of this tribunal in this locality. We bear in mind that it is necessary that the capitalisation and decapitalisation rates should generally be the same to avoid any adverse differential.

33. The Expert Report has adopted:

- Yield of 6.5%
- Capitalisation and Decapitalisation rates of 5%
- Deferment rate of 5%

34. We agree with these rates.

Freehold Standing House Value

35. For the third stage of the valuation, we must determine the Standing House Value of the property – deferred for 86.04 years (36.04 years unexpired term plus 50 years statutory extension). Regarding the age and condition of the property, we agree that the house could plausibly be still standing in 86.04 years and therefore agree that this stage is required. (The Haresign addition)

36. The 'standing house value' is the market value of the house built on the site, excluding the value of tenant improvements, assuming the Freehold is sold with vacant possession.

37. The expert report contends for a standing house value of £160,000. The Tribunal agrees.

'Clarise reduction' (Schedule 10)

38. Under Schedule 10, paragraph 4 of the Housing Act 1989 and referencing **Clarise Properties Limited [2012] UKUT 4 (LC), [2012] 1 EGLR 83**, Valuers will often make allowance for the prospect of occupiers remaining in occupation on expiry of the term and obtain an assured tenancy at a market rent. In order to reflect this possibility, a deduction is made from the standing house value.

39. The valuer makes a 10% adjustment, it is assumed, for the right of the tenant to stay on at lease end, though this is not explicitly stated in the report. Whilst the Tribunal agrees that a deduction is appropriate, it considers 10% to be too high and instead adopts a 5% reduction.

Freehold Value

40. There are errors in the valuation calculation in respect of the unexpired term and differing interpretation in the computation of Entirety value and schedule 10 rights. The Tribunal corrects these errors in its calculation to produce a valuation for the freehold interest in the sum of **£11,197.73**. This is rounded up to **£11,200**. This is less than the valuation advanced by the expert valuer. The valuation calculation is at appendix (i).

41. The Tribunal determines that the amount of unpaid pecuniary rent payable for the property up to the date of the proposed conveyance is **£48**

Tribunal Judge K Byrne
Dated this 2nd day of July 2024

APPENDIX (i)

Term

Annual Ground Rent		£8.00	
YP 36.04 years @6.5%		13.7946	£110.36

1st Reversion

Entirety Value	£175,000.00		
Plot Value at 32%	£56,000.00		
Section 15 Ground Rent@5%		£2,800.00	
Y.P for 50 years @ 5%	18.256		
P.V. Of £1 in 36.04 years @5%	0.1723	3.1455	£8,807.38

2nd Reversion

Standing House Value	£160,000.00		
Deduct 5% for schedule 10 rights	£8,000.00	£152,000.00	
P.V of £1 in 86.04 years @5%		0.015	£2,280.00

£11,197.73

SAY

£11,200.00

Payment of Ground Rent under Section 27 (5)	6.00	£8.00	£48.00
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