

FRESSON & TEE
CHARTERED SURVEYORS

10 DECADES IN BUSINESS

Fresson & Tee Newsletter
Winter 2010

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Arbitrary Arguments



A recent arbitration case involving Fresson & Tee highlighted that there are a myriad of tricks and traps that tenants need to watch out for.

Six years ago, we acquired an office building for a tenant in King's Cross. At the rear of the property, there was a small driveway which could be used to park two cars. Previously, the building had been occupied by another tenant and our client took over the existing fixtures and fittings.

The first floor had originally been a single open plan area but, either the previous tenant or a previous landlord had subsequently installed partitioning, creating four rooms as opposed to a single open plan area. The four rooms were accessed via a corridor that ran the length of the building.

Five years later, at a rent review in November 2009, the landlord argued that the whole of the first floor should be valued as a single area. Fresson & Tee argued, on behalf of the tenant, that it should be valued as four separate rooms – which would have a lesser value – with the corridor linking the

rooms completely excluded from the valuation because it was essential access space. It was leased to the tenant in this format and we believed that that was how it should be valued, rather than valued in a way that would ultimately benefit the landlord. Guidelines issued by the Royal Institution of Chartered Surveyors state that essential access corridors should be excluded from measurements and therefore value.

This dispute could not be agreed by negotiation, and it eventually went to arbitration to be determined.

During our negotiations and discussions with the landlord, it emerged that the parking spaces to the rear of the building weren't actually included within the lease as a car parking area. The lease only granted a right of way to pass over the land. It transpired that this was because the landlord didn't own the land, and only had a right of way to pass over it.

A second argument at arbitration was whether the landlord had a right to charge rent for a piece of land that he didn't own but had a right of way over, with that right of way being included within a lease to the tenant.

No party won the arbitration. Or alternatively, both the landlord and tenant won. Fresson & Tee won the parking argument on behalf of the tenant and the landlord won the corridor argument. The rent was set midway between the two positions.

From both a landlord's and tenant's perspective, what emerges from this assignment is that because something is advertised or is agreed in the heads of terms document, it doesn't necessarily mean that is actually being given.

Fresson & Tee were unaware that the parking spaces weren't included within the lease until the lease was read at the rent review five years later. We weren't informed of the parking spaces change in status.

If there is a lesson to be learned from this particular arbitration, it must be that putting the transaction safely into solicitors' hands should not be the end of a surveyor's role in completing the transaction. Had the landlord's lack of ownership of the parking area come to our attention during the course of the lease drafting process, in that the parking spaces weren't actually parking spaces, we would have renegotiated the rent accordingly.

It serves to highlight how important ongoing involvement with the legal process becomes with leases. Solicitors or circumstance can sometimes evolve terms beyond what has been agreed. In this instance, the landlord was actually receiving rent, for a very significant five years, for land that it didn't own.

It is crucial therefore, that everything is properly documented so that both sides can refer back to the terms. If terms do change for legal reasons, you have to be able to have an input in onward negotiations, underlining that both landlords and tenants need to take professional advice at every stage.

And the corridor and the 4 rooms... well, despite strict measuring guidelines issued by the Royal Institution of Chartered Surveyors, it would appear that a route to deviate may be present after all.

David Shapiro,
Director

Contact David if you wish to discuss any similar matter – 020 7391 7100

Location, location, location

With expert market knowledge of the King's Cross area and with instructions to market a large number of local properties, Fresson & Tee was a natural choice for leading German company Volker Rail – an infrastructure projects conglomerate – when they needed to lease a self-contained 5,000 sq ft building in King's Cross.

Location was a key factor, as the company's specific requirement was to be close by to Network Rail, among its biggest clients, based in the area.

As King's Cross's only dedicated commercial estate agency, Fresson & Tee was able to offer Volker Rail a number of potentially suitable buildings within the specific radius of their client.

Commented F&T's David Shapiro: "We are seeing more and more enquiries from companies involved with the big infrastructure projects. Once the financial markets begin to free up, demand will continue to increase from infrastructure associated companies."

We're managing more

A new addition to the portfolio of properties managed by Fresson & Tee is Rapier House, 40-46 Lambs Conduit Street, London WC1, a mixed use building comprising ground floor shops with 4 floors of offices above.

The company has just taken over the management of the building and is being asked by the building's new owners to further enhance its professionally managed state of affairs. Fresson & Tee has been instructed to administer and collect the service charge on behalf of its client.

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Art for art's sake

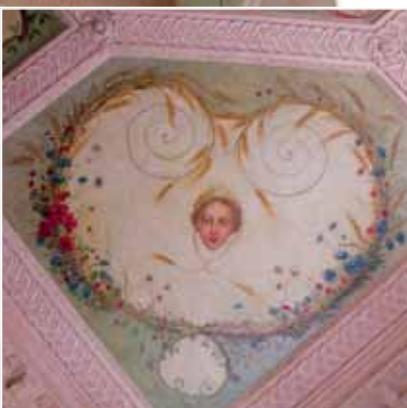
During recent refurbishment work at a Grade II* listed building in Covent Garden, a historic painted mural was uncovered on the ceiling at first floor level.

Having originally carried out an office refurbishment in 1999, Fresson & Tee obtained planning consent for a change of use to residential for the landlord, allowing its client to sell off the upper parts of the building on a long lease.

"The purchaser then approached us and asked if we could get planning consent for variations to the original consent to suit his preferred layout," explains F&T director Robert Say, a qualified practitioner in building conservation. "Evidence suggested that there might be a painting on the first floor ceiling, but we couldn't be sure. The historic records on the building said that there was, but we were not sure if it had been removed or just painted over. Ultimately, we were able to get the purchaser listed building consent to uncover it, although we were not directly involved with the physical work of exposing the painting."

The murals depict an interesting interpretation of the four seasons and make a stunning feature to a fantastic central London home.

If you require advice on historic or listed buildings, contact Robert Say on 020 7391 7100.



Acting on behalf of a well-known investment fund manager, Fresson & Tee has recently been instrumental in the acquisition of a large industrial estate investment in Iver, Buckinghamshire, for approximately £13,000,000. Following this recent success, Fresson & Tee is aggressively on the hunt to find further industrial estate investments to offer its client, which has significant equity to invest.

Fresson & Tee has just leased the ground floor of Fanz House at 99 Gray's Inn Road. At the time of going to press, the newly refurbished building still has a further two very competitively priced floors available for rental. Visit www.kingscrossproperties.co.uk for further information.

As companies have become 'leaner and meaner' during the recession, many are downsizing, with owner occupied buildings dispensing with surplus accommodation. Fresson & Tee has been particularly successful in finding tenants for small owner occupiers who have surplus office accommodation. More and more companies are now appearing to choose this option in preference to serviced offices.

Ten reasons why you should contact Fresson & Tee:

1. Purchases & sales
2. Valuations
3. Building surveys
4. Design
5. Building conservation
6. Party walls
7. Project management
8. Rent reviews & lease renewals
9. Dilapidations
10. Ten decades in business, ten decades of experience

The Brassworks, 32 York Way, London N1

Forming part of P&O Development's Regent Quarter scheme and comprises 2 former warehouse buildings that have been linked and converted to provide modern high quality offices with many wonderful features.

Features

- 9,684 sq. ft
- Double volume former warehouse building
- Exposed brickwork and beams
- Air conditioning
- Raised floors



FORECOURT TO LET YORK WAY, N7

- 7,350 sq. ft
- £49,000 PA
- Suitable for parking, storage or car hire operations
- 5 minutes to King's Cross



OFFICE SPACE TO LET CRINAN STREET, N1

- 1,250 SQ. FT
- £31,250 PA
- Loft style office
- Good natural light
- Adjacent to Battlebridge Basin



RETAIL SPACE TO LET GRAY'S INN ROAD, WC1

- 2,173 sq. ft
- £80,000 PA
- Double shop unit
- Minutes from King's Cross
- Prominent location



INDUSTRIAL SPACE TO LET 3 BRANDON ROAD, N7

- 5,087 sq. ft
- £72,000 PA
- Warehouse / light industrial property
- Close to King's Cross



OFFICE SPACE TO LET RANDELLS ROAD, N1

- 1,537 sq. ft
- £20,000 PA
- Economical offices
- Good natural light

Find many more properties like these at kingscrossproperties.co.uk