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Our ref: TMS/HG

1st August 2019

By Email Only

Dear Peter

EAST NORTHDOWN HOUSE, EAST NORTHDOWN, CLIFTONVILLE, KENT CT9 3TS (the 'Property')

Further to my letters dated 2nd December 2009 and 18th June 2018, you have kindly instructed me to provide further Expert Opinion as to the diminution in value, if any, of the Property as a result of a longstanding dispute. In the event of a sale of the Property, you will be required to complete a Property Information Form, also known as a TA6 Form which requires, under Section 2, declaration of any Disputes and Complaints. Section 2.1 of the TA6 Form asks, "*Have there been any Disputes or Complaints regarding this property or a property nearby? If Yes, please give details*".

On 18th June 2018 I wrote to Mr James Douglas of DWF LLP in my capacity as an Expert Witness detailing the impact on the Property as a result of an increased commercial use of the road between the Property and East Northdown Farm (the 'Adjoining Property'), particularly in relation to noise and degradation of the road surface. I do not repeat my opinions here but draw your attention to my Expert Opinion given at this time which was in compliance with Part 35 and Practice Direction 35 of the Civil Procedure Rules 1998 and my current advice should be read in this context.

This letter does not go into extensive detail in respect of the longstanding dispute between yourself and Mr William Offley Hinchliffe Friend ('Mr Friend') who is the registered owner of the Adjoining Property. Nevertheless, my letter of 18th June 2018 provides some background and I have also given due regard to the Draft Particulars of Claim which you kindly provided me on 22nd July 2019. In essence, there has been, "*unwarranted hostility and a vindictive campaign against [you] since 1986*" and that Mr Friend has a history of, "*obstructing [your] legitimate use of [your] land*" for more than 30 years.

My letter of 18th June 2018 dealt specifically with the increased commercial use of the road between the Property and the Adjoining Property and the noise nuisance that flowed from such a use. Whilst eluded to, I was not specifically instructed to consider the impact on the Property of a history of neighbourly disputes and the diminution in value when such disputes are stated on the TA6 Form. As such, this letter serves as additional Expert Opinion from that given on 18th June 2018 and is undertaken in compliance with Part 35 and Practice Direction 35 of the Civil Procedure Rules 1998.

In undertaking my research, I have canvassed the opinions of estate agents, particularly those within Strutt & Parker, who have dealt with the transaction of properties with a history of neighbourly disputes. I have also had due regard to the Court of Appeal Decision in *Raymond v Young* [2015] EWCA Civ 456 and the judgement of Lord Justice Patton on 22nd April 2015. The case of *Raymond v Young* has a number of striking similarities including continuous acts of harassment, trespass and nuisance by Mr Young and members of his family against Mr and Mrs Raymond over a substantial period of time. Mr Recorder Duncan Smith heard expert evidence about the valuation of Mr and Mrs Raymond's property, Lin Cragg Farm (the 'Farm'), in light of the harassment, trespass and nuisance of Mr Young. Mr Humphrey Nicholson FRICS, who was called by the Claimants, expressed the opinion that the Defendants conduct had resulted in a diminution in value of 20% which, on a valuation of £850,000 for the Farm, amounted to £170,000. The Defendant's Expert was Mr Howard Whitaker FRICS who said that in his opinion there would be no diminution in value post the making of the Order if the Court granted injunctive relief (as it did) to prevent further acts of nuisance and



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harassment occurring in the future. The behavior complained of was historic and had ceased with the injunctions. The Recorder in *Raymond v Young* preferred the evidence of Mr Nicholson to that of Mr Whitaker and therefore accepted that there had been a diminution in the value of the Farm. But he adjusted the amount of the diminution to £155,000 by treating the acts of nuisance as having a detrimental effect upon the value of the Farm itself rather than upon additional land which the Raymonds had subsequently acquired. The judgement of Lord Justice Patton was to agree with the Recorder in this percentage but to reduce it further by any other damages for loss of value such as noise, to avoid double counting. Lord Justice Patton concluded that a future purchaser of the farm is likely to face a continuation of threat from Mr Young and that the dispute between the parties was more than a personal one.

In looking at other disputes through discussions with estate agents, it is clear that the vast majority of these relate to single actions, often encroachment or disputes over rights of access. Often, when these disputes are resolved then that gives complete closure and an incoming purchaser can take comfort that the threat of future neighbourly dispute is minimal. Likewise, some disputes appear to be forged on a longstanding hatred of two neighbours, often over very petty matters, and when one or other of those parties is removed from the equation then the future threat of dispute is largely removed.

It is hard to categorically state in this case whether or not there remains a future threat of dispute in the event that you sell the Property and move away. However, what I can say is that the dispute history has evolved from the early transaction of parts of your Property from Mr Friend and his predecessors and that over the last 30 years or so there have been numerous instances of dispute arising from a number of different facets of your ownership of your Property. It is therefore clear to me that there does indeed remain a future threat from Mr Friend even after the sale (albeit hypothetical) of your Property given the land transfers which have occurred over time and disputes over access. Furthermore, it is likely that Mr Friend will continue to develop the Adjoining Property, either lawfully or otherwise, and this must be a concern to an incoming purchaser of the Property, particularly given the acrimonious history of disputes between you and Mr Friend.

In light of this, I consider the similarities in the *Raymond v Young* to apply equally here and I am therefore of the opinion that the diminution in value of the Property as a result of the history of disputes with Mr Friend is 20% of £1,125,000 equating to **£225,000**. Should there be any award to you in respect of the nuisance caused by noise from an increased commercial use of the road between the Property and the Adjoining Property then this would need to be deducted from this sum if one is to follow the judgement of Lord Justice Patton.

The base value of £1,125,000 is the same as that reported on 18th June 2018. Since this time, the market has continued to fluctuate in light of Brexit and wider political uncertainty. However, I consider the Market Value of the Property to be unchanged as the value has been improved by virtue of planning permission being granted for an extension to the cottage which off-sets, in my opinion, any small drop in value over the last 12 months in light of wider volatility in the housing market. I have also given due regard to potential development of other parts of your Property but until such time as this is crystallised by way of a planning permission I do not consider that there is further value to be added to the Property. However, this may change in the fullness of time and therefore I reserve my position in the event that planning permission is granted for new development within the grounds of the Property before this latest claim is resolved.

With kind regards

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tim Mitford-Slade', with a long, sweeping horizontal line extending to the right.

Tim Mitford-Slade MLE MRICS
Director & Registered Valuer