

Y Tribiwnlys Eiddo Preswyl

Residential Property Tribunal Service (Wales)

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DECISION AND REASONS OF LEASEHOLD VALUATION TRIBUNAL Leasehold Reform Act 1967, s.15

Premises: 8 Allensbank Crescent, Heath, Cardiff, CF14 3PR
("the premises")

RPT ref: LVT/0016/07/18

Hearing: 27th February 2019

Order :

Applicant: **Lynne Catherine Foley**

Respondents: **Coolrace Limited**

Tribunal: Mr JE Shepherd – Judge Chairman
Mr M Taylor MRICS - Surveyor member
Mrs A Harrison - Lay Member

DECISION ON APPLICATION FOR PERMISSION TO APPEAL MADE BY APPLICANT

Decision

Permission to appeal is refused.

Reasons

1. Permission to appeal will only be granted where:
 - (a) The Tribunal has wrongly interpreted or applied the law;
 - (b) The Tribunal has wrongly applied or misinterpreted or disregarded a principle of valuation or professional practice;
 - (c) The Tribunal has taken account of irrelevant considerations or failed to take account of relevant considerations or evidence or there was a substantial procedural defect;
 - (d) The point or points at issue is/are of potentially wide implication

2. Ground 1 is misconceived. The Tribunal were perfectly entitled to express concern about the way Mr Fell's evidence was put forward. Whilst there was no expert declaration in the report the report was set out as though Mr Fell was an expert. Although he declared an interest he did not explain what that interest was. Moreover although Mr Fell confirmed the nature of the interest this was only after the issue had been raised by Mr Evans.

3. The Tribunal were entitled to give no weight to Mr Fell's report as an expert report because it self evidently was not an expert report. There was discussion about Mr Fell's report at the start of the hearing when he was asked the status of his report and he said that it was not an expert report but that he had prepared it to assist the Tribunal. It is plain that a non expert report would not be given the same weight as an expert report when it came to expert valuation issues.

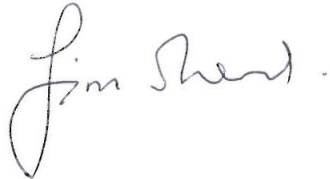
4. Even if Mr Fell had made an application to adjourn the hearing it would have been refused because he/his client had chosen to rely on a non expert report and had therefore guaranteed non - parity between the parties in terms of expert valuation. In any event Mr Fell's evidence was not ignored and was discussed fully during the hearing together with cross examination and questions from the panel.

5. Ground 2 is misconceived. The site percentage from other decisions are across a range but it is not appropriate to take an average of these to arrive at a 33.3% starting point. The Tribunal is not bound by percentage applied in other decisions as each property is unique. In any event, the Tribunal would comment that in 38 Shirley Road the percentage used was agreed between the parties and in 8 Barthrop Street a lower percentage was used of 30%.

6. In the present case whilst the narrowness of the site may have been characteristic of the Crescent this would not mean that a discount in value is not justified when compared to properties of a wider/more standard frontage. The decision was clear as to how the valuation was reached and did not suffer as a result of any failure to declare a starting point. In essence the Tribunal preferred the evidence of Mr

Evans albeit not agreeing that the absence of the rear lane was as significant as he argued. The improvement in traffic arrangements, with the road being stopped at one end is not reflected in the site percentage as this is taken into account in the capital value to which the site percentage is applied.

Dated this 3rd day of June 2019

A handwritten signature in cursive script, appearing to read "Jim Sheel".

CHAIRMAN