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SUPPLEMENTAL REPORT
ON THE
BASIS OF VALUATION
relating to
CHALET 67 KINGSDOWN

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SCOPE OF REPORT

This report is supplemental to our report dated 31 July 2020 which concluded that the freehold interest in Chalet 67 Kingsdown is acquirable pursuant to the Leasehold Reform Act 1967.

This supplemental report addresses the basis of valuation for such a claim.

Valuation

Date

The valuation date for the purpose of calculating the price to be paid for the freehold is the date that the claim is made. It follows therefore that, once the notice of claim is served, the valuation date becomes fixed.

Basis of valuation

There are three different valuation bases under the Act 1967, known colloquially as section 9(1), 9(1A) and 9(1C). As to which basis applies depends on qualifying criteria. A valuation under section 9(1) is the most favourable to the tenant as it is essentially a site value.

In order for the property to be valued under section 9(1) or 9(1A), the tenant must not be reliant for the purposes of qualification on any of the amendments made to the qualifying conditions introduced by either the Leasehold Reform, Housing and Urban Development Act 1993 or the Housing Act 1996. One of the original qualifying conditions was that the property must be within the financial limits specified in section 1(1)(a), (1)(b), (5) or (6) of the 1967 Act, whichever applies.

In order to consider whether the Chalet is within the specified financial limits, it is necessary to consider the rateable value of the property since the Chalet first appeared in the valuation list.

That information in respect of the Chalet is as follows:

13 December 1989

“Bungalow” £103

The rateable value information dated 13 December 1989 refers to a change in the valuation list by the inclusion of the Chalet in the list, so it is apparent that the Chalet did not have a rateable value before 13 December 1989.

In order for the Chalet to be valued under section 9(1), the following criteria must apply:

1. The Chalet must be within the financial limits specified in section 1(1)(a), (1)(b), (5) or (6) of the 1967 Act, whichever is applicable;
2. If it is a tenancy granted so as to become terminable by notice after death or marriage and is (apart from section 1B) a long tenancy within section 3(1), then the tenancy must not be granted before 18 April 1980 or in pursuance of a contract entered into before that date;

3. If the lease was granted before 7 September 2009, it must be at a low rent within section 4(1) of the 1967 Act; and
4. Either:
 - the rateable value of the Chalet on 31 March 1990 must be £500 (being outside Greater London); or
 - where the Chalet did not have a rateable value on 31 March 1990, the financial limit calculated in accordance with the statutory formula contained in section 1(1)(a)(ii) must not be exceeded.

We have considered the criteria in turn as follows:

1. In this case the Chalet had a rateable value on 13 December 1989 of £103, the Chalet not having had a rateable value prior to that date, as referred to. The appropriate day for the purposes of considering the applicable financial limits under the Act is accordingly 13 December 1989.

The lease was granted on 27 January 1989 and, as the following apply, namely:

- the appropriate day falls after 1 April 1973; and
- the lease was not granted before 18 February 1966,

section 1(5)(b) applies. On 13 December 1989 the Chalet had a rateable value of £103, which does not exceed the applicable limit under section 1(5)(b) of £500 for property outside Greater London.

The property is therefore within the financial limit specified in the applicable section 1(5)(b) and so will not fall to be carried out under section 9(1C) unless the low rent test is not satisfied and you are relying on section 1AA of the Act which gives you the right to enfranchise if the rent exceeds the applicable limit referred to.

2. The lease was not granted for the purpose of section 1B.
3. As the lease was granted before 1 April 1990, section 4(1)(i) applies so that the lease will be at a low rent if at any time the rent payable under the lease is less than two thirds of the rateable value on the “appropriate day” or, if later, the first day of the term.

The definition of the “appropriate day” has been amended to mean 23 March 1965 or the date upon which the property first had a rateable value other than nil. On 23 March 1965 the Chalet did not have a rateable value, having not then been built and having first appeared in the valuation list on 13 December 1989.

That being the case, the “appropriate day” for the purposes of section 4(1)(i) is 13 December 1989 when the Chalet first had a rateable value, being £103. The annual rent of £345 (increased by a deed, which we have not seen, from an annual rent of £25) is clearly more than two thirds of the rateable value of £103 on 27 January 1989 and so you will be relying on section 1AA which applies where the rent exceeds the applicable limit.

In your email sent on 8 June at 14:44 you refer to the amount actually payable for 1989 being £226.40. We are unsure what is meant by this, suffice to say that that higher figure will not alter the fact that the current annual rent of £345 will still be more than two thirds of that figure and so the rent is not a low rent for the purposes of section 4(1)(i).

In any case where the tenant is relying on section 1AA the valuation will not fall to be carried out under section 9(1), or indeed section 9(1A), but under section 9(1C).

4. As the valuation is to be carried out under section 9(1C) it is not necessary to consider the criterion referred to in point 4 above.

CONCLUSION

We are satisfied that the valuation will fall to be carried out under section 9(1C) of the 1967 Act.

A valuation under section 9(1C) is on the same basis as section 9(1A), but with modifications.

The purchase price payable by the tenant in cases where the property falls to be valued under section 9(1A) is the amount which, at the date of service of the notice, the house and premises, if sold in the open market by a willing seller, might be expected to realise on certain specified assumptions.

An explanation of those assumptions is beyond the scope of this report which addresses only the basis of valuation, suffice to say that the modifications in respect of a valuation under section 9(1C) will be dependent on the circumstances that give rise to the section 9(1C) valuation being applicable. In addition, and in either case, the landlord can seek payment of an additional amount by way of compensation under section 9(1A), being “other loss”, which is likewise beyond the scope of this report.

As originally enacted, a valuation under section 9(1) is on the basis that the tenant was in the market to acquire the freehold so that his overbid had to be taken into account in ascertaining the purchase price. That informed the need to include an additional element of value, known as marriage value, as part of the valuation. Marriage value is accordingly the additional value released by the conflation of the ownership of the lease with the freehold. In cases where marriage value applies, the tenant will pay a fixed share of 50% of that value to the landlord.

Section 9(1) was subsequently amended by restricting the hypothetical open market. In consequence of the general abolition of the residency test, the assumption is now made of a hypothetical market, with the tenant and members of his family not buying or seeking to buy.

Accordingly a valuation under section 9(1) will exclude any element of marriage value from the purchase price, which is thus restricted to the investment value of the landlord’s interest.

A valuation under section 9(1A) or section 9(1C) will however include marriage value. Marriage value is only payable where the unexpired term of the lease is 80 years or less, which is the case here, your lease expiring on 21 December 2081.

It is perhaps somewhat unfortunate that the annual rent payable under your lease was increased from £25 to £345 by the deed referred to, absent of which the valuation would fall to be carried out under the more favourable section 9(1).

We recommend that you seek specialist valuation advice on the premium payable for the freehold pursuant to the applicable section 9(1C) valuation.

7 September 2020

Edwin Coe