

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL
LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0037/10/18

In the matter of the Leasehold Reform Act 1967

And in the matter of 58 Pontneathvaughan Road, Glynneath, Neath

Applicants: Caroline Jayne Williams and Julia Elizabeth Williams

Respondent: Persons Unknown

Tribunal: Andrew Grant (Legal Chair)
Roger Baynham (Surveyor Member)
Andrew Lewis (Surveyor Member)

Decision

Pursuant to section 9 of the Leasehold Reform Act 1967, it is determined that the price payable by the Applicants for the Respondents Freehold title of 58 Pontneathvaughan Road, Glynneath, Neath is £38,870.00 (thirty-eight thousand eight hundred and seventy pounds).

Reasons

1. On the 4th May 2018 the Applicants issued part 8 proceedings in the County Court at Swansea under claim number E00SA246. Paragraph 3 of the Part 8 Claim Form set out the relief sought by the Applicants which included, inter alia, an application under section 27 (1) of the Leasehold Reform Act 1967 ("The Act") seeking an order that the Freehold interest in the property at 58 Pontneathvaughan Road, Glynneath, Neath ("The Property") be vested in the Applicants.
2. The Freehold owner is unknown and the Applicants have not been able to trace them.
3. On the 30th October 2018 District Judge Collins made an order that "the Claimant be at liberty subject to a certificate of fair valuation determined by a surveyor appointed by the Leasehold Valuation Tribunal to lodge in court by the 31st January 2019 a lodgment schedule attached to this order the sum of £20,000 or such other sum as certified by the Leasehold Valuation Tribunal as provided by section 25 (7) of the Act

to be the price payable for the Property and as to the balance of £36 being the estimated amount of rent which will remain unpaid as stated above.”

4. Thereafter, the matter was transferred by the Court to this Tribunal to determine the price payable by the Applicants for the Respondents Freehold interest in the property.
5. The Tribunal issued directions on the 5th November 2018 indicating, amongst other things, that unless objection was received the Tribunal would determine the matter on paper without a formal hearing. No objections were received by the Tribunal
6. The Tribunal inspected The Property on the 24th January 2019.

The Property

7. The property is a detached bungalow situated about 1.5 miles to the North of the town of Glynneath. The town has adequate shops and facilities and is situated some 10 miles from Neath where all other amenities are available.
8. The bungalow was constructed about 70 years ago and is conventionally built with cavity exterior walls which have been cement rendered. The pitched roof is overlaid with interlocking tiles and the property has the benefit of double - glazed windows and full oil- fired central heating.
9. The accommodation comprises an entrance hall (which for reasons explained later is not used), a through lounge dining room with a staircase leading to the first-floor dormer area, sitting room, a kitchen with open plan to a utility room, inner hallway, 3 double bedrooms and a bathroom with a bath, wash basin and a W/C. The staircase from the dining room leads into the partially converted dormer roof space which runs along the entire length of the property. There is a single detached garage adjacent to the road which is in poor condition.
10. At the date of the inspection the bedrooms and bathroom had been renovated to a good standard although the Tribunal were informed by the Applicants' solicitor in a letter dated the 2nd January 2019 that this was subsequent to the valuation date of the 4th March 2018.
11. The property is elevated above the public road and as such has extensive views to the front. Due to the topography, the front garden is steep and overgrown and at the present time the Applicants utilise an unmade driveway which is situated outside of the curtilage of the demised land, from the public road to the rear of the property. Previously, the access was from the road via the steep unmade track at the front of the property which lead to the (now unused) front door.
12. It was difficult to establish the exact boundaries of the property but the general area is uncultivated. The Tribunal were informed that the septic tank is outside the

boundary of the demise but it is noted in the lease dated the 18th December 1925 and also the Assignment dated the 7th December 1966 that there is a provision for the Lessee to install a cess pit on the property of the Lessor (the adjacent owner) and have a right of access to that cess pit.

The Evidence

13. The Applicants rely upon the witness statement of Caroline Jayne Williams dated the 12th March 2018 together with the attached exhibit and the expert report and valuation of Howell J Edwards dated the 20th November 2018.
14. Mr. Edwards concluded that the price to be paid for the Freehold interest was £25,010.00.
15. In reaching this conclusion his starting point was that the Entirety Value of the property was £90,000. He had sought support for this figure from comparable sales in the area which were referred to at paragraph 10.0 of his report. In Particular he referred to properties situated at 59 Pontneathvaughan Road, Glynneath which sold in March 2014 for £125,000, Waungron, Glynneath which sold in August 2018 for £78,000 and Portneathvaughan Road which sold in June 2018 for £92,000.
16. In relation to the Standing House Value he applied a discount of 20%. This was to take account of possible rights under schedule 10 of the Local Government and Housing Act 1989.
17. Following the inspection at the property on the 24th January 2019, the Tribunal had some concerns in respect of the figures adopted by Mr. Edwards in relation to both the Entirety Value of the property and the discount which he had applied to the Standing House Value. Given that this matter was to be determined on the papers only and given that the Applicants had not been afforded an opportunity to comment upon the Tribunal's initial observations, the Tribunal wrote to the Applicants' solicitor by letter dated the 8th February 2019 and invited the Applicants to make further submissions to address the points which the Tribunal had raised with specific reference to the decisions in Midland Freehold Limited (2017 UKUT 463 LT) and 14 Lennox Gardens (LON/00AW/OCE/2015/0340)
18. The Applicants made further submissions dealing with the issues by way of a letter dated the 28th February 2019 which appended a further letter from Mr. Edwards dated the 26th February 2019 and additional paperwork. The further submissions made no reference to the Midland Freehold or Lennox Gardens decisions but referred to the decision in Clarise Properties Limited. However, the further submissions made no attempt to explain why that decision should be followed in the present application.

Deliberations

19. As indicated to the Applicants in its' letter dated the 8th February 2019, the Tribunal had two concerns in respect of the evidence advanced on behalf of the Applicants. Firstly, The Tribunal were of the view that the Entirety Value advanced on behalf of the Applicants was too low. Secondly, The Tribunal felt that the discount applied to the Standing House Value was too high.

The Entirety Value

20. The Tribunal considers that the Entirety Value advanced by the Applicants' Surveyor is too low. From the Tribunal's own inspection and investigations of comparable property in the area, it appeared to be the case that the appropriate value should be in the region of £150,000 as opposed to the £90,000 which was being advanced by the Applicants' Surveyor.

21. It was for this reason that the Applicant was given the opportunity to comment upon the Tribunal's indication and comparable evidence.

22. In approaching the question of the Entirety Value, the Tribunal must determine the correct value of the property on the basis that the Property has been fully developed and is in good order.

23. Although the Surveyor's report is dated the 20th November 2018 the report confirms that the property was inspected by him some 20 months earlier on the 14th March 2017. Since that date the property has undergone certain refurbishment and this was noted by the Tribunal when they inspected the property.

24. Although the Applicants have submitted comparable evidence, the Tribunal takes the view that the chosen properties are not sufficiently comparable to be compelling.

25. The subject property has the potential to have a further two bedrooms or other accommodation within the roof space that runs the length of the house. Indeed, at inspection the occupier said that they had future plans to develop this area. This essentially means that the property has the potential to have 5 bedrooms. This is substantially larger than any of the comparable properties which have been provided by the Applicant's Surveyor. Two of the comparable properties (20 Waungron and 60 Pontneathvaughan Road) were smaller properties in any event with only 2 bedrooms. The remaining comparables (59 Pontneathvaughan Road and 9 Waun Gron) had been fully developed. For these reasons we do not consider that the comparables supplied by the Applicants provide much assistance.

26. The point was made on behalf of the Applicants that the property was subject to a mortgage valuation in November 2018 and was valued at £125,000. Whilst that valuation is still higher than the £90,000 advanced by the Applicants, it should be noted that the valuation addressed the existing state of the property at that time. It

was not valued on the basis that the property had been fully developed and was in good order which is the exercise that must be undertaken by the Tribunal so in that regard, the mortgage valuation is of limited use.

27. It was further contended on behalf of the Applicants that the property is somewhat remote, only has pedestrian access and that the access in question is in poor condition. The Tribunal does not consider the property to be so remote as to affect the value. Whilst the property does have an unmade track leading to the front of the property, it is very steep and does not appear to have been used for some considerable time. Whilst the pedestrian and vehicular access is poor it could again be used as a means of access to the property and consequently is not a relevant consideration for the Tribunal when considering the Entirety Value of the property.
28. The Tribunal accept that the access to the property is not as convenient as the access to the properties relied upon in the comparable evidence supplied by the Applicant. However, it takes the view that the inconvenience is not such as to affect the value of the property to the extent suggested by the Applicants.
29. Taking all of those points into account, the Tribunal does not accept the Applicants submissions on the Entirety Value of the property. The Tribunal is of the view that the Entirety Value of the property is more properly in the region of £150,000. This view is borne out by the Comparable evidence supplied to the Applicants' Surveyor being 40 A Portneathvaughan Road, 24 Waungron and 5 Glan Gwrelych. The figure advanced by the Applicants is too low and the Tribunal rejects that figure.

Deduction applied to the Standing House Value

30. The second aspect of the Applicants evidence which troubled the Tribunal was the level of discount which the Applicants Surveyor had applied to the Standing House Value. This takes into consideration the appropriate level of deduction to be applied in respect of possible rights under schedule 10 of the Local Government and Housing Act 1989.
31. At paragraph 10.0 of the Report dated the 20th November 2018 a discount of 20% had been applied.
32. In response to the Letter from the Tribunal dated the 8th February 2019, the Applicants Surveyor only referred the Tribunal to the case of Clarise Properties Limited as support for applying a discount of 20%. He did not make any further submissions at all as to why he considered that level of discount to be appropriate and neither did he produce any evidence to support that submission. He made no reference at all to the decisions in Midland freehold Limited or 14 Lennox Gardens.
33. Given that the Applicant has produced no evidence to support a deduction of 20% such a submission is rejected. Indeed, the decision in Clarise followed an unopposed application and the correctness of that decision has been questioned.

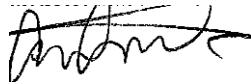
Hague Leasehold Enfranchisement (Sixth Edition) says of the decision in Clarise (at footnote 21 to paragraph 33-07) “that deduction is controversial, not only because it is inconsistent with deductions made in earlier cases but also because there was no evidence adduced to support it”.

34. In the circumstances of the current case, there are 6.4 years unexpired on the current Lease. Accordingly, the Tribunal consider that there is a slight risk of the Lessee remaining in possession at the expiry of the Lease as an Assured Tenant and the Tribunal takes the view that a fair discount in the current circumstances would be to apply a discount of 5%.

Conclusion

35. Aside from the above matters the Tribunal had no other concerns with the Figures provided by the Applicants Surveyor. Therefore, adjusting the figures to take account of the adjusted Entirety Value and Discount the Tribunal finds that the price to be paid for the Freehold interest is £38,869.21 but say £38,870.00. The amended calculations are attached.

Dated this 12th day of April 2019.



Andrew Grant
Chairman

58 Pontneathvaughan Road, Glynneath

Stage 1

Ground Rent	3.00		
Y. P. for 6.4 years at 6.50 %	<u>5.1033</u>		15.31

Stage 2

Entirety Value		150,000	
Plot Value at 33.33 %		50,000	
Modern Ground rent at 5.00 %		2,500	
Y. P. for 50 years at 5.00 %	18.2559		
P. V. of £1 for 6.4 years at 5.00 %	<u>0.7318</u>	<u>13.3596</u>	33,399.00

Stage 3

Standing House Value	90,000		
Less Schedule 10 at 5.00 %	<u>4,500</u>	85,500	
P. V. of £1 in 56.4 years at 5.00 %		<u>0.0638</u>	<u>5,454.90</u>

Total **38,869.21**

Say **38,870.00**