

REF: LON/LVT/1576/03

LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT
ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATION
UNDER S.21 OF THE LEASEHOLD REFORM ACT, 1967 AS AMENDED BY THE
LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT, 1993

Applicant: Cerium Investments Ltd

Respondents: Rienzi Felix Fernando, Shamira Anne Fernando, Shehane Mary
Fernando, Dilhan Fernando

RE: 16, Hornton St, W8

Application date: 12 March, 2003

Hearing date: 1/2 July, 2003

Appearances: For the Applicant: Mr Simon Burrell of Counsel instructed by
Pemberton Greenish, Solicitors
Mr David Radford of Knight Frank

For the Respondents: Miss K Holland of Counsel instructed by
Seddons, Solicitors
Mr Ian Asbury BSc, MRICS of Stiles Harold Williams

Members of the Leasehold Valuation Tribunal:

Mrs J. Charles LLB (Chairman)
Mrs J. McGrandle BSc, MRICS, MRTPI
Mr F James FRICS

Date of the Tribunal's Decision: **5 AUGUST 2003**

1.0 Introduction

1.1 This is an application made by Cerium Investments Ltd. ("the applicant") for the determination of the enfranchisement price as at 17 December 2002, the date of receipt of notice of claim, for the freehold interest under S.9 (1C) of the Leasehold Reform Act, 1967 as amended by the Leasehold Reform, Housing and Urban Development Act, 1993 in respect of the house and premises at 16 Hornton Street, W8 ("the property").

1.2 The respondents, Mr Rienzi Felix Fernando and his three daughters Shamira, Shehane and Dilhan, acquired in September 1998 the tail end of a lease of the property for the residue of a term of 99 years from 25 March, 1903. They are therefore at the date of valuation holding over under an expired lease and the property falls to be valued with vacant possession.

1.3 Following the hearing, the Tribunal made an internal inspection of the subject property and external inspection of three comparables in the area quoted by the applicant.

2.0 The Property

2.1 This comprises a substantial six-storey (basement, ground and four upper floors) mid-terraced house situated at the southern end of Hornton Street which itself fronts Kensington Town Hall. Built in 1904 or thereabouts in the Dutch style in accordance with the pattern of the terrace, the property is not listed but is included within the Kensington Conservation Area . At the rear is a narrow communal garden running the length of the terrace.

2.2 The property's location in the heart of Kensington is described in the evidence which is on file.

2.3 Hornton Street is a busy one-way street bringing traffic down from Campden Hill to Kensington High Street and its public transport facilities and multiple stores. Kensington Gardens and Holland Park are within easy walking distance.

2.4 Following planning permission granted in 1971, the property was converted

from a single dwelling house into four units:

Ground/lower ground floor (maisonette)	Flat A
First floor	Flat B
Second floor	Flat C
Third/Fourth floor (maisonette)	Flat D

and this is how the Tribunal found the property on its inspection (see later).

3.0 Agreed Facts

3.1 A statement of agreed facts dated 16 June 2003 is attached as Appendix 1. In particular, the GIA of the property is 4,180 sq.ft.

3.2 This statement, which was of course signed by both parties, contains the following fact:

“3.4the existing unencumbered unimproved value of the property is.....£2,097,000.

3.5 The only matter in dispute relates to the appropriate discount from the open market value of the freehold interest to reflect the added value of any improvements carried out by the tenant.”

It emerged however during the hearing that Mr Asbury, for the respondents, had understood the figure of £2,097,000 to represent the fully modernised condition of the property ie into flats but those flats being in better condition than existing at the valuation date. He therefore sought to withdraw his agreement to this part of the statement.

4.0 Issues

4.1 The value of the unimproved, unencumbered freehold interest in the property, ie, the value of the property in its configuration as a single house prior to the 1971 conversion works, in tenantable repair, unmodernised and with vacant possession.

4.2 This value was assessed at £2m by Mr Radford for the applicant and at £1.27m by Mr Asbury for the respondents.

5.0 Hearing

1) The case for the applicant

5.1 It was Mr Radford's case that the likely purchaser of a house in this location would be either a developer (of flats) or a private purchaser looking for a family house. He concluded that a private purchaser would outbid a developer and assessed the value of the property ripe for re-conversion to a house at £2m. A developer, on the other hand, could afford to pay no more than £1.77m, based on discounting development costs against a gross development value ("GDV") of £2.4m.

5.2 To support his figure of £2m, Mr Radford had undertaken a trawl of W8 houses which had been sold since 1 January, 2000 with GIAs up to 5,000 sq.ft and values up to £4m. Admitting that the evidence for unimproved houses in Kensington coming on to the market was slim, he asked the Tribunal to look at three comparables:

30 Phillimore Walk W8

Sold in May, 2002 freehold for £620,000 (£571 per sq.ft.) GIA: 1,085 sq.ft. Unmodernised, with a double garage, no garden but close to the subject property. Discounting £75 per sq.ft. for the smaller size of Phillimore Walk, he analysed this purchase to assess the value of the subject property at £2,073,000.

10 Strathmore Gardens, W8

Sold in September, 2000 freehold for £2,150,000 (£440 per sq.ft.) GIA: 4,877 sq.ft. No garden, low quality of refurbishment but with a garage and in a better location than the subject property. Adopting the values set out in Savills Prime Central London Index (PCL West Houses) to update for passage of time (plus 3.7% ie £457 per sq.ft.) he assessed an equivalent value for the subject property of £1.91m.

48 Stanford Road, W8

Sold in September 2002 freehold for £1.25m. (£596 per sq.ft.) GIA: 2,094 sq.ft.
No off-street parking, small rear garden, affected by Underground railway but with a better address.

Discounting £100 per sq.ft. for Stanford Road being a better address, he assessed an equivalent value for Hornton Street of £2.073m.

5.3 To test these figures, Mr Radford handed in during the hearing evidence of recent transactions of flats in Hornton Street and nearby:

7, Marloes Road

1) 2nd floor flat. Sold fully modernised for £310,000. April ,2002. GIA: 540 sq.ft. Updated to valuation date and analysed at £713 per sq.ft.

2) 3rd floor flat. Sold fully modernised for £325,000. February ,2001. Updated to valuation date and analysed at £654 per sq.ft.

30A Hornton Street

Ground/lower ground maisonette. Sold for £740,000. March, 2003. Newly refurbished. Built over rear patio. GIA: 1605 sq.ft. Analysed at £461 per sq.ft.

20 Hornton Street

2nd floor flat. Sold unmodernised for £310,000. March 2002. 78 yr unexpired term. GIA: 588 sq.ft.
Analysed at £527 per sq.ft.

5.4 Miss Holland on behalf of the respondents criticized the comparables put forward by Mr Radford. She stated that they were all so different from the property that in each case substantial adjustments were called for. She also stated that the £2.4m GDV put forward by Mr Radford was not supported by any evidence, unlike Mr Asbury's equivalent figure of £2.097m which was supported by transactions in

Hornton Street.

2) The case for the respondents

5.5 It was Mr Asbury's case that the likely purchaser of the unconverted property would be a developer who would convert the property into four self-contained units. To support this assertion he stated the following:

- The character of Hornton Street had changed so significantly that it was no longer regarded as an acceptable "house" location
- Hornton Street was now a busy town centre location
- The property did not have its own garden
- With the exception of only two (lower built) houses at the northern end , all the neighbouring houses had been converted into flats
- The size of the property, at over 4,000 sq.ft., took it outside the main market for family houses in Kensington, which was for properties of 2,500/3,000 sq.ft.

Accordingly, he concluded that there was no market for a family house of this size in this particular location. Any purchaser of the unimproved house would undertake the conversion and improvement works necessary to create the flatted type of development as existing today.

5.6 Taking a residual approach to his valuation, Mr Asbury valued each flat separately to reach a total figure of £2,097,000 as set out in the agreed statement of facts but as representing the fully modernised conversion ie GDV of the property into four flats. Against this figure he then discounted the following:

Total conversion costs (calculated by a building surveyor)	£629,428
Legal and agency fees @ 2.5%	£52, 425
Developer's profit @ 15%	£94,414
Stamp duty	£50,800

which produced a net "site" value of £1,270,000.

5.7 In support of this figure, Mr Asbury had analysed the sale of 10 Strathmore Gardens, a comparable put in by Mr Radford. After discounting for the garage and then adjusting for passage of time, he reached a figure of £1.934m. as the value of the subject property if newly refurbished to Strathmore Gardens condition. From this figure he then deducted £100 per sq.ft. for refurbishment costs and a further 15 % for “hassle” and inferior location to reach an unimproved value of £1.29m for the subject property, in the event a somewhat higher figure than his value of £1.27m.

5.8 Mr Burrell drew the Tribunal’s attention to the discrepancy between the figures thrown up by the open market transactions quoted by Mr Radford and the figures adopted by Mr Asbury in his residual valuation approach:

1) His valuation of £700,000 for the GDV of the basement/ground floor maisonette at the subject property failed to recognise the potential development value of the rear patio, as witnessed by the sale of the newly refurbished flat at 30A Hornton Street.

2) His valuation of £325,000 for the GDV of the second floor flat at the subject property compared with the sale price of £310,000 for 20 Hornton Street, sold unmodernised. The margin was only £15,000, yet his figures suggested a figure of £90,000 (£150 per sq.ft.) for refurbishment.

3) The Marloes Road sale at £310,000, if uplifted for time, say, £350,000, would give a GDV of £648 per sq.ft. ($\frac{£350,000}{540}$) compared with Mr Asbury’s overall GDV of £502 per sq.ft ($\frac{£2,097,000}{4,180}$).

6.0 Inspection

6.1 The Tribunal inspected the property after the hearing. Although the terrace was wholly residential, the presence of the traffic, the ramp to the underground car park and the Town Hall gave a somewhat commercial feel to the locality. The corresponding, stucco-fronted, terrace at the southern end of Campden Hill Road facing east towards the Town Hall was noted. The Committee walked the length of the communal garden and saw that the smaller houses in Holland Street also had access to this garden at its northern end. All houses in Hornton Street retained their original external form, including their 4-storey back additions. Some houses

had built wholly or partly over their basement rear patios. Internally, the four upper floors of the house had a very open and green aspect on both elevations. On the front elevation the Central Library had been set back to accommodate the parking ramp. On the rear elevation there were views eastwards towards the distant St Mary Abbots Church over the roofs of Drayson Mews. Apart from some dampness on the rear elevation, the property appeared to be structurally sound and had been well maintained. The Tribunal noted that since the 1971 conversion, new kitchens had been fitted to Flat B (first floor) Flat C (second floor) and Flat D (third/fourth floor).

7.0 Decision

7.1 It was clear to the Tribunal that the figure put forward by Mr Asbury of £1.27m as the value of the unimproved house was far too low. Applying the resulting conversion factor of £304 per sq.ft. ($\text{£1.27m}/4,180 \text{ sq.ft.}$) to the average Kensington family house size of , say, 2,500/3,000 sq.ft. - the size Mr Asbury himself put forward during the hearing to justify his case that there would be no family purchasers for a house of 4,180 sq.ft. - would produce a figure of £760,000 /£912,000 for a large, unconverted but in tenantable repair VP house in Kensington as at December, 2002. Such a figure lacks credibility.

7.2 The reason the figure of £1.27m was so low was because Mr Asbury had adopted a gross development value of £2.097m which, it emerged during the hearing, was not in fact an agreed figure. This figure analysed out at £502 per sq.ft. ($\text{£2.097m}/4,180$) but that was criticized by Mr Radford as comparing unfavourably with the Marloes Road conversions which, when uplifted for time, achieved £654/£713 per sq.ft. Mr Radford's GDV figure was £2.4m, producing a figure of £574 per sq.ft. which even then could be thought to be a little on the low side when compared with Marloes Road or indeed the £527 per sq.ft. for the unmodernised flat at 20 Hornton Street. The figure of £461 per sq.ft. for 30A Hornton Street did not fit in with the pattern of these other comparables and indeed even Mr Asbury had adopted a higher figure (£502 per sq.ft.) for his GDV.

7.3 Mr Asbury had also failed to ascribe any potential development value to the basement rear patio.

7.4 However, the Tribunal do not ascribe to Mr Asbury's view that there would be no market for a family house in this "secondary location" of Kensington, and hence that the residual approach is the only valuation approach.

7.5 Mr Asbury sought to belittle Hornton Street as a residential location even though the major redevelopment scheme to the north of Hornton Street, mentioned by the Tribunal during the hearing, a three minute walk from the property, is termed by the billboard on site as " one of the finest new residential addresses in the World." The Tribunal stated during the hearing that their information was that there were four, not two, family houses in the terrace. The respondents were unable to satisfy the Tribunal that the two extra houses had indeed been converted into flats. A private garden as well as a (albeit small) communal garden is not a pre-requisite for a family house in Kensington, especially when, as in this case, Holland Park and Kensington Gardens are within easy walking distance. The (smaller) Holland Street houses facing south on to the communal garden, none with private gardens, are all family houses. Further, the vast majority of the terrace on the west side of the Town Hall, admittedly somewhat smaller, is in single family occupation; the owners are obviously not bothered by the traffic and somewhat commercial ambience. That there has been no evidence since 2000 of large unconverted family houses in Kensington coming on to the market could be due not to a lack of demand but to a very simple fact - these houses are simply not around -

7.6 The Tribunal therefore preferred Mr Radford's approach that a single family purchaser would outbid a flats developer. On this basis he reached a spot figure based on three comparables.

7.7 There is no leading estate agent which is not represented in Kensington. The area abounds in house transactions. It would have been helpful if Mr Radford had extended his comparables trawl to cover at least that geographical area - W11 as well as W8 - embraced by the Savills PCL West houses, the index which he used for his time differential. Comparables could surely have been found within the wider PCL West geographical area. To finesse the search he could have adopted a lower floor space limit, say, 2500 sq.ft., while however extending the area of search to include W10, as here as in W11 very large houses occasionally come up for sale for conversion to family houses. By limiting his search to W8, and with no lower floorspace limit, he ensured that his list was clogged up with sales of cottages in Hillgate Village and the like, now in their 2nd, 3rd and 4th cycles of modernisation, transactions which bear no relevance to this case.

7.8 Consequently, Mr Radford, by limiting his area of search, ensured that none of the three comparables put forward by him was very satisfactory.

30 Phillimore Walk

While geographically close, this was a mews property and therefore single aspect. It was on a service road and overlooked commercial premises. In floor area it was only 25% the size of the subject property and, therefore, the sale price would analyse out at a disproportionately high price (£571) per sq.ft.

10 Strathmore Gardens

This house was a comparable size - over 4,000 sq.ft - but it was sold in September 2000. The sale price therefore needed a large uplift for period of time with consequential room for error. It had already been converted to a single family house and included a garage. It was double-fronted and 5 storeys (cf. 6 storeys) Although the location being a cul-de-sac was quieter, this property did not, in the Tribunal's view, warrant the 10% differential between Strathmore Gdns and Hornton St agreed between the parties. Although the terraces to the south of Strathmore Gdns are part of a prime residential area the development to the immediate north of Strathmore Gdns is one of the less memorable examples of immediate post-war architecture.

48 Stanford Road

This house, in a prime residential area, has extended over its rear garden in order to achieve 6 bedrooms, producing a somewhat unbalanced family house, all floor area and no garden.

7.9 Mr Radford, using these three comparables, which equated after adjusting for passage of time: size and location to a range of £457 per sq ft (10 Strathmore Gdns) to £496 per sq ft (Phillimore Walk and Stanford Road) adopted a figure for the property of £478 per sq ft giving him his valuation of £2m.

7.10 To conclude: It is the Tribunal's experience, if only from numerous

enfranchisement cases in Kensington and other parts of central London, that there is indeed a market for the re-conversion of houses in flats back to family homes. The Tribunal therefore prefers Mr Radford's approach although the area trawled for his comparables was too narrow. The transactions threw up prices ranging from £457 - £496 per sq ft. Of the three comparables, Strathmore Gardens at £457 per sq.ft. was the best of a poor selection. This figure of £457 per sq ft needs to be adjusted to take into account the lower rate which would pertain for the fourth - top - floor of the property; the cost of conversion, including stripping out kitchens; the lack of a garage. The other factors, including location, would, in the Tribunal's view, cancel themselves out.

7.11 Accordingly, the Tribunal has adopted a figure of £435 per sq ft to reach an enfranchisement price of £1.82m.

Chairman.....

Date.....4 . 8 . 03