

**LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL**

DETERMINATION BY THE LEASEHOLD VALUATION TRIBUNAL

LEASEHOLD REFORM ACT 1967 (S21)

REF: LON/00AG/OAF/2007/0060

Address: 13 Queensmead, St John's Wood Park, London, NW8 6RE

Applicant: The Eyre Estate

Respondents: Mr and Mrs N Peck

**Tribunal: Mrs JSL Goulden JP (Chairman)
Mr B Collins BSc FRICS**

Background

1 The Applicant, who is the landlord of 13 Queensmead, St John's Wood Park London NW8 6RE ("the property") had originally sought a determination by the Tribunal of the price payable under S9 of the Leasehold Reform Act 1967 ("the Act") for the property, and the terms of such acquisition under S21(2) of the Act.

2. It was understood that all terms were agreed between the parties, but the Tribunal was advised in November 2007 that although the premium and legal costs had been agreed, certain issues had arisen over the terms of the Transfer.

3. The outstanding issues related to:

- (a) Whether there was a right to park and
- (b) What contribution should be made towards the upkeep of the common parts.

4. Written representations were received from Comptons, solicitors, on behalf of Queensmead NW8 Ltd., the head leaseholder.

The right to park

5. In a letter from Comptons dated 23 November 2007, it was stated that a right to park was sought, but under clause 3(xxiv) of the lease dated 8 May 1963 and made between Norwich Union Life Society (1) and J Stone(2) ("the 1963 lease") and clause 3.24 of the lease dated 9 February 1996 and made between

Queensmead NW8 Ltd(1) and CPK Construction Ltd(2) ("the 1996 lease") the lessees were prevented from so doing.

6. Clause 3(xxiv) of the 1963 lease states:

"Not to cause any obstruction in or on the approaches private roads or passage ways adjacent to or leading to the demised premises by leaving or parking or permitting to be left or parked any motor car motor cycle bicycle parambulator or other vehicle belonging to or used by the tenant or by any of the friends servants or visitors of the tenant And also to observe all reasonable regulations made by the landlord relating to the parking of such vehicles"

7. The above clause is repeated as clause 3.24 of the 1996 lease.

The Tribunal's determination

8. The clauses as set out in the 1963 and 1996 leases in respect of this issue are clear and unambiguous. It specifically states that the tenant must **"not ..cause obstruction ...by parking"** The Tribunal determines therefore that there is no right to park.

Contribution towards the upkeep of the common parts

9. In the letter from Comptons dated 23 November 2007, it was stated that the lessees were suggesting that they should not pay as full a contribution towards the upkeep of the common parts as is set out in the leases. However, it was argued by Comptons that the lessees were liable to pay a more extensive contribution towards such upkeep than they were seeking in the draft transfer. Clause 3.6 of the 1996 lease was relied on.

10. The clauses in the draft Transfer to which objection was made were as follows:

*"installing and maintaining the television aerial system the use of which is common to the Property and other premises
Stocking cultivating and generally maintaining the gardens and grounds belonging to the Queensmead Estate"*

11. Clause 3.6. of the 1996 lease states:-

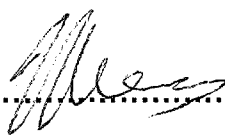
"To pay on demand a fair proportion to be fixed by the landlord's surveyor (acting as an independent expert) of the expenses of repairing rebuilding and cleansing the paths and roadways party walls fences structures sewers and drains the Estate lighting system and all other conveniences (including the supply of hot water and central heating to the Demised Premises as such supply is presently enjoyed) the use of which is common to the Demised Premises and to the remainder of the Queensmead Estate"

The Tribunal's determination

12. In the view of this Tribunal, the lessees must pay a proportion of the cost of upkeep of, inter alia, **“all other conveniences...the use of which is common to the Demised Premises and to the remainder of the Queensmead Estate”**.

This Tribunal considers that the wording is wide enough to encompass those matters as set out in the draft Transfer and, for good estate management, should remain as drawn.

13. To accord with the lease terms, any fair proportion must be determined by the landlord's surveyor.

CHAIRMAN..........

DATE...6 December 2007

GUIDANCE NOTE ON APPEAL FROM THE LVT

Introduction

1. The decision of the Leasehold Valuation Tribunal (LVT) is final and there is no power for the LVT to revisit or reconsider that decision. If a party to a decision is dissatisfied with the decision of an LVT the statutory remedy is to appeal to the Lands Tribunal¹. This guidance explains how a party may appeal.
2. A decision and reasons may be issued together. Alternatively, a decision may be issued and reasons sent at a later stage. Appeal rights run from the date the written reasons are sent to a party.

Permission to appeal

3. In order to appeal, a party must obtain permission to do so. Application for permission must first be made to the LVT. If the LVT refuses permission the application may be renewed to the Lands Tribunal.
4. An application for permission from the LVT must be made within the period of 21 days starting with the date on which the reasons for the decision were sent to the party seeking to appeal.² The LVT has power to extend the time for seeking permission to appeal but no extension will be granted unless there is good and sufficient reason for it. **The LVT can only give an extension of time if the request is made before the expiry of the initial 21 days.**³
5. An application for permission to appeal and/or for an extension of time to seek permission should be made in writing should and clearly identify the decision concerned (including any reference number). An application for permission should also contain:
 - (a) the name and address of the applicant;
 - (b) the name and address of every respondent;
 - (c) the grounds of appeal against the decision in respect of which leave to appeal is sought;
 - (d) where the applicant is represented, the name, address and profession of the representative; and
 - (e) the signature of the applicant or his representative and the date the application was signed.
6. On receipt of an application for permission the LVT will serve a copy on every other party. To facilitate the process it would assist if sufficient copies were provided with the application for this purpose.

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¹ Commonhold and Leasehold Reform Act 2002, s.175.

² Leasehold Valuation Tribunals (Procedure)(England) Regulations 2003 (SI 2003/2099), reg.20.

³ SI 2003/2099, reg.24.

7. The LVT will give the parties written notification of its decision. If permission to appeal to the Lands Tribunal is granted by the LVT the applicant's notice of intention to appeal must be sent to the registrar of the Lands Tribunal so that it is received by the registrar within 28 days of the grant of permission by the LVT.⁴ If the LVT refuses to give permission to appeal, a renewed application for permission may be made to the Lands Tribunal within 14 days of that refusal.⁵ (Details as to the power of the Lands Tribunal to permit a notice of appeal or application for permission to appeal to be made outside the relevant time limit are given on the appropriate Lands Tribunal notice obtainable from the Lands Tribunal).

Costs

8. The Lands Tribunal may not order a party to the appeal to pay costs incurred by another party in connection with the appeal unless that party has, in the opinion of the Lands Tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the appeal.⁶ In such a case the Lands Tribunal may not award costs in excess of £500

The Lands Tribunal may be contacted at:

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Fax: 0207 029 9781

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⁴ In cases of urgency the Lands Tribunal may reduce this period by direction. An urgency direction may also permit the application to the LVT for permission to appeal to stand as notice to the Registrar of the Lands Tribunal of an intention to appeal. The Lands Tribunal Rules 1996 (S.I. 1996 1022) rule 6 as amended.

⁵ The Lands Tribunal Rules 1996 (above) rule 5C as amended.