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Tom Jefferies

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Tom Jefferies is an experienced specialist in property litigation with a niche expertise in leasehold enfranchisement.



Expertise

Property, Planning

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Practice Summary

Tom Jefferies is an experienced specialist in property litigation with a niche expertise in leasehold enfranchisement.

He no longer appears in planning inquiries and appeals, but has brought his experience to bear in cross practice litigation raising planning and highways issues, such as enforcing planning obligations and disputes over obligations to use reasonable endeavours to obtain planning permission.

He relishes court hearings and has appeared at all levels from the LVT to the House of Lords, frequently against silks.

He is a CEDR accredited mediator, and takes great satisfaction helping parties reach a settlement out of court.

Tom accepts instructions under the Public Access Scheme.

Property

Tom's practice at the bar has included all areas of property litigation, changing over the years with the property market. In the bad times he was heavily involved in mortgage enforcement and getting out of contracts. In the boom years he has focussed on issues surrounding property development. As residential values have increased, he has developed niche skills in leasehold enfranchisement and other issues affecting high value residential property. Throughout these times he has worked on the common issues affecting all property, details of which are provided under the specialisms tabs.

Boundary and Ownership Disputes

Tom has had his fair share of boundary disputes often involving adverse possession. Examples are **Secretary of State for Transport v Quest** and **Grey v Howland**.

Commercial Landlord and Tenant

Tom has acted in commercial and residential landlord and tenant disputes throughout his career. Topics include the following.

Lease renewals

Tom has acted on opposed renewals for institutional and private landlords and tenants, ranging from securing possession of 60 London Wall from dozens of tenants, acting for TFL in connection with the redevelopment of Covent Garden tube station, and acting for a hairdressing salon in Kensington seeking to resist a ground (f) claim. An interesting case in the Court of Appeal concerned a lease renewal opposed on grounds (a), (b) and (c): **Youseffi v Mussellwhite**. He has acted on numerous unopposed renewals where issues have arisen as to lease terms including break clauses, lease length, and rent including for Mapeley as agent for the VOA. He has lectured on ground (g).

Rent review

Tom has acted in cases concerning construction of rent review clauses, application of assumptions, rental disputes, and challenges to arbitration awards. He is co-author with John Male KC of "Rent Review, a casebook" published by the RICS.

Dilapidations

A regular part of his practice, although most disputes settle. He acted recently for the landlord of the Royal Vauxhall Tavern on a claim for disrepair by the tenant. He has also acted for the successful tenant in **Fitzpatrick v Exel Holdings**, where it was held that identical obligations in lease and sub-lease had different effects. His most unusual case concerned a Victorian water powered lift.

Other

Disputes concerning service charges, lease or licence, accretion, forfeiture, consents, break clauses (such as **Intergraph (UK) Ltd v Wolfson Microelectronics Plc** and **Royal Bank of Canada v Secretary of State for Defence**), the effect of an oral

lease for longer than the head lease (**Parc Battersea v Hutchinson**) and enforcement of covenants. He acted for the tenant of Royal Mint Court, an extensive office development, in resisting attempts by Delancey to forfeit an intermediate lease. He acted for the landlord enforcing a £5m rent claim against a guarantor which sought to allege an implied surrender: **Padwick Properties v Punj Lloyd Ltd.**

Conveyancing Disputes

Tom regularly advises parties to contracts on their ability to enforce or escape their obligations. Examples include acting for a major retailer (A) seeking to enforce agreements to sub-let half of certain stores to another major retailer (B). B sought to rescind on the ground that the planning permissions which had been granted were granted subject to onerous conditions as defined in the relevant agreements. The disputes were referred to confidential arbitration, and were satisfactorily resolved. Tom also acted for the major housebuilder BDW in a £1.5m dispute (**BDW v Opticlife**) over whether a purchaser could avoid completion as a result of a variation from the contractual specification for a block of new flats. Another interesting dispute concerned a sale of reversions on a block of flats at auction, where the contract failed to specify that the vendor required lease backs of the units let on ASTs. The vendor claimed rectification. A good settlement was achieved. More recently Tom advised a London Council on its ability to terminate an agreement for the redevelopment of a large housing estate, and on potential claims for damages.

Easements and Profits a Prendre

Disputes as to whether rights have been acquired by prescription such as **Middleton v West Berkshire** concerning a claim to a right of way and parking, what amounts to substantial interference, such as different types of gates and controlled barriers, ancillary rights to make up roads and liabilities for repairs. A more unusual case concerned a claim that a wind turbine would interfere with shooting rights. **Spaces Personal Storage v RSN** concerned claims to rights of parking on an industrial estate road, and the ability of the owner to impose a scheme of control.

Highways and other Transport Infrastructure

Issues frequently arise as to the relationship between land ownership and highway rights. In **Secretary of State v Baylis** Thomas acted for a purchaser who successfully obtained damages for failure to give vacant possession on completion where the land sold was subject to highway rights. In **Goodmayes Estates v First National Bank** there were issues as to the extent of the highway boundary, and the rights of the highways authority to carry out improvements at or near the boundary.

Land Registration and Adverse Possession

Land registration

Registration issues often arise in the context of property disputes, and Land Registry adjudication is now a common forum for resolving disputes. Regular disputes involving registration issues include urgent removal of notices (**Sainsbury's v Oliveview**), rectification, claims for compensation (Hanson v Land Registry) and adverse possession and boundary disputes, such as **Secretary of State for Transport v Quest**.

Adverse possession

Numerous claims both before and after the 2002 Act. Cases include **Lyn Lewis v Environment Agency**, **Grey v Howland** and a claim by a scrap merchant to have acquired title to a yard within an old Pirelli cable factory. One reported case concerned the application of limitation periods to government bodies (**Hill v Transport for London**), and Thomas has acted for the Secretary of State for Transport in several cases concerning claims for adverse possession of land adjoining motorways. One of these, **Secretary of State for Transport v Quest**, raised interesting issues as to the relationship between the Limitation Act and the Land Registration Act 2002.

Leasehold Enfranchisement and Right to Manage

Tom was the winner of the Barrister of the Year award at the Enfranchisement and Right to Manage Awards 2015. He has substantial experience and expertise in this highly specialist area, and regularly appears at hearings in the FTT, Lands Tribunal and courts for tenants of the big London Estates and both landlords and tenants elsewhere. He has appeared in many of the leading cases including **Sportelli**, **Cravecrest**, **Jewelcraft**, **Aldford House** and **Palgrave Gardens**. Some further examples of his work are given below. He enjoys both the legal and valuation issues, and works closely with some excellent valuers. He takes pride in saving or making money for clients by identifying and maximising the benefit of valuation arguments.

1967 Act

One of the issues which regularly arises in Tom's work is whether a property amounts to a "house" for the purposes of this Act. In 2015 he acted for the successful tenant of a shop and upper parts in **Jewelcraft Limited v Pressland**, and has acted for the tenant of a public house, and in cases concerning mixed use office and residential buildings in Portland Place (**QAS Nominees v City and Provincial Partners**), Mount Street and Wimpole Street,. He has unusually extensive experience of cases involving a section 9(1) valuation, having appeared in some 10 such cases which have reached the Tribunal. He has also acted appeared in an important case on whether demolition and construction of a new house can be disregarded as an improvement, **Portman v Jamieson**.

Lease extensions

Common issues include valuation, validity of notice and counter-notice, adequacy of the premium offered, and deemed withdrawal. Issues also often arise as to the extent of the demise. In several cases the LVT hearing has included a determination of whether the tenant has acquired additional land by accretion. Tom has acted for a number of tenants who have successfully resisted the imposition of standard term leases by Cadogan Estate. He has acted for landlords and tenants in a number of cases involving very short leases, raising issues about relativity, deferment rate, discount for 1989 Act rights, disregard of improvements including conversion to flats, and the effect on value of covenants against assignment in the last seven years.

Collective enfranchisement

Tom has acted for both landlords and tenants in a number of very high value collective claims.

Tom has been involved in the recent leading cases on what is a "flat" (**Aldford House**) and what is a "self-contained building" (**Palgrave Gardens**).

Over the years he has also been involved in many of the leading cases on development value including basements, conversion to houses, conversion from offices, telecoms, and most frequently rooftop development. Cases include 2 Herbert Crescent (**Cadogan v 2 Herbert Crescent Freehold Limited**), 39 Wilton Crescent (**Themeline v Vowden**) and 38 Wilton Crescent (**Cravecrest v Duke of Westminster**) all of which involved appeals to the Upper Tribunal or the Court of Appeal. Decisions on rooftop development include Royal Tower Lodge for the landlord, Fairfield Close and Riverside Lodge [link] for the lessees.

Tom has also been involved in a number of cases relating to the acquisition of overriding leases on the Grosvenor Estate, which raise difficult issues of statutory construction and valuation. One went to the Court of Appeal, **Regent Wealth Ltd v Wiggins**.

Rights of First Refusal

Tom regularly advises on issues arising under the Landlord and Tenant Act 1987, including whether s5 Notices have to be served, on avoidance schemes, and on enforcement against purchasers. He also frequently advises on the interplay between rights of first refusal and collective enfranchisement, including the relevance of s5 notices on the premium payable.

He appeared in one of the leading recent cases, York House.

Tom is a member of the Association of Leasehold Enfranchisement Practitioners (ALEP) and also lectures regularly on leasehold enfranchisement. He has given lectures at conferences organised by News on The Block, ALEP, CLT and MBL.

Mortgages, Charges, Charging Orders and Securitisation

Tom has acted for a number of banks enforcing mortgages which secured business lending. He regularly dealt with defences such as undue influence, misrepresentation, forgery, and sale at an undervalue, and complex subrogation issues. Reported cases include **Banco Exterior v Tom, CA** and **Corbett v Halifax, CA**.

Tom was for many years the author of the mortgages section in Halsbury's Laws of England.

Professional Negligence Claim Related to Property

Thomas acts for claimants and defendants in professional negligence cases related to his areas of expertise, including solicitors and valuers negligence. Cases have concerned such issues as duties to third parties (**Dean v Allin & Watts**), solicitors negligence in enfranchisement, mortgage, restrictive covenant and conveyancing cases, and the liability of local authorities for negligent searches (**Gooden v Northamptonshire CC**).

Property Development including Overage disputes

A large proportion of Tom's work involves disputes about development. For example, many of the leasehold enfranchisement cases are fought because the tenants want to stop a rooftop development and the landlord wants to claim the value. Many of the conveyancing disputes and restrictive covenant cases relate to property development as described under those headings.

Tom has advised many times on the interpretation of overage agreements and how to enforce or escape their obligations. Often the disputes involve difficult valuation issues.

Residential Leasehold Management and Disputes

Tom acts on high value service charge disputes. For example he acted for some tenants in as a dispute as to the scope of major refurbishment works to be carried out to Chelsea House in Lowndes Street, London SW1. He acted for the successful tenants in a five day dispute with Freshwater over the reasonableness of the costs of a £2m major works contract to a block of flats in north London. He appeared for the successful tenants in a dispute as to whether sums payable by them as members of the management company were variable service charges within the definition in s18 of the 1985 Act: **63 Rope Street**. He has acted for a management company resisting the appointment of a manager, and acted for the owner of a mixed use development resisting an application to vary the leases of the residential flats: **48 Featherstone Street, London EC1**.

Residential Tenancies

Tom has acted for both landlords and tenants on issues such as the need for consent to alterations, determination of breaches of covenant, and whether the airspace is demised.

He has advised on the rights of tenants under all the legislation protecting them including the Rent Act 1977 and Part 1 of the Landlord and Tenant Act 1954. One of his more unusual case concerned the status of the occupant of a houseboat in Bembridge harbour, in **Mew v Tristmire**.

Restrictive Covenants

Regular advice on the construction and enforceability of covenants, modification and the powers of public bodies to override covenants. In a typical covenant case, Tom acted for a developer who proceeded with a housing development and faced a claim for an injunction or damages for breach of covenant. Tom has acted for developers seeking consent for basement developments in Mayfair and Belgravia under the Grosvenor Estate Management Schemes created under the Leasehold Reform Act 1967. In one case he went on to act for a developer to secure a modification of the covenant under s84 of the Law of Property Act 1925.

Squatters and other Trespass

Over the years Tom has helped landowners remove squatters from a variety of sites, including a group who called themselves the modern day levellers.

He has obtained urgent injunctions and possession orders against protesters. In one case proceedings were served by an announcement over a loudhailer from a helicopter, and an order for possession was obtained the same day.

Planning

In his early years of practice Tom was involved in planning enquiries and appeals. He no longer does pure planning work, but now enjoys bringing his experience to bear in disputes raising planning and highways issues. Examples include:

Onerous Conditions

Tom acted in an arbitration between major retailers as to whether planning permission granted for division of a store contained “onerous conditions” as defined in an agreement for lease.

Reasonable endeavours to obtain planning permission

In ***Jordan v Star Energy*** a claim was made against Star for damages for breach of an obligation to use reasonable endeavours to obtain planning permission for an underground gas storage project. Star had carried out preparatory work but cancelled the project after an abandoned well was found to be leaking gas on the site of a new school. It was a claim for loss of a chance, and there were issues as to construction of the agreement and as to what the outcome of a planning application would have been in the light of safety issues. Tom acted for Star led by William Hicks KC.

Enforcing s106 Agreements

Tom has now acted for Councils in four cases enforcing planning obligations against developers seeking to escape or reduce their liabilities. Examples are the ***Oakmesh*** case, the first case where an order for specific performance was obtained to enforce a s106 agreement, and ***Renaissance v West Berkshire DC***, in which a developer defended a claim for contributions to local infrastructure on the grounds that the formulae for calculating contributions had changed, and it would be unlawful for the Council to claim any more than would now be payable.

Options

In ***Castlebay*** the issue was what amounted to “planning permission” for the purpose of starting time running for exercising an option. In several other recent cases, the time for exercising the option was linked to allocation in an “adopted local plan”, and the issue was how the contract was to be applied to the changed landscape of LDFs and LDDs resulting from the Planning and Compulsory Purchase Act 2004.

Assets of community value

Part 5 of the Localism Act 2011 gives local groups the right to bid for land of community value which the owner wants to dispose of. The right can apply to a village shop, pub, community centre, museum, village hall, playing fields, playgrounds and other amenity areas. The corollary is that these rights can interfere with or delay development projects. Tom has advised and lectured on these provisions. He acted for the successful landowner in ***Donford Limited v Bracknell District Council*** where an appeal against listing was allowed on the ground that the building was exempt.

Qualifications

- English - Durham University
- Diploma in Law- City University
- CEDR Accredited Mediator

Recommendations

"Tom has a unique style; he is always user-friendly and has a great sense of humour, he is very approachable. He is a precise advocate and excellent in his handling of complex cases, witnesses and evidence."

Property Litigation, Legal 500, 2024

"He is very practical."

Real Estate Litigation, Chambers and Partners, 2022

"A highly skilled advocate, Tom is able to distil and communicate complex legal arguments to his clients. His clear and concise approach to advocacy means he is always well received by the judiciary."

Property Litigation, Legal 500, 2023

"Tom is a very bright and capable and also approachable with a good sense of humour, he comes over very well with the client and is also incisive and clear in his advice at all times. On his feet, he is a clear cogent and careful advocate. His naturally persuasive style wins through."

Property Litigation, Legal 500, 2022

"He is great at taking hold of and running with complex legal and valuation argument and is not at all phased by technical subject matter. He is also a creative legal thinker and has delivered value over and above on many occasions to clients. He is a modern user friendly barrister and always a pleasure to work with."

Property Litigation, Legal 500, 2022

"He's very good, accessible and always quick to come back. A strong advocate and quite clever at thinking out of the box."

Real Estate Litigation, Chambers and Partners, 2021

"He provides sound commercial advice." "He is really user-friendly, willing to get hands-on and always available." "He is very knowledgeable in this area of law and his advice is always easy to read and understand."

Real Estate Litigation, Chambers and Partners, 2020

"He is very approachable and responsive with a particular strength in development value for leasehold enfranchisement."

Legal Directories

"An excellent lawyer who makes his points with precision," "hands on and sensible," "his commerciality really distinguishes him," "his sound advice, proficient legal skills and inventive ideas" "see his profile rising in this market," "practical and commercial advice" and "hugely user friendly."

Legal Directories

Cases and inquiries

29 02 24	St Matthews Court (N10 1NW) Ltd v Greyclyde Investments Ltd
28 07 23	BMW (UK) Ltd v K Group Holdings
03 10 22	Riverside Lodge Freehold Limited v Centreway Investments MAN/00BN/OCE/2020/0011
07 10 21	Bluegate Housing Ltd v London Borough of Lambeth
01 06 21	Donford Limited v Bracknell Forest District Council CR/2021/0001
27 04 20	Consensus Business Group (Ground Rents) Limited v Palgrave Gardens Freehold Company Limited [2020] EWHC 920 (Ch), [2020] 2 P. & C.R. 13, [2020] L. & T.R. 12, Falk J
09 01 20	QAS Nominees v City and Provincial Equity Partners, Re 35 Portland Place, LON/00BK/OAF/2018/0026
22 11 19	Fairfield N12 Freehold Ltd v Hertsmere Property Co Ltd, FTT, LON/00/AC/OCE/2019/0059
04 11 19	Regent Wealth v Wiggins [2019] UKUT 0310 (LC)
04 11 19	Aldford House Freehold Ltd v Grosvenor (Mayfair) Estate and K Group Inc [2019] EWCA Civ 1848
22 08 19	G Crawford Management Services Limited v London Borough of Tower Hamlets [2019] UKUT 139
22 08 19	Middleton v West Berkshire District Council FTT (Property Chamber) (Land Registration) 14 May 2019 Ref: 2017/0880
22 08 19	York House (Chelsea) Limited v Thompson [2019] EWHC 2203 (Ch)
20 02 19	Court decides that a collective enfranchisement claim can be made for five blocks of flats in a single notice
23 01 19	Hazell v Knightspur Homes Limited HC-2017-002660
19 12 18	Aldford House Freehold Ltd v (1) Grosvenor (Mayfair) Estate (2) K Group Holding Inc [2018] EWHC 3430
23 07 18	35 Portland Place, London W1
23 07 18	Lockes Field Management Co Ltd v Rakesh Patel and Ors
23 07 18	Chelsea House, London SW1
23 07 18	39 Headfort Place, London SW1
11 06 18	TfL fends off £500,000 squatters' claim

08 06 18	Secretary of State for the Environment, Transport and the Regions v Baylis (2000) 80 P. & C.R. 324; [2000] 3 P.L.R. 61; [2000] 2 E.G.L.R. 13
08 06 18	Gooden v Northamptonshire County Council [2002] P.N.L.R. 18; [2002] 1 E.G.L.R. 137, CA
08 06 18	Dean v Allin & Watts [2000] PNL R 690
08 06 18	Nightingale Mayfair Ltd v Mehta [2000] WTLR 901
08 06 18	Cadogan v Shahgholi [1999] 1 EGLR 189
08 06 18	Banco Exterior v Thomas [1997] 1 WLR 221,CA
07 06 18	Corbett v Halifax Building Society [2002] EWCA Civ 1849; [2003] 1 W.L.R. 964
07 06 18	Royal Bank of Canada -v- Secretary of State for Defence 1P & CR 28
07 06 18	Goodmayes Estates Ltd v First National Commercial Bank Ltd [2004] EWHC 1859
06 06 18	Palace Mansions LON/ENF/1566/05
06 06 18	Cadogan v Sportelli and others [2007] 1 EGLR 153
05 06 18	Fitzpatrick v Exel Holdings [2008] TCC
05 06 18	Llyn Lewis v Environment Agency, June 2007
05 06 18	Sainsbury's Supermarkets Ltd v Oliveview Ltd, Chancery Division
05 06 18	Arcade House - LVT, February 2007
05 06 18	Castlebay v Asquith [2005] EWCA Civ 1734 [2006] 2 P. & C.R. 22
05 06 18	Cadogan v Sportelli, Court of Appeal [2007] EWCA Civ 1042
04 06 18	Spaces Personal Storage v RSN [Central London CC] HHJ Cowell
01 06 18	Themeline Ltd v Vowden Investments Ltd, 39 Wilton Crescent, London SW1 - LVT LON/00BK/OCE/2009/0096
31 05 18	BDW Trading Ltd v Opticliffe Ltd [High Court- Chancery Division]
31 05 18	R (Renaissance Habitat Ltd.) v. West Berkshire District Council [2011] J.P.L. 1209

31 05 18	Tristmire v Mew Newport (Isle of Wight) County Court
31 05 18	Cravecrest Ltd v Duke of Grosvenor and Vowden Investments Ltd Re 38 Wilton Crescent, London SW1
31 05 18	Cadogan v Quazzo Re Flat 11, 75-79 Cadogan Gardens, London SW3 LVT
31 05 18	Grey v Howland [Land Registry- Adjudicator]
31 05 18	London Borough of Waltham Forest v Oakmesh and Family HA [High Ct, Ch D, Livesey QC [2009] EWHC 1688 (Ch); J.P.L. 249]
31 05 18	Shaw v Howard de Walden Estate
31 05 18	Cadogan v 2 Herbert Crescent Freehold Limited
31 05 18	Cadogan v Sportelli, House of Lords [2008] UKHL 71, [2009] 2 WLR 12
30 05 18	Royal Tower Lodge, 40 Cartwright Street, London E1 8LX LVT Ref LON/00BG/OCE/2012/0219
30 05 18	Cravecrest v Duke of Westminster and Vowden Investments Limited [2013] EWCA Civ 731
30 05 18	Wiggins v Regent Wealth Ltd and others, Central London County Court
30 05 18	Dyer v Terry [2013] EWHC 209 (Ch)
30 05 18	80 and 82 Carlton Hill, London NW8 LVT Ref BG/LON/00BK/OCE/12/0090
30 05 18	63 Rope Street LVT ref BIR/00BE/LSC/2012/0031
30 05 18	45-47 South Street, Mayfair, London W1 LVT ref LON/OOBKJOCE/2011/0187
30 05 18	Cravecrest Limited v Duke of Westminster (1) and Vowden Investments Limited (2) [2012] UKUT 68 (LC)
30 05 18	Themeline Limited v Vowden Investments Limited
30 05 18	Intergraph (UK) Ltd v Wolfson Microelectronics Plc [2012] EWHC 528 (Ch)
30 05 18	Secretary of State for Transport v Quest Maidstone Limited REF/2010/0210
30 05 18	Mew v Tristmire C.A. [2012] 1 W.L.R. 852; [2011] H.L.R. 47; [2012] L. & T.R. 6
29 05 18	Jewelcraft Limited v Pressland

29 05 18	Padwick Properties v Punj Lloyd Ltd [2016] EWHC 502 (Ch)
29 05 18	Jewelcraft Ltd v Pressland [2015] EWCA Civ 1111
29 05 18	Odense v Grosvenor West End Properties
29 05 18	Flat 3, 47 Cadogan Square, London SW1
29 05 18	Regent Wealth Ltd v Wiggins [2014] EWCA Civ 1078, [2014] WLR (D) 352
29 05 18	Youseffi v Mussellwhite [2014] EWCA Civ 885
29 05 18	47 Green Street, London W1, FTT, LON/00BK/OLF/2014/0001
29 05 18	A v B
29 05 18	The Point, Boscombe
29 05 18	Thurrock Council v Mullett, Basildon County Court
25 05 18	48 Featherstone Street, London EC1, CHI/00AU/LVT/2016/0011
24 05 18	Portman Estate v Jamieson LON/00BK/OAF/2014/2015
24 05 18	Warren Court Investments LLP v London Underground Limited LON/00AG/OLR/2016/1101
24 05 18	Jewelcraft Limited v Pressland RC/LON/00BJ/OAF/2017/0013
28 02 18	Portman Estate Nominees v Jamieson [2018] UKUT 0027
01 01 05	Hill v Transport for London [2005] EWHC 856; [2005] 3 All E.R. 677; [2005] 30 E.G. 90. High Court
18 03 99	Parc Battersea v Hutchinson [1999] L. & T.R. 554; [1999] 2 E.G.L.R. 33