



## Real Estate Dispute Resolution

Whilst we seek to manage risk and avoid litigation when possible, there are times when it is necessary or unavoidable to go to Court. The following is a list of some of the more important cases which we have been involved in.

*Midtown Ltd v City of London Real Property Co Ltd [2005]* – proceedings against the defendant by freeholder and leasehold owners of neighbouring land for injunctive relief and/or damages for alleged interference with their rights of light.

*Mannai Investment Co Ltd v Eagle Star Life Assurance Co Ltd [1997]* House of Lords – landmark case regarding the interpretation of break notices.

*Allied Dunbar Assurance Plc v Homebase Ltd [2002]* Court of Appeal – successfully restraining Homebase from granting a sublease and collateral deed which avoided the requirements of the headlease regarding the terms of any subleases.

*Land Securities Plc v Westminster City Council [1992]* – in which it was held that an arbitration award determining the market rent for a rent review was not admissible evidence in a rent review arbitration of comparable property.

*Lewisham Investment Partnership Ltd v Morgan [1997]* Chancery Division - proceedings against an independent rent review valuer for negligence.

*Checkpoint Ltd v Strathclyde Pension Fund [2003]* Court of Appeal – successfully defending an appeal against the findings of a rent review arbitrator. This landmark case offered guidance as to when an arbitrator's use of personal knowledge constitutes a procedural irregularity.

*Best Beat Ltd (in liquidation) v Mourant & Co Trustees Ltd [2008]* Chancery Division – successfully opposing the claimant's application for summary judgment for specific performance of a contract for the sale of property to the defendant.

*UK Coal Mining Limited v J M Finlay [2007]* Chancery Division – a dispute concerning the true construction of a land exchange agreement that threatened to landlock a substantial area of development land was settled on terms favourable to our client following settlement talks initiated by the Defendant part way through the cross-examination of its witnesses.

*Wembley National Stadium Ltd v Wembley (London) Ltd and others [2007]* Chancery Division – issues relating to liability and heads of expenditure in service charge provisions under a lease.

*Stroude v Beazer Homes Ltd [2005]* Court of Appeal – appeal against an order made in favour of the respondent that evidence of proposals and negotiations for a collaboration agreement was inadmissible in construing a section 106 agreement.

*First Secretary of State v Greatstates Limited [2005]* Central London County Court – successfully arguing that a new lease granted pursuant to



“Sources also commend the team’s considered approach, saying: “It never creates unnecessary disputes, and you know that even if things get heated, the client gets the best service possible.””

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unopposed lease renewal proceedings should be for a ten year term without a break, rather than for the tenant’s proposed term of five years, or ten years with a five year break.

*Pumpninks of Piccadilly Ltd v Land Securities Plc [2002] Court of Appeal* – dismissal of claimant’s appeal against a decision upholding the defendant’s opposition to the grant of a new lease on redevelopment grounds under section 30(1)(f) of the Landlord and Tenant Act 1954 and assertion that the claimant was not entitled to rely on section 31A of the Act.

*Safeways Stores Plc v Legal and General Assurance Society Ltd [2004] Chancery Division* – concerning the claimant’s unsuccessful application to appeal the reviewed rent determined by an arbitrator.

*Davy’s of London (Wine Merchants) Ltd v City of London Corporation [2004] Chancery Division* – successfully appealing the County Court trial judge’s decision regarding the timing of the City of London’s redevelopment break option in unopposed lease renewal proceedings.

*South Tyneside MBC v Wickes Building Supplies Ltd [2004] Commercial Court* – successfully applying for a witness summons served on our client, regarding a rent review arbitration, to be set aside.

*Simmons v Dresden [2004] Queens Bench Division* – concerning a Part 20 claim for breaches of repairing and decorating covenants.

*Equinox Industrial (GP2) Ltd v Sketchley Ltd [2003] Chancery Division* – obtained summary judgment against the defendant for a declaration that a break clause under a lease was exercisable only by the defendant as original lessee, not by the defendant following an assignment and assignment back.

*Royal Bank of Canada Trust Corporation Limited v The Secretary of State for Defence [2003] Chancery Division* – successfully resisting an order for costs applied for by the defendant, on the ground the defendant failed to have regard to the Lord Chancellor’s pledge to consider ADR in all suitable cases.

*Trafford Metropolitan Borough Council v Total Fitness UK Ltd [2002] Court of Appeal* – regarding the validity of a notice to determine the local authority’s use of land as a car park.

*Hallam Land Management Limited v UK Coal Mining Limited [2002] Court of Appeal* – successfully resisting the claimant’s argument that on a proper construction of a sale and purchase agreement the claimant was entitled to acquire a 45 acre development site at a price that reflected the value of only 2.5 acres. The judgment of the Chancery Judge was upheld on appeal.

*City of London Real Property Company Ltd v CGU International Insurance Plc [2000] Chancery Division* – obtaining an order that an underlease be rectified to remove a clause providing for rent review solely at the landlord’s request which would have the unintended effect of making the rent review clause upwards only.

*Crane v The Coal Authority [2000] Chancery Division* – successfully resisting the claimant’s attempt to enforce an option to renew a lease of business premises for a further term of 20 years and establishing the principle that under section 79(1) of the LPA 1925 tenants are vicariously liable for the actions of their sub-tenants.

“The “clarity and quality of advice is outstanding,” say loyal clients, who point to the team’s cost-effectiveness.”

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*Save and Prosper Pensions Ltd v Homebase Ltd [2000] Chancery Division* – successful application to the High Court for the removal of an arbitrator due to doubt as to his impartiality as his firm had been instructed by one of the Defendant’s associated companies in connection with a substantial matter.

*Moss Bros v CSC Properties [1999] Chancery Division* – successfully resisting a tenant’s application for a declaration that consent to assign and change of use had been unreasonably withheld and establishing the principle that such consent can legitimately be withheld on grounds of “tenant mix”.

*CIN Properties Ltd v Rawlins [1995] Court of Appeal* – successful appeal against the County Court trial judge’s decision that the defendant’s equitable licence to was recoverable not at will but only for good reason.

*Greenwich Healthcare NHS Trust v London & Quadrant Housing Trust and Others [1998] Chancery Division* – opposing an application for a declaration by the Claimant that the 8th Defendant would not be entitled to injunctive relief for breach of restrictive covenant if a proposed re-alignment of a road went ahead.

*Swan Hill Developments Ltd v British Waterways Board [1997] Court of Appeal* – appeal of a preliminary issue decision relating to the interpretation of the Grand Junction Canal Act of 1793.

*Straudley Investments Ltd v Mount Eden Land Ltd [1996] Chancery Division* – successful application to decide preliminary issues regarding the defendant’s refusal of consent to assign.

*Re University of Westminster’s Application [1996] Court of Appeal* – application to the Lands Tribunal to discharge restrictive covenants affecting one of the University’s properties.

*Freedman and Others v British Railway Board and National Carriers Limited [1992] Court of Appeal* – dispute as to the effect of statutory provisions regarding pre-emption rights in respect of land compulsorily purchased to form the terminus of the Channel Tunnel Rail Link.

*Pontsarn Investments v Kansallis-Osake-Pankki [1992] Chancery Division* – regarding a rent review expert’s interpretation of rent review provisions and his decision.



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CLARITY MATTERS

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