

Residential
Property
TRIBUNAL SERVICE

**Ref LON/OOAG/OCE/2008/0178
LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT
ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTION 24 OF THE LEASEHOLD REFORM,
HOUSING AND URBAN DEVELOPMENT ACT 1993**

Property: 21 Campayne Gardens, London, NW6 3DP

Applicants: 21 Campayne Gardens Limited (Nominee Purchaser)

Represented by: Swabey & Co Solicitors

Respondent: Callcott Holdings Limited

Represented by: S.D. Rosser & Co Solicitors

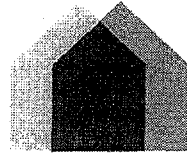
Application date: 10th June 2008

Hearing date: 14th October 2008

Members of the Leasehold Valuation Tribunal:

Mr T J Powell LLB
Mr. P Tobin FRICS MCI Arb

**Date of Tribunal's
decision:** 14th October 2008



**Residential
Property**
TRIBUNAL SERVICE

**Decision of the London Leasehold Valuation Tribunal
s 24 of the Leasehold Reform, Housing and Urban Development Act 1993**

Reference: LON/00AG/OCE/2008/0178

Applicants: 21 Compayne Gardens Limited (Nominee Purchaser)
Benita Tandon (1) Ido van der Heijden (2) Zoe Rebecca
Joanna Strimpel (3) & Richard John Martin Hendy (4)
(participating tenants)

Respondent: Callcott Holdings Limited (Landlord)

Property: 21 Compayne Gardens, London NW3 3DG

Date of tenants' notice: 6 February 2008

Date of counter-notice: 8 April 2008

Application: 11 June 2008

Directions: 25 June 2008

Hearing: 14 October 2008

Date of inspection: n/a

Valuation date: 6 February 2008

Appearances: For the Applicants:
Ms A Schreierova, solicitor, Swaby and Co
Mr N P Braham, valuer, Braham Sears & Partner
For the Landlord:
Mr J O'Mahoney, counsel, instructed by S D Rosser & Co
Mr T Firrell FRICS MEWI MAE, chartered surveyor

Members of the Tribunal: Mr T J Powell LLB
Mr P Tobin FRICS MCI Arb

Date of Tribunal's Decision: 14 October 2008

Introduction

1. By an Application dated 11 June 2008, the Applicants applied to the Tribunal for a determination of the price payable and the other terms of acquisition in respect of the collective enfranchisement of 21 Compayne Gardens, London NW3 ("the Property") under Section 24 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act").
2. In the Initial Notice served by the Applicants, they had sought to acquire the roof space as appurtenant property. The Respondent did not request a leaseback of the roof space in its Counter Notice and declined a subsequent offer of a leaseback by the Applicants.
3. By the date of the hearing, all issues between the parties had been agreed in a signed Joint Statement dated 10 October 2008, save for the following two matters:
 - (i) Whether any value attached to the Landlord's freehold interest in that part of the roof space not demised with the top flat; and
 - (ii) The amount of the Landlord's valuer's fee payable by the Applicants.

Inspection

4. The parties did not consider that it was necessary for the Tribunal to inspect the property and the Tribunal agreed.

Agreed Facts

5. The following valuation matters had been agreed:
 - (i) The description of the property, its accommodation and floor areas;
 - (ii) The valuation date is 6 February 2008;
 - (iii) Term, deferment and relativity rates at 6.5%, 5% and 92% respectively;

- (iv) Open market values of flats with share of freehold. The value of the Landlord's freehold interest excluding the roof space was agreed at £71,500.

The value of the roof space

6. Evidence was given to the Tribunal by Mr Firrell, the valuer on behalf of the Respondent, and Mr Braham for the Applicants.

Mr Firrell's evidence

7. Mr Firrell prepared a valuation to demonstrate that the value of the Landlord's interest in the roof space was £17,313. He calculated this by taking £150,000 as the additional value of the top floor flat with the benefit of a loft conversion, from which he deducted £132,687 for construction costs, professional fees and VAT, leaving a net valuation of £17,313.
8. Mr Firrell stated that floor space was at a premium. In his experience, many other local properties had loft extensions and it would be an economic proposition to extend the top floor flat. He sought to justify his cost estimate as best he could in the absence of plans, specifications or contractors' estimates. He accepted that his figures had not included structural engineer's works for re-arranging the roof support, or development finance. He also accepted that there would be a degree of "hassle and stress" and that the lessee of the top floor flat would forego some floor space to accommodate an access staircase into the roof.
9. He was not a building surveyor and had no professional experience of supervising loft conversions, though he did have some personal experience on behalf of himself and family.

Mr Braham's evidence

10. In Mr Braham's opinion, the roof space had no market value. The only possible purchaser could be the top floor flat lessee, who controlled the only access to the roof space. No planning permission had been obtained or applied for. There was no indication that planning permission might be granted, or what accommodation could be created. The lessee of the top

floor flat was a buy-to-let investor, with no interest in creating an extension into the roof space.

11. Both valuers accepted that the loft could not be developed except possibly to provide an additional room or rooms for the top flat. Mr Braham considered it uneconomic and was critical of Mr Firrell's valuation approach pointing out that it was not supported by measurements, quantities or contractors' estimates.
12. Mr Braham did concede in response to a question from the Tribunal that a notional market purchaser of the top flat lease might see potential for a loft extension. In his opinion, they would not, however, offer more than £500 for this potential.

The Tribunal's decision

13. Having considered all the evidence the Tribunal accepts that there is a significant premium upon residential space in West Hampstead. There is some potential development value in the roof space at this property and evidence of similar extensions locally suggests that it might be economically viable. Nevertheless, restricted headroom and other constraints mentioned by Mr Braham would have a limiting effect upon size, layout and flexibility. The value of any such development potential is subjective. Given Mr Firrell's limited professional involvement in loft extensions, the lack of detail in his calculations and the fact that he had not personally inspected the inaccessible loft area under discussion, the Tribunal could not place reliance on his figures.
14. The Tribunal obtained some guidance from previous decisions referred to in submissions, but considered each case must be decided on its own facts.
15. The Tribunal finds in favour of the Respondent as far as the principle is concerned that there is development value in the roof space. The Tribunal regards Mr Firrell's estimate of £17,313 as speculative and, using its own knowledge and expertise, determines that a notional purchaser in February 2008 might pay a 1% premium for potential development value. Using the agreed open market value with a share of the freehold for the

top floor flat of £600,000, the Tribunal determines that the premium for the loft space shall be £6,000, increasing the total enfranchisement price from the agreed £71,500 to £76,500, including the roof space.

Landlord's valuer's fees

16. On the issue of the landlord's valuer's fee, £2,000 plus VAT, Ms Schreierova for the Applicants submitted that £1,250 plus VAT would be reasonable. She drew attention to the fact that the invoice pre-dated Mr Firrell's inspection of the Applicants' flats, that he had previously inspected one of the flats in question, and there was no evidence as to the time he had taken or as to his hourly rate.
17. Mr O'Mahoney for the Respondent explained that Mr Firrell's fee was based on a charge of £500 per flat (x 4) and that his hourly rate was £225 plus VAT. He drew attention to the last minute negotiations in an effort to settle prior to the hearing, for which no separate charge had been made to the Applicants, though the Tribunal pointed out that such costs were not claimable as landlord's costs of enfranchisement under section 33 of the 1993 Act.

The Tribunal's Decision

18. The Tribunal considered that the fees charged to the Applicants for the valuation work carried out, limited to the fees allowable under section 33, were excessive.
19. The Tribunal accepts Ms Schreierova's submission that £1,250 plus VAT was a reasonable amount.

Chairman: T. Powell

Date: 17-10-2008