

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
LEASEHOLD VALUATION TRIBUNAL

Ref: LVT/0047/02/15

In the matter of s.21 Leasehold Reform Act 1967

In the matter of 3 Thomas Jones Square, Troedyrhiw, Merthyr Tydfil CF48 4NE

Tribunal: Andrew Sheftel (Chairman)
Peter Tompkinson (Surveyor)

Applicants: KELVIN ROBERTS
Represented by: RJM SOLICITORS
Mr Howard Evans FRICS

Respondent: STUART WYNDHAM MURRAY THREIPLAND AND RUPERT
HUGH SANDERS, TRUSTEES OF THE WYNDHAM LEWIS
TRUST
Represented by: Daniel Lord MRICS

DECISION

The decision in summary

1. For the reasons set out below and in the Schedule hereto, the Tribunal determines the sum payable by the Applicant for the acquisition of the freehold reversion of the Property is £2,587.82.

Background

2. The Tribunal is concerned with an application dated 17 February 2015 brought under s.21(1)(a) of the Leasehold Reform Act 1967 (the “1967 Act”). The

application was made pursuant to a notice under Part 1 of the 1967 Act seeking to acquire the freehold interest in the Property.

3. The freehold owner subsequently served a counter-notice in which it admitted the tenant's right to purchase the freehold but disputed the tenant's valuation. As set out below, at the hearing, the areas of dispute with respect to valuation had narrowed considerably.
4. On 9 July 2015, the Tribunal inspected the Property and subsequently held an oral hearing at which the tenant was represented by Mr Evans and the landlord by Mr Lord. Each had earlier submitted a written report in relation to valuation.

The Property

5. The Property is let pursuant to a lease dated 16 May 1947 for a term of 99 years from 1 August 1946.
6. The Property comprises a small two-storey mid-terrace house. It is situated within a short terrace located off Chapel Street, Troedryhiw. It has no vehicular access but can be accessed on foot by pathways to the front and to the rear.
7. The property is of mainly traditional random stonework construction with a single skin lean to later addition probably of brickwork. Elevations have a rendered finish and roofs are clad in asbestos sheet and tiles. The property dates from pre 1900. The accommodation comprises: on the ground floor, bathroom, kitchen, living room with door to rear garden. On the first floor, two bedrooms. Windows and door have been replaced with PVC units in the past.

Valuation issues

8. In advance of the hearing, each side had sought to rely on the report of a surveyor as referred to above. There were significant differences in the approach of the two surveyors as set out in their respective reports. Principally, Mr Evans on behalf of the tenant had prepared a valuation based on section 9(1) of the 1967 Act whereas Mr Lord's valuation was based on section 9(1C) of the 1967 Act. At the hearing,

Mr Lord immediately accepted that section 9(1C) of the 1967 Act was not appropriate, but the question initially remained as to whether the proper formula was section 9(1) or section 9(1A). The issue turned solely on the rateable value of the Property but somewhat regrettably, neither side had been able to find evidence of the rateable value. Without giving specifics, Mr Evans asserted that he was aware that far larger properties in the area had rateable values sufficiently low to bring them within section 9(1). Ultimately, Mr Lord accepted that the Property most likely fell to be valued pursuant to section 9(1) and accordingly the Tribunal has proceeded on that basis.

9. Further, Mr Lord subsequently confirmed at the hearing that he agreed with the methodology for calculating the valuation as set out in Mr Evans' report, albeit he disputed various figures contained therein. The methodology was based on the 3-stage *Haresign* approach, from the Lands Tribunal's decision in *Haresign v St John the Baptist's College, Oxford* (1980) 255 EG 711 and endorsed by the Upper Tribunal in *Re Clarise Properties Ltd* [2012] UKUT 4. Accordingly, this agreed methodology has been reproduced by the Tribunal in the Schedule to this Decision.
10. Items such as capitalisation of ground rent at 6.5% and deferment rates of 5% were not disputed at the hearing and have consequently been used in the Schedule.
11. The principal issues of disagreement were as follows:
 - (1) ground rent;
 - (2) standing house value; and
 - (3) the plot value percentage to be applied.
12. In addition, it was argued on behalf of the landlord that Mr Evans' valuation was influenced by the poor state of the Property and that the tenant should not benefit on the question of valuation from the poor condition of the property, where the same is caused by the tenant's own breach of covenant to keep the property in good repair. While Mr Evans did not dispute that proposition as a matter of law, he

maintained that he had not valued the Property on this basis. In particular, Mr Evans referred to paragraph 6 of his report, in which he stated:

“The property for its age and construction is in generally poor condition. In arriving at my ‘Opinion of Value’ of the Freehold Reversionary Interest I have assumed that the property has been maintained to a reasonable standard.”

13. The landlord’s objection was raised in particular in relation to Mr Evans’ calculation in respect of the third stage of the *Haresign* approach. However, notwithstanding that a 20% decrease in standing house value is often adopted following the decision of the Upper Tribunal in *Re Clarise Properties Ltd*, in view of the poor condition of the Property, Mr Evans applied only a 10% reduction. As this in fact produces an outcome more favourable to the landlord, no further issue arises.

Ground rent

14. The landlord argued at the hearing that the ground rent should be £6 per annum rather than £1 as contended for by the tenant – although a figure of £1 was referred to in the landlord’s valuation report.
15. It was agreed by both sides that the ground rent that had been both demanded and paid in respect of the Property was £1, and there was no evidence of any time when the tenant of the Property had ever paid a different amount or the landlord had demanded a different amount. While the landlord sought to rely on a reference to a figure of £6 in a lease document, Mr Evans pointed out that this figure applied to all six properties in Thomas Jones Square (all of which are referred to in the document) and that the ground rent had been apportioned for each of the six properties.
16. In the circumstances and in light of the fact that there is no evidence that a figure other than £1 has ever in fact been paid, the Tribunal determines that the correct figure should be £1.

Standing house value

17. At the hearing, the tenant argued that the correct figure in respect of standing house value was £40,000, whereas the landlord argued that it should be £55,000.
18. Each of Mr Evans and Mr Lord provided a number of comparables in their respective reports and expanded upon their conclusions at the hearing.
19. Dealing first with those relied on by the landlord, although a greater number of comparables were provided, most involved much older sales, with the result that they accordingly provided less assistance to the question of valuation as at the relevant date. For example, the landlord included 5 Thomas Jones Square which is next door but one to the Property and, at least according to the Land Registry plans, apparently of similar footprint. However, the sale of £75,000 was achieved in April 2007 and is therefore of limited assistance to the Tribunal - indeed, as pointed out by Mr Evans on examining the Official Copy Entry for the title, the same property had sold in 2003 for £33,000.
20. Of the properties referred to by the landlord, two involved recent sales:
 - (1) Llwynteg Cottage, Chapel Street – sold November 2013 for £76,500;
 - (2) 9 Chapel Street – sold March 2013 for £65,000.
21. A further difficulty was that the landlord's report gave little indication of the particulars of the properties – although it was stated at the hearing that both of those above were 2-bedroom houses. Instead, much of the explanation in the landlord's report focussed on market trends more generally (albeit related to the area). The only other information relating to each of the comparables provided in the report was a photo of their front elevation. Further, in relation to 9 Chapel Street, which is located close to the Property, this appears to be larger than the Property – the Official Copy Entry plan for the Property appeared to show 9 Chapel Street as having a larger footprint than the Property.

22. In summary, therefore, it was difficult to glean much assistance from the comparables provided by the landlord.
23. Turning to Mr Evans' evidence, at the hearing, he commented that the Property is at the bottom end of the market. The comparables referred to in his report were on the whole examples of more recent sales, and in addition, a greater amount of information about the particular properties was provided. He relied on the following:
- (1) 12 Maerdy Terrace, Merthyr Tydfil – a 2-bedroom house sold in July 2013 for £58,000;
 - (2) 8 Upper Mount Pleasant, Troedyrhiw – a larger 3-bedroom house sold at auction for £34,000, with the sale completing in March 2012;
 - (3) 6 Queen's Terrace, Troedyrhiw – a larger 3-bedroom property sold in September 2013 for £50,000.
 - (4) 25 High Street, Caeharris – a larger 3-bedroom house which sold in November 2012 for £40,000 following a repossession.
24. In reaching his conclusion, Mr Evans commented that the Property is smaller than all of the comparable properties above. He also asserted that the "*property, on the basis that it is in reasonable general order is in a better condition than No.8 Mount Pleasant, Troedyrhiw and No.25 High Street, Caeharris. The premises are not in such a good position as No.6 Queens Terrace, Troedyrhiw and is not in as good a condition as this property and No.12 Maerdy Terrace, Merthyr Tydfil. There are obvious limitations to the value due to the size of the house and access...*". At the hearing, he sought to clarify this apparent reference to the condition of the Property by stating that he was referring to the fact that the Property was dated rather than to its condition. He also cited the limitation to the standing value due to the size of the house and access.

25. As noted above, the landlord's valuation report did not provide the same level of detail as to how specifically the Property compared to the comparables chosen, with the result that it was harder for the Tribunal to understand how they compared to the Property.
26. In the circumstances and in light of the explanations and reasoning provided, the Tribunal accepts Mr Evans' evidence on this issue and is not persuaded that the comparables provided by the landlord or the additional arguments raised on behalf of the landlord are sufficient to move from the tenant's proposed figure of £40,000.

Plot value

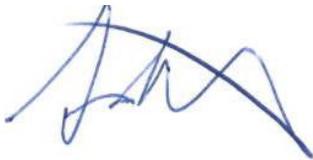
27. Mr Evans argued for the application of a 20% figure in respect of plot value, citing in particular the size of the plot and the difficult access issues. At the hearing, he also referred to the fact that it would not be possible to extend the Property backwards due to rights of access for other properties. In support of this approach, Mr Evans referred to the Tribunal to the decision in *14 Club Row, Tranch, Pontypool* (2015) LVT 0056/11/13 where a figure of 20% was applied, while accepting that it was not binding on the Tribunal.
28. Mr Lord argued that this approach gave rise to a certain element of 'double counting' insofar as the various factors relied on by Mr Evans were also relevant to and impacted on the standing house value.
29. Ascertaining plot value is to determine a realistic value at which a purchaser would pay for the plot in the open market. While the Tribunal has some sympathy with Mr Lord's argument and caution must be taken not to double discount, there is no fixed figure to be applied for plot value, which will be determined having regard to the particular circumstances of the case. The factors identified by Mr Evans, particularly access and the inability to extend, are clearly relevant to the percentage to be applied in determining the plot value. However, Mr Evans accepted at the hearing that a figure of at least 25-35% is more usual and, in the Tribunal's view, although the factors identified by Mr Evans are suggestive of a low plot value, the

Tribunal agrees with Mr Lord that the figure of 20% is slightly too low and considers a figure of 25% to be appropriate.

Conclusion

30. In the circumstances and for the reasons set out above, the Tribunal determines that the purchase price payable by the tenant is as set out in the following schedule.

Dated this 21st day of August 2015

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes that form a stylized, illegible name.

Chairman

SCHEDULE

Term

| | |
|---------------------|---------|
| Ground rent | £1.00 |
| YP for 32yrs @ 6.5% | 13.3339 |

| | |
|-----------------------|---------------|
| Capital value of term | £13.33 |
|-----------------------|---------------|

1st Reversion

| | |
|--|-----------|
| Capital Value of Property assumed to be in good repair | £40,000 |
| Site value @ 25% | £10,000 |
| s.15 rent @ 5% of site value | £500 |
| YP for 50yrs @ 5% - 18.2559 | £9,127.95 |

| | |
|---|------------------|
| PV of £1 deferred for 32yrs @ 5% - 0.2099 | £1,915.65 |
|---|------------------|

2nd Reversion

| | |
|---|---------|
| Capital value of property | £40,000 |
| Less 10% | £36,000 |
| PV of £1 deferred 82yrs @ 5% - 0.018301 | |

£658.84

Valuation

£2,587.82