

Jon Lang Mediation

Property including Landlord & Tenant - mediation examples

(See also Professional Negligence and Construction & Engineering pages)

a dispute arising out of an alleged failure to consult numerous leaseholders in relation to major works (an application for dispensation in relation to Section 20 consultation requirements having been commenced);

a dispute concerning the proper approach to the valuation of easements and wayleaves involving a review of the Wrotham Park authorities, the Valuation Office Agency's Land Compensation Manual and other expert evidence;

a multi-party mediation between owners of a property portfolio;

a dispute over the sharing of loss on a major property development venture between developer and financiers;

a claim for compensation under Part 1 of the Land Compensation Act 1973 following completion of a road improvement scheme, raising issues of assessment of compensation under section 4 of the Act;

a claim of overcharging between a utilities company (as statutory undertaker under the Water Industry Act 1991) and a major customer arising from change of use of buildings, uncertainty over whether sewers are in private ownership (or public) and the change in charging structure for surface water and highways drainage (from rateable value to bandings by chargeable area);

a dispute arising out of the enforcement of restrictive covenants over land raising issues of enforceability, in particular whether the covenants were void as being in breach of section 2(1) of the Competition Act 1998 (raising sub-issues concerning section 9 exemptions), and also of modification or discharge under section 84(1) of the Law of Property Act 1925;

a dispute concerning a forfeited deposit arising out of a failed land transaction and a consequent s49(2) LPA application;

a boundary dispute between two developers involving a review of Land Registry plans and expert reports on "margin of error";

a multi-party dispute involving disputed boundaries;

a dispute arising out of an accounting process at the end of a joint venture arrangement for the development of a block of flats, one party providing funding and the other management services, the dispute concerning planning permission, the obtaining of licences, and the eventual marketing and sale of the units;

a claim against planning consultants by a waste management company arising out of refusals of planning consent and associated delay;

a dispute arising out of an agreement made pursuant to section 106 of the Town and Country Planning Act 1990;

a claim by a land agent alleging that its actions were the effective cause of a land transaction involving a major house builder;

a dispute concerning fees due under a Land Promotion Agreement following sale;

a claim brought against a valuer by an asset-based lender for alleged negligence in valuing the gross development value of a commercial property and surrounding land, including issues such as the 'bracket' of non-negligent acceptability, causation and reliance, and contributory negligence (e.g. failure to follow internal lending guidelines on LTV and generally);

a multi-party dispute arising out of the development of a brown field site with various lenders, who were party to a master participation agreement, supplying development finance to a development company which subsequently went in to receivership, with claims against and between guarantors, allegedly negligent valuers and quantity surveyors;

a dispute concerning the satisfaction of conditions (for instance, the alteration of the route of a public footpath, the stopping up of a highway etc) for the release of the balance of purchase monies agreed for development land upon which a major housing development was to be built;

a five party property dispute involving issues of disputed boundaries and repairing obligations;

a dispute between a major services company and public body arising out of a framework agreement and various call-off contracts concerning amounts due between the parties for measured works and variations raising a variety of issues,

including the proper basis of charging (NatFed Rates), the effect of volume shortfalls etc.

a dispute over ownership of property between once co-habiting partners with various trust arguments being raised, as well as undue influence and claims of proprietary estoppel and estoppel by convention;

a dispute over the operation of overage provisions in a contract for the sale of land;

an action brought by a bank against a monitoring surveyor arising out of the alleged negligence in the monitoring of a failed property development venture;

a dispute between beneficial owners of a significant property over its sale;

a negligence action involving several parties concerning the foundations of a major structure with negligence alleged against various parties including geotechnical, soil and environmental engineers;

a dispute concerning the payment of a 'finder's fee' and whether work done by an agent constituted the effective cause of a land transaction;

several disputed commission claims;

cases concerning the valuation of easements;

an action brought against a party wall surveyor appointed under s10(1) of the Party Wall etc. Act 1996 involving an analysis of duties (and their interaction) within the scope of the statutory appointment and alleged duties outside of the statutory appointment;

Landlord and Tenant

a multi-faceted family business dispute involving several land valuations, some subject to protected tenancies under the Agricultural Holdings Act 1986 and farm business tenancies, pensions and other assets including shares in various companies, the outcome being a complete separation of interests;

a dispute arising out of allegedly illegal distraint for rent;

a professional negligence action against a law firm relating to a property transaction and in particular the requirements under the Electronics Communications Code

(set out in Schedule 3A Communications Act 2003) and its interaction with the Landlord & Tenant Act 1954 (and Digital Economy Act 2017) when seeking vacant possession from telecommunications operators;

a landlord and tenant case between a public authority and a commercial entity concerning alleged breaches of covenants, applications for a new tenancy, etc;

a dispute concerning a rent suspension provision of a commercial lease, failure to give notice of damage caused by an insured risk and dilapidations;

a landlord and tenant case between a public authority and a commercial entity concerning alleged breaches of covenants, applications for a new tenancy, etc;

a dispute between tenants of a pub/hotel and the owner of the freehold over rent to be payable on a new lease, with discussion focusing on the 'reasonably efficient operator' (REO) and calculation of 'Fair Maintainable Trade' (FMT);

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