



Residential  
Property  
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**Case Reference: LON/00BK/OCE/2008/0199**

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

**Premises: VANDON COURT, 64 PETTY FRANCE LONDON SW1 9HE/F/G**

**Applicants: VANDON COURT FREEHOLD LIMITED AND OTHERS**

**Respondent: JUSTHOLD LIMITED**

**Appearances for Applicant: MR G VAN TONDER OF COUNSEL**

**Appearances for Respondent: MR M SEFTON OF COUNSEL**

**Date of Hearing: 28 October 2008, 12-14 January 2009 and 2 April 2009.**

**Date of Decision: .....20 April 2009.....**

**Leasehold Valuation Tribunal: Mrs F J Silverman DipFr LLM  
Mr R Potter FRICS  
Mr I Thompson Bsc FRICS**

## DECISION

The sum payable by the Applicants for the acquisition of the freehold interest in the property is £1,191,737.

## REASONS

- 1 The Applicants made an application to the Tribunal under s24 Leasehold Reform Housing and Urban Development Act 1993 in relation to the acquisition of the freehold interest in the property known as Vandon Court 64 Petty France London SW1 9HE/F/G (the property).
- 2 The hearing of the matter was scheduled for 28 October 2008 and initially took place before a Tribunal consisting of Mrs F J Silverman and Mr R Potter. At that hearing both parties sought an adjournment and additionally the Tribunal considered that the case required the assistance on the Tribunal panel of a building surveyor.
- 3 Accordingly the matter was adjourned to 12 January 2009 at which time Mr I Thompson joined the Tribunal panel for the remainder of the hearing days. The hearing was not concluded on the allocated days in January 2009 and was reconvened on 2 April 2009 to hear the remaining evidence and submissions and for the Tribunal to deliberate on its decision .
- 4 When the Tribunal reconvened on 12 January 2009 a large number of matters had been agreed between the parties and only three items remained unresolved in relation to the freehold acquisition price. These were : the price payable for the caretaker's flat; the prices payable for the three development sites ; and the price payable for flat 46.
- 5 These three matters remained unresolved because the parties had reached entirely different conclusions as to their value and validity as discussed below.
- 6 In the light of the large number of matters agreed between the parties it is only necessary for this decision to deal with the unresolved matters. A statement of agreed facts issues and schedules was handed to the Tribunal at the commencement of the hearing.
- 7 The Valuation date was agreed as being 1 November 2007.
- 8 Several agreed volumes of documents were handed to the Tribunal at the commencement of the hearing. Reference is made below to various pages in those documents.
- 9 In support of the Applicants' case we heard evidence from Mr Goodman , Mr Marston and Mr Channer. On the Respondent's behalf we heard evidence from Mr Riley, Mr Poyner, Ms Ford, and Mr Coates.
- 10 The Tribunal inspected the property on 12 January 2009. The property is a purpose built block of flats occupying an almost triangular site between Petty France and Vandon St . The main

entrance to the block is on Petty France where vehicular access and deliveries can be restricted because of the presence of barracks on the opposite side of the street. A second entrance in Vandon St does is accessible to vehicles but is narrow and with restricted space and parking/loading. The third side of the building is bounded by Vandon Passage, a pedestrian passage. A side entrance to the block (currently not in use) is situated towards the Petty France end of the passage and leads to the basement service area. There is no on site parking and only very restricted parking in adjacent streets. The block is however very centrally placed with all amenities close by including overground and underground railways and St James' Park. The block is of typical 1930's construction and architecture with Critall type metal windows. It comprises 97 studio and one bedroom flats on wings of five and nine stories and a basement, including a new wing on the sixth floor which was added on top of an existing roof level a few years ago. The tank room serving the majority of the flats is situated on the roof and the boiler room and other services are located in the basement. Some of the flats overlook an interior courtyard/ light well which is accessed from a door at ground floor level. One side of that courtyard forms the exterior wall of the adjacent building. The exterior of the block was in reasonable condition. The entrance hall and common parts were utilitarian and in reasonable but not inviting condition. Two old fashioned lifts serve the main wing only of the block.

- 11 We inspected the interior of the Caretaker's flat (no 5 on the ground floor, facing Vandon Passage). This is a small one bedroom flat with a tiny unmodernised kitchenette and small basic bathroom, both rooms opening off the entrance lobby. The kitchen was too small to accommodate the fridge and washing machine which were sited in the entrance lobby. The single living room was of reasonable size but the bedroom leading off the living room was cramped. As with the other flats in the block, water and central heating was supplied from the central systems serving the whole block (with the exception of the 'new wing' on the roof of the sixth floor which had a separate system).
- 12 The outside of Flat 97 was pointed out to us as this was cited as a comparator flat for the purposes of this case. This is a one bedroomed flat on the ground floor front corner of the block, bordering Petty France and Vandon Passage. All the windows in this flat were of frosted glass to preserve privacy.
- 13 We inspected the tank room on the roof of the main block. This is currently accessed from an exterior metal staircase outside a door on the ninth floor of the building. Most of the space inside this room is taken up by the water tanks pipes and equipment used to supply water to the flats. A small terrace outside the tank room is cluttered with pipework and equipment all of which would need to be re-sited if the room was to be converted into a penthouse flat. There are reasonable views of central London and St James' Park from the terrace. The lift shaft and equipment are housed on this roof area adjacent to one wall of the existing tank room and it was not



- proposed to re-site these in the case of development of the tank room . An aerial was sited on the roof and we were told that a lease enabling a further aerial/mast to be erected had been entered into.
- 14 The proposed site of a new flat on the flat roof of the sixth floor was not accessible on our inspection but we viewed the proposed site from inside the existing building. This site faces Vandon St and currently houses another tank room which would need to be demolished if development were to be carried out.
  - 15 The basement area of the building is accessed from a wide internal staircase leading down from the ground floor lobby. It comprises several rooms including the main boiler room and store rooms. Our attention was directed to a currently disused basement area which for which planning permission had been granted for conversion into a split level flat. The proposed flat would take in the dark basement area which we inspected together with an upper level comprising a disused toilet block and would extend over part of the existing light well to provide additional daylight. The existing basement area was itself split level with an extremely low ceiling height in one area, exacerbated by the presence of exposed pipe works crossing the area. One very large pipe traversing the basement area was described to us on inspection as a main sewage pipe but this description was later changed during evidence to a rainwater drain pipe. The only existing natural daylight came from a frosted glass window overlooking the central light well. A number of services situated in or crossing this area would need to be re-sited if development was to take place. A small courtyard outside the basement gave pedestrian access to Vandon Passage . An electricity sub-station presently housed in the courtyard area was proposed to be used to re-house some services if development took place but no enquiries had been made to ascertain whether the sub-station was still in use or what the terms of its current use were.
  - 16 Planning permission for all three proposed new flats had been obtained by the Respondents , one such for the basement area had been granted after the valuation date but the Applicants raised no objection in relation to this.
  - 17 All three of the proposed developments would be difficult and expensive to carry out. There would be substantial amount of demolition and renewal/ re-siting of existing services before any construction could take place. Access to the sites was limited both in terms of vehicular access, storage of materials and physical access for labour and materials.
  - 18 The Respondents argued that the proposed developments were realistic and viable whereas the Applicants maintained that the developments were uneconomic and thus added no value to the property.
  - 19 For the Respondents we heard evidence from Mr Riley who appeared to have limited experience of work on similar sites in central London. He had costed the building works from the Wessex pricing book using scales applicable to the refurbishment and alteration of an existing building. Although he said he had adjusted the prices to

reflect a London site, the Tribunal considers that his pricings had not taken into account the complexities of this project, the particular difficulties presented by this site or its restricted access and difficult working conditions. He had taken some of his figures directly from those supplied to him by the Respondents' mechanical and electrical engineer without checking them, and had not included a figure for tanking the basement area despite the fact that the property was known to be situated in a flood risk area and tanking had been recommended by the architect (page 282). The mechanical and engineering costs had similarly been calculated by effecting a desk top exercise without regard to the peculiarities of the site (evidence of Mr Poyner). The Tribunal considered that his daily rates for labour at £130 per day for labour and £160 per day for trades were too low for London workers. He had allowed an insufficient contingency of 5% and had not included rates for a site foreman. We considered that some of his figures were totally unrealistic, for example, he had allowed only £3.03 for the removal of a door and its frame and only £100 including labour and materials for painting 26 sq m of skirting board. He had allowed only 18 weeks for completion of the project comprising all demolition works and the construction of all three new flats which, given both the complexities of the project and the difficulties of the site, its access and the limited space available for storage of materials seemed to the Tribunal to be too short. Mr Riley admitted in evidence that his figures for preliminaries and scaffolding would need to be adjusted upwards. Adjusted figures were presented to the Tribunal on 2 April 2009 but even these figures contained arithmetical inaccuracies.

- 20 Neither Mr Riley nor Mr Goodman for the Applicants had included VAT in their calculations. The parties agreed during the hearing that a substantial part of the works would attract VAT and this would necessarily have a major upwards impact on the costings.
- 21 For the Applicants we heard evidence from Mr Goodman. He had inspected the site but had prepared his costings on the basis of the bare outline plans as supplied by the Respondents. Unlike Mr Riley he had not had the benefit of seeing a detailed specification of the proposed works. For that reason some of his costings were more general and some were considered by the Tribunal to be over generous. For example, we considered that an allowance of £7000 for lighting of the basement flat, even given its restricted daylight, was far too high. Similarly, the allowance of £25,000 for underpinning was excessive. Mr Goodman had however allowed for employment of a site foreman and his estimate of 27 weeks for completion of the project was more realistic than the 18 weeks allowed by Mr Riley. Mr Goodman had costed the project from his experience of similar projects with which he had been involved in central London.
- 22 Given this diversity of approach by Mr Riley and Mr Goodman there was a wide disparity between the construction costs allocated by each of them to the construction of the three new flats. For the

basement flat Mr Riley had allowed £119,000 whereas Mr Goodman estimated a cost of £460,000. Mr Riley costed the tenth floor penthouse at £108,000 as opposed to Mr Goodman's £317,000 and for the sixth floor flat Mr Riley gave a figure of £178,000 contrasted against Mr Goodman's estimate of £298,000.

- 23 The agreed re-sale values of the proposed new flats which had been initially agreed between the parties' valuers were : for the tenth floor penthouse, £275,000; for the sixth floor flat , £330,000 ; and for the basement flat , 420,000. Subsequently Mr Channer, for the Applicants, reduced his opinion to £220,000 for the top floor and £325,000 for the basement.
- 24 Despite the fact that the Tribunal found some of Mr Goodmans' figures to be inflated, it found Mr Goodman to be a more reliable witness than Mr Riley whose figures were both inaccurate, incomplete and in places unrealistic. On the balance of the evidence we therefore prefer that of Mr Goodman to Mr Riley.
- 25 Mr Goodman's figures (even without taking into account VAT) clearly demonstrate that the costs of building each of the three new flats would exceed the market price obtainable for them on sale. Even if Mr Goodman's figures were to be reduced by say 50%, they would still result in a negative value for these proposed developments based on the figures initially agreed.
- 26 On this basis therefore, as an expert Tribunal we conclude that there is no value to be added to the freehold reversion by the proposed new developments.
- 27 In relation to the caretaker's flat arguments were put forward relating to the validity or otherwise of a lease of that flat recently granted by the Respondent. That lease was not in existence at the valuation date (1 November 2007) and thus is not relevant to the issues under discussion.
- 28 The leases of the flats (clause 5(6)(h)) impose an obligation on the landlord to maintain caretaker services and to provide accommodation for the caretaker either within the block or elsewhere. There is therefore no reason in law why the landlord should not choose to sell the caretaker's flat, to re-house the caretaker in a rented flat elsewhere and to charge the cost of that rent to the service charge.
- 29 The virtual freehold value of the caretaker's flat had been agreed at £252,000 and as at the date of valuation the caretaker was in actual occupation. If the Respondent had chosen to re-house the caretaker and sell that flat, it would have had to pay about 3% in legal and estate agency fees for the sale and would also have had to pay the caretaker's relocation expenses which we estimate to be about £5000. These figures reduce the virtual freehold value of that flat to £240,000 which we assess as the appropriate value for Flat 5.
- 30 The final matter in dispute between the parties related to Flat 46 where in 1987 a lease extension had been granted to the then tenant . The lease extension had not been registered at the Land Registry. The Tribunal was asked to determine the effect of this lease



extension on the value of the flats in the block. If the extension was not valid the unexpired residue of the term would be 28.87 years, but if it were binding on the reversioner the length of the unexpired term would be 78.08 years.

- 31 To take effect as a legal lease the extension should have been registered under Land Registration Act 2002. It therefore cannot exist as a legal lease, but remains as an equitable interest in the property. An equitable lease can be binding against the landlord as an overriding interest provided that the tenant is in actual occupation of the property. Although we were told that the tenant had died very recently, we heard no evidence to suggest that the tenant had not been alive and in occupation of the property at the valuation date of 1 November 2007. On that basis therefore we conclude that the tenant's lease extension comprised an overriding interest which was binding on the freehold reversioner as at that date. If this assumption is not correct then the value of the flats as shown in the calculation below should be increased by £71,700 (a figure agreed by the parties).
- 32 We therefore value the freehold reversion as follows :

For the existing flats (agreed value )	£568,800
For the Microcell equipment/mast (agreed value)	£ 19,200
For the potential 2 <sup>nd</sup> telephone mast (agreed value)	£ 50,000
For Flat 5	£240,000
For the three development sites	£000,000
For the Headleaseholder's interest (agreed value)	£306,737
Hope value for all flats	£ 7,000
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TOTAL	£1,181,737

Frances Silverman  
Chairman

20 April 2009