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Ref. No. LON/LVT/1483/02

**LEASEHOLD VALUATION TRIBUNAL  
FOR THE LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION UNDER SECTION 21 OF THE  
LEASEHOLD REFORM ACT 1967**

Applicant: John Lyon's Charity (Landlord)

Respondent: James Caan (Tenant)

Re: 58 Hamilton Terrace, London NW8

Application to Tribunal by John Lyon's Charity: 5 March 2002

Hearing date: 20 August 2002

Appearances: Mr. J.P. Hamilton BSc, MRICS of Cluttons

for the Applicants

Mr. K.G. Buchanan BSc (Est. Man.), MRICS  
of Colliers Conrad Ritblat Erdman

for the Respondent

Members of Leasehold Valuation Tribunal:

Mr. P.D. Wulwik LLB (Chairman)  
Mr. D.D. Banfield FRICS  
Mr. J.J. Tomalin

Date of notice of tenant's claim: 16 October 2000

Date of notice of reply to tenant's claim: 25 April 2001

Landlord's proposed price (as amended): £798,578

Tenant's proposed price: £636,166

Agreed valuation date: 16 October 2000

Leasehold Valuation Tribunal's determination: £684,199

Date of Tribunal's decision: 11 September 2002

**58 Hamilton Terrace, London NW8**

**A. Introduction**

1. This is an application by the Applicant landlord John Lyon's Charity to determine the enfranchisement price payable by the Respondent Mr. J. Caan for the freehold of the property at 58 Hamilton Terrace, London NW8 under Section 9 (1C) of the Leasehold Reform Act 1967.
2. The Respondent is the tenant of the property under a Lease dated 13 October 1982 for a term of 66½ years from 25 March 1982 expiring on 29 September 2048 at the initial rent of £500 per annum subject to review, the rent being reviewed with effect from 25 March 1997 and the present rent being £4,000 per annum. The rent is subject to review on 25 March 2012 and every 15 years thereafter, the rent payable on review being the higher of the existing rent or 0.25% of the capital value of the demised premises assuming a term of 66 years at a peppercorn rent and vacant possession.
3. The property comprises a four storey detached property built in 1937 on lower ground, ground, first and second floors. The property is in the St. John's Wood Conservation Area. The property is accepted to be unlike any other property in Hamilton Terrace, having been designed by Sir John Burnet, Tait & Lorne and with the original interior decoration by D.H. Robertson ARIBA.
4. There was an earlier Lease dated 18 October 1937 for the term of 80 years from 24 June 1936 which was surrendered in 1982 in return for the grant of the current Lease. There

have been three relevant Licences for Alterations in respect of the property dated 10 September 1942, 27 April 1966 and 23 February 1982. The property has been further altered since the date of service of notice of the tenant's claim.

5. On 16 October 2000 the tenant gave notice of his claim to acquire the freehold of the property under the Leasehold Reform Act 1967. On 25 April 2001 the landlord John Lyon's Charity served notice in reply admitting the tenant's right to acquire the freehold. On 5 March 2002 the landlord issued the present application to determine the enfranchisement price payable for the freehold on the property. The landlord's application proposed a price of £940,000. Directions were given by the Tribunal on 10 May 2002.

**B. Hearing**

6. The hearing took place on 20 August 2002. The Applicant landlord was represented by Mr. J.P. Hamilton BSc, MRICS of Cluttons. The Respondent tenant was represented by Mr. K.G. Buchanan BSc (Est. Man.), MRICS of Colliers Conrad Ritblat Erdman.
7. The parties had agreed a statement of facts, including the following matters:-
  - (1) The valuation date was 16 October 2000. At that date, the Lease had 47.95 years unexpired.
  - (2) Section 3 (3) of the 1967 Act had the effect of linking the Leases back to the 1937 Lease. Tenant's improvements carried out since that date fell to be disregarded. There was a list of improvements claimed by the lessee.

- (3) With regard to yield, the freeholder's interest was to be valued at 6%.
- (4) The marriage value was to be apportioned equally between the freeholder and the lessee.
- (5) There was an agreed schedule of comparables.

8. The matters in issue between the parties at the commencement of the hearing were the following:-

- (1) The freehold value of the property.
- (2) The existing leasehold value of the property
- (3) The rental value of the property under the terms of the rent review clause.
- (4) Tenant's improvements and the effect on value of the improvements.

9. During the course of the hearing, the parties' valuers agreed that:-

- (1) The leasehold value should be 72% of the unimproved freehold value.
- (2) With regard to the rental value of the property under the terms of the rent review clause, the reviewed rent should be 0.25% of 82% of the unimproved freehold value.

10. Both valuers gave evidence in accordance with their respective proofs of evidence, which they supplemented in their oral evidence. Mr. Hamilton for the landlord proposed an unimproved freehold vacant possession value of £4,243,000 based on his analysis of 102 Hamilton Terrace, which was sold for £4,500,000 in December 2000. Mr. Hamilton's

proposed enfranchisement price as amended was £798,578 in accordance with his valuation at Appendix 1.

11. Mr. Buchanan for the tenant also considered that the best evidence of freehold value was to be derived from the sale of 102 Hamilton Terrace. He arrived at an unimproved freehold vacant possession value of £3,599,000. Mr. Buchanan's proposed enfranchisement price was £636,166. His valuation is at Appendix 2.
12. Mr. Hamilton had very helpfully prepared a comparison of the respective analyses in arriving at the unimproved freehold value. A copy of his comparison of the analyses is at Appendix 3.

**C. Inspection**

- The Tribunal inspected the subject property at 58 Hamilton Terrace on 20 August 2002.
14. In addition, the Tribunal inspected externally 102 Hamilton Terrace and also 43, 96, 97, 123 and 152 Hamilton Terrace, which were the other freehold comparables referred to in the agreed schedule of comparables.
  15. The subject property 58 Hamilton Terrace is an individual property, somewhat out of character in terms of its external appearance for Hamilton Terrace. From the outside, it looks like a block of 4 flats. It is very deceptive externally, being much larger inside than it looks from the outside. There is little "kerb appeal" to the property.

16. The Tribunal gave particular consideration to the external appearance of 102 Hamilton Terrace. This is a five storey period house built in about 1840. It has a classical facade more in keeping with other properties in Hamilton Terrace. It has no true lower ground floor, being at street level. The lower ground floor of 102 Hamilton Terrace is undoubtedly much lighter than the lower ground floor of the subject property 58 Hamilton Terrace, which is below street level.

**D. Decision**

Unimproved freehold value

17. Both valuers agreed that the best comparable for freehold value was 102 Hamilton Terrace, which was sold for £4,500,000 in December 2000.
18. There is to be a deduction from this figure for market movement with the valuation date of 58 Hamilton Terrace being 16 October 2000. Mr. Hamilton's evidence was that the FPD Savills Index showed that September 2000 values were just under 2% less than in December 2000. He considered that the difference was a little greater and had made a deduction of 2.5% to derive the value in October 2000, giving a deduction for market movement of £112,500. Mr. Buchanan's deduction for market movement was £100,000, without any supporting evidence. The Tribunal preferred Mr. Hamilton's reasoned deduction of £112,500 for market movement.

The next adjustment is for size. Mr. Hamilton adjusted for the difference in floor area on a pro rata gross internal floor area basis. His addition for 58 Hamilton Terrace was

£386,148. Mr. Buchanan's addition for size was £387,000. Again, the Tribunal prefer Mr. Hamilton's figure. The Tribunal therefore arrive at the figure of £4,773,648 after adjusting for market movement and size.

20. There are then more contentious adjustments. Mr. Hamilton deducted £362,149 for style and added £5,000 for the swimming pool and £50,000 for the larger garden at 58 Hamilton Terrace. Mr. Buchanan deducted £250,000 for the more attractive amenities/better condition of 102 Hamilton Terrace, £75,000 for the better parking/electric gates of 102 Hamilton Terrace, £250,00 for style and £200,000 for the poorer lower ground floor accommodation of 58 Hamilton Terrace and added £50,000 for the swimming pool at 58 Hamilton Terrace.
21. The Tribunal agree with Mr. Hamilton that there should be a combined deduction of £500,000 for the more attractive amenities/condition of 102 Hamilton Terrace and for the less attractive style of 58 Hamilton Terrace.
22. The swimming pool of 58 Hamilton Terrace is of a reasonable size, albeit of a shape that is unlikely to be built today. The Tribunal consider that Mr. Hamilton's addition of £5,000 for the swimming pool is too low and conversely that Mr. Buchanan's figure of £50,000 is too high. The Tribunal add a figure of £25,000 for the benefit of the swimming pool at 58 Hamilton Terrace.
23. Mr. Hamilton has deducted £75,000 for better parking/electric gates of 102 Hamilton Terrace. With regard to parking, the position is that at 58 Hamilton Terrace there was a

garage which could accommodate three cars one behind the other and at the date of service of notice of the tenant's claim off-street parking for one car, while at 102 Hamilton Terrace there was parking for one car in the garage and two cars off-street on the forecourt. The Tribunal consider that with 58 Hamilton Terrace having one more parking space than 102 Hamilton Terrace, this offsets the fact that 102 Hamilton Terrace has electric gates. These matters effectively cancel each other out. The Tribunal make no deduction in relation to parking/electric gates by comparison with 102 Hamilton Terrace.

24. With regard to the question of a deduction for the poorer lower ground floor accommodation at 58 Hamilton Terrace, Mr. Buchanan's evidence was that his figure of £200,000 was principally for the fact that the lower ground floor at 102 Hamilton Terrace opens out directly onto the garden and has more natural light. The Tribunal agree with both these points. The lower ground floor of 58 Hamilton Terrace is very dark in terms of natural light. The lower ground floor at 102 Hamilton Terrace is on street level. It is also a considerable advantage that the lower ground floor of 102 Hamilton Terrace opens directly onto the garden at the same level. Mr. Buchanan's deduction of £200,000 for the poorer lower ground floor accommodation at 58 Hamilton Terrace is nevertheless again considered to be too high. In the Tribunal's view, the deduction should be 2.5%, say £120,000.

25. Turning to the adjustments to be made for tenant's improvements, Mr. Hamilton deducted £307,000 for the second floor extension and added on £153,501 for the second floor potential. Mr. Buchanan deducted £279,000 for the second floor extension and



added on £84,000 for the second floor potential.

26. With regard to the second floor extension, the deduction to be made there as a matter of arithmetic based on the Tribunal's figures is £283,780 that is,  $£4,128,648 \div 6,416 \times 441$  (the total gross internal area of the house being agreed at 6,416 sq. ft. and that of the second floor extension being agreed at 441 sq. ft.).
27. As regards the addition for second floor potential, there was no dispute that the property had potential for an extension. Mr. Hamilton added back 50% of the value of the extension while Mr. Buchanan's addition was 30%. The Tribunal consider that the addition should be based on the more conventional figure of 40%. This gives a figure of £113,512 for second floor potential, being 40% of the figure of £283,780 for the second floor extension.
28. In relation to the remaining deductions, Mr. Hamilton deducted £5,000 for the swimming pool (the same figure that he had previously added for the benefit of the pool), £10,000 for the better lower ground floor, £15,000 for new central heating/hot water at 58 Hamilton Terrace, nothing for the landscaped rear garden, £5,000 for the new ground floor kitchen (increased to £10,000 at the hearing), £10,000 for the new electrical/security system and £25,000 for bathrooms and dressing rooms. Mr. Buchanan's deductions were £50,000 for the swimming pool (the same figure that he had previously added for the benefit of the pool), £150,000 for the improved lower ground floor accommodation, £25,000 for new central heating/hot water, £25,000 for the landscaped rear garden, £25,000 for the new ground floor kitchen, £20,000 for the new electrical/security system

and £30,000 for bathrooms and dressing rooms.

29. The Tribunal deduct a figure of £25,000 for the swimming pool at 58 Hamilton Terrace, that being the figure previously added by the Tribunal for the benefit of the swimming pool.
  
30. Mr. Hamilton suggested that there might be double counting by Mr. Buchanan in relation to his deduction of £150,000 for the improved lower ground floor accommodation. Mr. Buchanan's evidence was that the further deduction of £150,000 was for the absence of family or habitable living accommodation at 58 Hamilton Terrace as at the date of service of notice of the tenant's claim. The Tribunal agree with Mr. Buchanan that there should be a larger deduction than that allowed by Mr. Hamilton for the improved lower ground floor accommodation. The lower ground floor accommodation is approximately 742 sq. ft. At an approximate cost of refurbishment of £100 per sq. ft., this gives a deduction for the improved lower ground floor accommodation of £74,000. The Tribunal adopt this figure by way of deduction, rather than Mr. Buchanan's figure of £150,000. As a cross-check, the Tribunal's deduction of £74,000 roughly equates to  $1.5\% \times £4,773,648$  (the figure is in fact £71,604).
  
31. With regard to the new central heating/hot water, Mr. Hamilton's deduction was £15,000 while Mr. Buchanan's deduction was £25,000. The Tribunal consider the deduction should be £20,000 on the basis that there was partial central heating present originally.
  
32. In relation to the landscaped rear garden, Mr. Hamilton argued that there should be no

deduction because there was a garden present when the 1937 Lease was granted. Mr. Buchanan's evidence was that in his experience when houses were built in the 1930's, there was not much attention paid to the garden. He made a deduction of £25,000 for the landscaped rear garden. The Tribunal consider that there should be a deduction but only £10,000 representing the approximate cost of landscaping the rear garden with the exception of the terrace and steps which appear to have been in existence when the 1937 Lease was granted.

33. In the case of the new ground floor kitchen, Mr. Hamilton increased his deduction from £5,000 to £10,000 at the hearing because of his acceptance of the evidence that the main kitchen was originally on the lower ground floor and not on the ground floor. Mr. Buchanan's evidence was that his deduction of £25,000 assumed a new kitchen in an existing room. The Tribunal consider that the deduction should be £25,000 for the new ground floor kitchen, this being a relatively modest figure in relation to the cost of installation of a new kitchen.

34. With regard to the new electrical/security system, Mr. Hamilton deducted £10,000 while Mr. Buchanan deducted £20,000, being £10,000 for the electrical system and £10,000 for security. The Tribunal agree with Mr. Buchanan's total deduction of £20,000. The electrical system was a partial replacement only.

35. As regards bathrooms and dressing rooms, Mr. Hamilton's deduction was £25,000 while Mr. Buchanan's deduction was £30,000. The Tribunal consider that Mr. Buchanan's deduction of £30,000 is the more appropriate figure.

36. The Tribunal's adjustments give an unimproved freehold value for 58 Hamilton Terrace of £3,754,380 as at the valuation date of 16 October 2000. This compares to the figure of £4,500,000 for the sale price of 102 Hamilton Terrace in its improved condition in December 2000.

#### Leasehold value

37. The parties' valuers were agreed that the leasehold value of 58 Hamilton Terrace should be 72% of the unimproved freehold value. This gives a figure of £2,703,153 for the leasehold value.

#### Rental value under the terms of the rent review clause

38. The parties were agreed that this should be 0.25% of 82% of the unimproved freehold value. This gives a figure of £7,696 for the rental value of the property under the terms of the rent review clause.
39. In calculating the value of the freehold present interest, Mr. Hamilton adjusted the current ground rent to reflect lessee's improvements by deducting 5% for the difference between improved and unimproved values. Mr. Buchanan made no such adjustment. The Tribunal agree that a deduction should be made. Based on the Tribunal's revised improved and unimproved values, the Tribunal have adjusted the ground rent by 9% to exclude improvements.

**E. Determination**

40. The Tribunal determine the enfranchisement price payable by the tenant to be £684,199 in accordance with the Tribunal's valuation annexed to the decision at Appendix 4.

Chairman *P. Wulwik* .....  
Peter Wulwik

Date: 11 September 2002

**THE LEASEHOLD REFORM ACT 1967 (AS AMENDED).**

DATE:- 16/08/02 AMENDED 19/08/02

PROPERTY 58 HAMILTON TERRACE, LONDON NW8

NOTICE DATE 16/10/2000

LEASE DETAILS

DATE 13/10/1982  
 TERM 66.5 years  
 EXPIRY DATE 29/09/2048  
 UNEXPIRED TERM 47.95  
 GROUND RENT EX EXTENSIONS £3,800 to 24/03/2012  
 EX EXTENSIONS £7,935 from 25/03/2012 based on of 66 year lease  
 at peppercorn

VALUES

FHVP unimproved £4,243,000  
 EXISTING LEASE unimproved £2,996,000 70.6%  
 IMPROVEMENTS

VALUE OF FREEHOLD PRESENT INTEREST

<u>TERM 1</u>	GROUND RENT	£3,800	
	x YP 11.44 years @ 6.00%	8.10712	
			£30,807
<u>TERM 2</u>	GROUND RENT	£7,935	
	x YP 36.51 years @ 6.00%	14.68143	
	x PV 11.44 years @ 6.00%	0.513573	
			£59,830
<u>REVERSION</u>	FHVP (less improvements)	£4,243,000	
	x PV 47.95 years @ 6.00%	0.061164	
			£259,519
			<u>Freeholder's Interest</u>
			<b>£350,156</b>

MARRIAGE VALUE

	FHVP (less improvements)	£4,243,000	
Less	Lessor's Present Interest	£350,156	
	Lessee's Interest (less improvements)	£2,996,000	70.6%
Marriage Value		£896,844	
	Take 50% Marriage Value		<u>£448,422</u>
	TOTAL		<b>£798,578</b>

THE LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993

DATE: August 2002  
 PROPERTY: 58 Hamilton Terrace, London NW8  
 NOTICE DATE: 16<sup>th</sup> October 2000

LEASE DETAILS

DATE 13/10/1982  
 TERM 66½ years from 25/03/1982 until 29/09/2048  
 EXPIRY DATE 29/09/2048  
 UNEXPIRED TERM 47.95 years  
 GROUND RENT (Until Review) £4,000 p.a. to 25/03/2012 Review to 0.25% of  
 GROUND RENT (From Review) £8,090 p.a. from 25/03/2012 capital value of a 66  
 year lease.

<u>VALUES</u>	<u>UNIMPROVED</u>
FHVP	£3,597,000
UNEXPIRED TERM	£2,637,000
LESSEE'S IMPROVEMENTS	(£463,000)

VALUE OF FREEHOLD PRESENT INTEREST

<u>TERM 1</u>	GROUND RENT		£4,000 p.a.	
	x YP 11.45 years @ 6%	8.13		
				£32,520
<u>TERM 2</u>	GROUND RENT		£8,090 p.a.	
	x YP 36½ years @ 6%	14.67}		
		} 7.51		
	x PV 11.45 years @ 6%	.512}		
				£60,756
<u>REVERSION</u>	FHVP (less improvements)		£3,597,000	
	x PV 47.95 years 6%	.0609		
				<u>£219,057</u>
			Lessors interest	£312,333

MARRIAGE VALUE

	FHVP (less improvements)	£3,597,000
Less	Lessor's Present Interest	£312,333
	Lessees Interest (less improvements)	£2,637,000
Marriage Value		<u>£647,667</u>
	50% Marriage Value	<u>£323,833</u>
	TOTAL	£636,166

# Appendix 3

## COMPARISON OF ANALYSES

19/08/02

	Hamilton	LVT		Buchanan	Difference
<b>102 Hamilton Terrace</b>					
Sale price	£4,500,000	£4,500,000	Sale price	£4,500,000	
Market movement	-£112,500		Market movement	-£100,000	
Size pro rata	£386,148		£4,787,000-£4,400,000	£387,000	
	£4,773,648			£4,787,000	£13,352
style	-£362,149		attractive amenities/condition	-£250,000	
swimming pool	£5,000		parking/electric gates	-£75,000	
larger garden	£50,000		style	-£250,000	
	-£307,149		poorer LGF accommodation	-£200,000	
			swimming pool	£50,000	
				-£725,000	£417,851
<b>Improvements</b>					
second floor extension	-£307,000		<b>Improvements</b>		
second floor potential	£153,501		second floor extension	-£279,000	
	-£153,499		second floor potential	£84,000	
swimming pool	-£5,000			-£195,000	£41,501
better LGF at 102 HT	-£10,000		swimming pool-	-£50,000	
new central heating/hot water	-£15,000		improved LGF accommodation	-£150,000	
landscaped rear garden	£0		new central heating/hot water	-£25,000	
new ground floor kitchen	-£5,000		landscaped rear garden	-£25,000	
new electrical/security	-£10,000		new ground floor kitchen	-£25,000	
bathrooms, dressing rooms	-£25,000		new electrical/security	-£20,000	
	-£70,000		bathrooms, dressing rooms	-£30,000	
	-£70,000			-£325,000	
	£4,243,000		say	-£268,000	£198,000
				£3,599,000	£644,000



## Leasehold Reform Act 1967 (as amended)

58 HAMILTON TERRACE, LONDON NW8

Valuation date 16 October 2000

Value of FHVP based on 102 Hamilton Terrace	
Sale Price	£4,500,000
Market movement	-£112,500
Size pro rata	<u>£386,148</u>
	£4,773,648
<b>Adjustments</b>	
Style, garden, less attractive	-£500,000
Swimming pool	-£25,000
Lower floor inferior @ 2.5%	<u>-£120,000</u>
	<u>-£645,000</u>
Value of FHVP including improvements	£4,128,648
<b>Improvements</b>	
Second floor extension	-£283,780
Potential	£113,512
	-£170,268
Swimming pool	-£25,000
Better use of LGF @ 1.5%	-£74,000
Central heating	-£20,000
Landscaping	-£10,000
GF kitchen	-£25,000
Elec./security	-£20,000
Bathrooms	<u>-£30,000</u>
	<u>-£204,000</u>
Value of FHVP unimproved	<u>£3,754,380</u>
Value of lease @ 72%	<u>£2,703,153</u>
Ground rent adjusted by 9% to exclude imps.	<u>£3,640</u>
Ground rent on review .25 of 82% of unim. FHVP	<u>£7,696</u>

**Value of Lessor's interest**

Term 1	Ground rent	£3,640	
	YP 11.44 yrs @6%	<u>8.10712</u>	£29,510
Term 2	Ground rent	£7,696	
	YP 36.51 years @6%	14.68143	
	PV 11.44 years @6%	<u>0.513573</u>	£58,028
Reversion	FHVP less improvements	£3,754,380	
	PV 47.95 years @6%	0.061164	
			<u>£229,633</u>
	Lessor's interest		£317,171

**Marriage value**

	FHVP less improvements	£3,754,380	
Less	Lessor's interest	-£317,171	
	Lessee's interest	<u>-£ 2,703,153</u>	
Marriage value		£734,056	
	@	50%	<u>£ 367,028</u>
	<b><u>Total</u></b>		<b><u>£684,199</u></b>