

**UPPER TRIBUNAL (LANDS CHAMBER)**



**UT Neutral citation number: [2012] UKUT 296 (LC)  
UTLC Case Number: LRA/80/2012**

**TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007**

*LEASEHOLD ENFRANCHISEMENT – maisonette – premium – relativity – LVT  
granting permission to appeal on grounds that it failed to take proper account of  
LEASE graph of relativities – appeal allowed*

**IN THE MATTER OF AN APPEAL AGAINST A DECISION OF A  
LEASEHOLD VALUATION TRIBUNAL FOR THE  
MIDLAND RENT ASSESSMENT PANEL**

**BY**

**MIDLAND FREEHOLDS LIMITED**

**Re: 28 Mallaby Close  
Shirley  
Solihull  
West Midlands  
B90 2PW**

**Determination on written representations**

**By N J Rose FRICS**

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The following case is referred to in this decision:

*Re Coolrace Ltd and others' Appeals* [2012] 24 EG34

## DECISION

### Introduction

1. This is an appeal by the freeholder, Midland Freeholds Ltd, against a decision by a Leasehold Valuation Tribunal of the Midland Rent Assessment Panel, determining the premium payable for the grant of an extended lease of a maisonette known as 28 Mallaby Close, Shirley, Solihull, West Midlands, B90 2PW pursuant to section 48 of the Leasehold Reform, Housing and Urban Development Act 1993 at £8,054.

2. On 10 April 2012 the LVT granted permission to appeal against its decision for the following reasons:

“10. Since making the determination the Tribunal has received the benefit of guidance from the Upper Tribunal (Lands Chamber) in the decision of *Coolrace Ltd.* (LRA/39/2011) and others dated 29 February 2012.

11. The Upper Tribunal found no evidence to support the argument that there were particular regional variations in relativity percentages (other than PCL) and that in the absence of more reliable evidence a composite graph of relativity compiled by the Leasehold Advisory Service (commonly referred to as “the Lease Graph”) is more representative of appropriate relativities.

12. It follows that in the present case the Tribunal failed to take proper account of the “Lease Graph” and the application to appeal is therefore allowed.”

3. *Re Coolrace Ltd and others’ appeals* was reported on 16 June 2012 [2012] 24 EG 84.

4. The applicant leaseholder at the LVT hearing was Ms Diane J Thornton. By letter dated 7 June 2012 Ms Thornton informed the Upper Tribunal that she did not wish to take part in the appeal. On 17 July 2012 the President ordered that the appeal be allocated to me and determined on written representations.

5. Mr Matthew Fell submitted brief representations in support of the appeal. He produced a copy of the Lease Graph which showed that, for a lease with 62 years remaining, the appropriate relativity was 88%, and not 92% as determined by the LVT. The effect on the LVT’s calculation of substituting the Lease Graph relativity was to increase the extended lease value from £135,000 to £140,909, with a resultant increase in the premium payable to £11,101.

6. Mr Fell described himself at the LVT as an advocate, not an expert witness. He has an interest in the outcome of the appeal, since he is a director of the appellants company. Nevertheless, he has reduced his valuation below the figure which he put forward at the LVT, which was based on a relativity of 83%. In view of the LVT’s

reasons for granting permission to appeal, which I accept were correct, and in the absence of any other evidence on relativity, I accept Mr Fell's valuation. I determine that the premium payable for the extended lease of 28 Mallaby Close is £11,101 (Appendix 1).

Dated 21 August 2012

N J Rose FRICS

## Appendix 1

### 28 Mallaby Close, Shirley, Solihull, West Midlands, B90 2PW Determination by the Upper Tribunal of premium payable for lease extension

Term - agreed		892	
Reversion			
Extended lease value	140,909		
PV £1 in 62 years @ 5.75%	<u>0.0312332</u>		
Current freehold value		<u>4,401</u>	5,293
Marriage value			
Current leasehold value (@ 88%)	124,000		
Current freehold value	<u>5293</u>		
(A)	<u>129,293</u>		
Extended leasehold value	140,909		
Future freehold value	<u>0</u>		
(B)	<u>140,909</u>		
Marriage value (B) – (A)	11,616 x 50%		<u>5,808</u>
Lease extension premium			<u>11,101</u>