

Landmark Chambers

Barrister CV

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Tom Weekes KC

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Tom is a leading property silk. He is ranked in “Band 1” for property litigation in Legal 500 and Chambers & Partners. And he was named “Legal 500, Property and Housing Silk of the Year 2023” and “Chambers UK, Real Estate Silk of the Year 2023”.



Expertise

Property

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Property

Tom has appeared in significant cases in the Supreme Court, the Privy Council and the Court of Appeal. And he regularly appears in the High Court, the County Court and the Upper Tribunal (Lands Chamber). His recent cases include ***Fearn v Tate Trustees*** [2024] AC 1 (succeeded in a groundbreaking Supreme Court case establishing that the Tate was liable in nuisance for operating a viewing platform at Tate Modern so as to enable visitors to engage in viewing/photography into flats), ***Bath Rugby Ltd v Greenwood*** [2023] 1 P&CR 6 (succeeded in the Court of Appeal establishing that Bath Rugby’s ground is not subject to restrictive covenants that might impede the development of a new stadium) and ***Reeve v McDonagh*** [2024] EWHC 439 (Ch) (succeeded in the High Court establishing that restrictive covenants do not prohibit the erection of a replacement house at Sandbanks, Poole).

Recommendations in the legal directories include:

- "...very driven and fantastic in submissions...and incredibly easy to work with." (Chambers and Partners, 2024).
- "...a deep thinker and strategist" (Chambers and Partners, 2024).
- "...the person clients go to when they have a ridiculously complex case" (Chambers and Partners, 2023).
- "...undoubtedly one of the leading property barristers in the country" (Legal 500, 2023).
- "...a leading specialist in restrictive covenants...he is user-friendly and very bright" (Chambers and Partners, 2022).
- "Carving out a name as the primus inter pares for property development disputes" (Legal 500, 2020).
- "He is brilliant – very reactive, straightforward, practical and commercial" (Chambers and Partners, 2020).

Tom regularly appears in cases about the development of land. He advises developers at an early stage about private law impediments to developments. Tom has appeared in many leading cases about restrictive covenants: including cases brought under section 84(2) of the *LPA 1925* about the enforceability or interpretation of covenants; applications to the Upper Tribunal (Lands Chamber) under s.84(1) of *LPA 1925* for the discharge/modification of covenants; and cases about whether consent has been unreasonably refused. As the co-author of *Rights of Light: The Modern Law* (Jordans, 2015, 3rd ed), Tom is a leading specialist in the field of rights of light. He has also appeared in cases about whether developers have succeeded in exploiting drafting loopholes to avoid paying overage; in disputes about options; and in cases about whether developers can escape from contracts to buy sites.

In relation to land ownership, Tom has appeared in many cases (including leading Court of Appeal authorities) about adverse possession, land registration, trusts of land and boundaries. And he has acted in many conveyancing disputes (including cases about whether contracts of sale have been rescinded for misrepresentation). Having succeeded the leading modern case about nuisance (*Fearn v Tate*), Tom is instructed in the full range of nuisance disputes (relating to such things as noise, vibrations, smells and light).

In the field of commercial landlord and tenant litigation, Tom acts on lease renewals and in litigation about forfeiture, dilapidations, rent reviews and consents. He has appeared in many cases about whether tenants have satisfied break conditions. As the author of *Property Notices* (LexisNexis, 2021, 3rd ed), he regularly acts in cases about the service and validity of notices (including break notices).

Tom accepts instructions under the Public Access Scheme.

Boundary and Ownership Disputes

Tom regularly acts in land ownership disputes (including in registration and adverse possession cases) and in boundary disputes.

He has appeared in cases about the circumstances in which land registers can be altered on the ground of "mistake" including in *Quinto v Santiago Castillo Ltd* [2009] UKPC 15 (a Privy Council appeal in which the issue was whether an original owner was entitled to be reinstated in a land register as the registered proprietor of land in Belize following a transfer by a fraudster) and *Baxter v Mannion* [2011] 1 WLR 1594 (a leading Court of Appeal case about the circumstances in which HM Land Register

can be altered). In **Scribes West Ltd v Relsa Anstalt (No.3)** [2005] 1 WLR 1847 the issue was whether a purchaser of the reversion to a lease could forfeit a lease during the “registration gap”.

Tom has appeared in many adverse possession cases for both paper title owners and squatters. In the leading case of **Baxter v Mannion** [2011] 1 WLR 1965 Tom acted for a paper title owner who had missed the deadline for objecting to an application by a squatter to be registered as the freeholder leading to the registration of the squatter as the freeholder. The Court of Appeal held that the paper title owner was nevertheless entitled to be reinstated as the registered freeholder. In **Nata Lee Ltd v Abid** [2015] 2 P&CR 3, again acting for the paper title owner, Tom succeeded in the Court of Appeal in establishing that the trial judge had misapplied the law when holding that title to land had been acquired by adverse possession. In **Wretham v Ross** [2006] 1 P&CR 1259, Tom successfully appeared for a squatter.

He has acted in many boundary disputes, including in the Court of Appeal (**Nata Lee Ltd v Abid** [2015] 2 P&CR 3 and **Steward v Gallop** [2011] 1 P&CR 17).

Commercial Landlord and Tenant

Tom acts in all types of commercial landlord and tenant litigation, including cases about:

- **Break clauses.** Tom frequently acts in disputes about the service of break notices and compliance with break conditions. In **MW Trustees Ltd v Telular Corp** [2011] L&TR 19, he succeeded in establishing that a landlord had waived defects in a break notice by “accepting” the notice. He appeared in **Siemens Hearing Instruments Ltd v Friends Life Ltd** [2015] 1 All ER (Comm) 1068, a leading Court of Appeal case about the need for strict compliance with break conditions.
- **Rent reviews.** In **Lancecrest Ltd v Asiwaju** [2005] L&TR 22 Tom succeeded in establishing in the Court of Appeal that a rent review notice served after the deadline in the lease was valid. Recently, he has acted in cases about the index-linking of rent.
- **Lease renewals.** Tom has appeared in unopposed lease renewals relating to leases of all kinds of premises (including retail units, warehouses, and offices). And he has appeared in opposed lease renewals in which the landlord has relied on grounds (f) or (g). He has also acted in cases about the quantification of statutory compensation.
- **Dilapidations.** Tom has represented landlords and tenants in disrepair cases concerning all kinds of properties (including offices, warehouses, farm buildings, hotels, pubs, and factories). Most have been terminal dilapidations claims. However, he has also acted on cases seeking orders for specific performance of repair obligations during the term.
- **Forfeiture.** Tom appeared in **Pirabakaran v Patel** [2006] 1 WLR 3112 (whether mixed-use premises could be forfeited by peaceable re-entry) and **Scribes West Ltd v Relsa Anstalt (No.3)** [2005] 1 WLR 1847 (whether a purchaser of the reversion could forfeit a lease during the “registration gap”).

Conveyancing Disputes

Tom has acted in many cases in which purchasers have attempted to avoid buying land, or rescinding the purchase of land, under contracts of sale. Those cases include: **Bella Italia Restaurants Ltd v Stane Park Ltd** [2019] EWHC 2747 (Ch) (whether a contractual obligation to grant a lease can be performed by procuring the grant of a lease by someone else), **Chinnock v Hocaoglu** [2008] 29 EG 92 (late tender of purchase price) and **Wyche v Singla Properties Ltd** (2011). In **Mann & Mann v Cooper** the issue was whether a firm of solicitors had been authorised to enter into a contract of sale on behalf of purchasers. In **Starham Ltd v Greene King Pubs Ltd** [2017] 9 WLUK 422 the issue was whether a nineteenth century conveyance created a licence or easement.

Easements and Profits a Prendre

As the co-author of *Rights of Light: The Modern Law* (2015, 3rd edition), Tom has acted on many rights of light cases. He frequently advises on the interpretation of rights of light deeds; he has acted in cases concerning whether rights of light have been extinguished or breached; and he acted for a housebuilder in a negligence action against a firm of rights of light surveyors. In **Pavledes v Hadjisavva** [2013] 2 EGLR 123 David Richards J gave guidance about the availability of declaratory relief in respect of a development that would infringe a neighbour's rights of light. In **Starham Ltd v Greene King Pubs Ltd** [2017] 9 WLUK 422 the issue was whether a nineteenth century conveyance created a licence or easement.

Land Registration and Adverse Possession

Tom regularly acts in land ownership disputes, including cases about land registration and adverse possession.

He has appeared in cases about the circumstances in which land registers can be altered on the ground of "mistake": including **Quinto v Santiago Castillo Ltd** [2009] UKPC 15 (a Privy Council appeal about whether an original owner was entitled to be reinstated as the registered proprietor of land in Belize following a transfer by a fraudster) and **Baxter v Mannion** [2011] 1 WLR 1594 (a leading Court of Appeal case about the circumstances in which HM Land Register can be altered). In **Scribes West Ltd v Relsa Anstalt (No.3)** [2005] 1 WLR 1847 the issue was whether a purchaser of the reversion to a lease could forfeit a lease during the "registration gap".

Tom has appeared in adverse possession cases for both paper title owners and squatters. In the leading case of **Baxter v Mannion** [2011] 1 WLR 1965 Tom acted for a paper title owner who had missed the deadline for objecting to an application by a squatter to be registered as the freeholder leading to the registration of the alleged squatter as the freeholder. The Court of Appeal held that the paper title owner was nevertheless entitled to be reinstated as the registered freeholder. In **Nata Lee Ltd v Abid** [2015] 2 P&CR 3, again acting for the paper title owner, Tom succeeded in the Court of Appeal in establishing that the trial judge had misapplied the law when holding that title to land had been acquired by adverse possession. In **Wretham v Ross** [2006] 1 P&CR 1259, Tom successfully appeared for a squatter.

Mortgages, Charges, Charging Orders and Securitisation

Tom has appeared in many cases concerning mortgages and charges. In **HSBC v Collelldevall** [2010] 1 P&CR 4 the issue was whether an occupier's beneficial interest under a constructive trust was an overriding interest, and, if so, whether that interest was overreached by a mortgage. In **Garwood v Bank of Scotland** [2013] BPIR 450 the issue was whether a mortgagee was

entitled to set aside the discharge of a mortgage on the ground of mistake. *Tomkins v Bristol & West Investments* [2006] EWCA 977 was an appeal to the Court of Appeal from a committal order made against a mortgagor who had failed to comply with an injunction obtained by a mortgagee.

Private nuisance

Tom succeeded in the Supreme Court in the leading modern case about nuisance (*Fearn v Tate Gallery* [2024] AC 1). In that groundbreaking decision, the Supreme Court held that the Tate Gallery had committed a nuisance by operating a viewing gallery in a way that interfered with the amenity of neighbouring flats. He acts in the full range of nuisance cases (including cases about noise, vibrations, smells, light and protestors). Some of Tom's cases have concerned nuisance in a landlord and tenant context.

Professional Negligence Claim Related to Property

Tom has acted in many property-related professional negligence disputes. He represented Berkeley Homes in a negligence claim against a right of light surveyor concerning advice given by that surveyor about a substantial development in the City of London. He has acted on claims arising from negligently-drafted overage provisions. And he has acted in several claims against solicitors arising from a negligent failure to serve valid break notices.

Rights of Light

As the co-author of *Rights of Light: The Modern Law* (Jordans, 2015, 3rd ed), Tom has acted on many rights of light cases. He frequently advises on the interpretation of rights of light deeds; he has acted in cases about whether rights of light have been extinguished or breached; and he acted for a housebuilder in a negligence action against a firm of rights of light surveyors. In *Pavledes v Hadjisavva* [2013] 2 EGLR 123 David Richards J gave guidance about the availability of declaratory relief in respect of a development that would infringe a neighbour's rights of light.

Property Development including Overage disputes

Tom is a leading specialist in disputes about the development of land, including litigation about:

- Development agreements. Many of Tom's cases concern development agreements. He is currently acting in several cases in which developers are attempting to escape from contracts to buy development sites. In June 2023, he appeared in an arbitration in which a developer argued that it had terminated an agreement for the purchase of a site for £17m.
- Restrictive Covenants. Tom has appeared in cases about:
 - The enforceability of restrictive covenants. In *Bath Rugby Ltd v Greenwood* [2023] 1 P&CR 6 he successfully represented Bath Rugby in a leading Court of Appeal authority about the annexation of the benefit of covenants to land which established that Bath Rugby's stadium is not subject to restrictive covenants that might have impeded the construction of a new stadium.

- The interpretation of restrictive covenants. In ***Dennis v Davies*** [2010] 1 EGLR 81 Court of Appeal held that a restrictive covenant prohibiting causing a “nuisance or annoyance” could be breached by an extension to a house which blocked an attractive view of a river.
- Grants of consents for developments under restrictive covenants. In ***Zakaim v Hampstead Garden Suburb Trust*** [2020] he succeeded in establishing a refusal of consent had been reasonable. In the leading case of ***Shebelle Enterprises Ltd v Hampstead Garden Suburb Trust Ltd*** [2014] 2 P&CR 6, he succeeded in the Court of Appeal in establishing that, when granting an application for consent for a development under an estate management scheme, an estate enjoyed a statutory defence to a claim that it was liable to a tenant affected by the proposed development under the covenant of quiet enjoyment.
- The discharge/modification of restrictive covenants under s.84(1) of the *Law of Property Act 1925* (including, ***Re Clearwater Properties Ltd*** [2013] UKUT 0210 (LC), ***Re Stanborough’s Application*** [2012] UKUT 21 (LC), ***Re Zenios*** [2011] EWCA Civ 1645 (CA), ***Re Surana’s Application*** [2016] UKUT 368 (LC), ***Re University of Chester’s Application*** [2016] UKUT 457 (LC), ***Re Falmouth Dock*** [2017] UKUT 430 (LC), ***Re Theodossiades’ Application*** [2017] UKUT 0461, ***Blue Angel Properties Ltd v Jenner*** [2020] UKUT 360 (UT) and ***Nathwani v Kivlehan*** [2021] UKUT 84 (LC)).
- Rights of light. As the co-author of *Rights of Light: The Modern Law* (2015, 3rd edition)), Tom has acted on many rights of light cases. He frequently advises on the interpretation of rights of light deeds; he has acted in cases concerning whether rights of light have been extinguished or breached; and he acted for a housebuilder in a negligence action against a firm of rights of light surveyors. In ***Pavledes v Hadjisavva*** [2013] 2 EGLR 123 David Richards J gave guidance about the availability of declaratory relief in respect of a development that would infringe a neighbour’s rights of light.
- Estate Management Schemes. Tom has acted for many of the estates with estate management schemes created under the *Leasehold Reform Act 1967* or the *Leasehold Reform, Housing and Urban Development Act 1993*. He represented Hampstead Garden Suburb Trust in the Court of Appeal in ***Re Zenios*** [2011] EWCA Civ 1645 which concerned the interaction between the planning system and an estate management scheme.
- Overage. Tom has successfully acted for sellers of development sites in preventing developers avoiding paying overage in reliance on perceived loopholes in the drafting of overage provisions. In ***Sparks v Biden*** [2017] EWHC 1994 (Ch), in which overage was payable on the “sale” of the houses (defined as being a sale of the freehold or the grant of a long lease), the Court implied a term into the agreement requiring the developer had to “sell” the houses within a reasonable time (rather than let the houses under ASTs). In ***Renewal v Lowry*** [2010] EWHC 290 (Ch), in which the “trigger” for the calculation and payment of overage was the sale of the last house on a development, the Court implied term requiring the purchaser to complete and sell the houses as soon as reasonably practicable.
- Party Walls. Tom has appeared in leading party wall cases. In ***Freetown v Assethold*** [2013] 1 WLR 7012 the Court of Appeal held that the time for appealing against a party wall award ran, not from the date on which the award was dispatched into the post, but from the date on which the award was delivered (or deemed to have been delivered). In ***Knight v Goulondris*** [2018] 1 WLR 334 the Court of Appeal held that, even before the amendment to s.15 of the Party Wall etc. Act 1996 which expressly permitted service of documents by email, it was possible to serve documents by email. In ***Mustapha v Zafrani*** (2013) Ramsay J held that, even after time for appealing had expired, the Court had jurisdiction to substitute the correct respondent to an appeal from a party wall award in place of a wrongly-named respondent.

Riparian Rights, Watercourses and Harbours

Tom has appeared in many cases about riparian rights and watercourses (including boundary disputes; a case about whether a licence was required to moor boats on a canal; and a case about whether it is possible to have a tenancy of a houseboat).

Trusts of Land and other Equitable Claims

Tom has been instructed in many disputes about the beneficial ownership of property and proprietary estoppel. In *Hermesen Wilkinson v Hermesen* (2015) he succeeded for a mother in a hotly-contested dispute with her daughter over the beneficial ownership of flat in Kensington. In *HSBC Bank Plc v Dyche* [2010] BPIR 138 he obtained a finding that a father had retained the beneficial ownership of his house after transferring the house to his daughter to enable her to obtain a mortgage and that his beneficial interest had priority to that mortgage. In *Young v Lauretani* [2007] 2 FLR 1211 Tom successfully acted in a dispute over the beneficial interest between former boyfriend and girlfriend.

Village Greens, Commons and Manorial Rights

Tom has acted in several cases about the registration of manorial rights and commons.

Qualifications

- New College, Oxford (1992): First-Class Honours degree in Politics, Philosophy and Economics.
- Tom taught economics for a year at Winchester College before studying law at City University.

Recommendations

"Tom is very driven and fantastic in submissions... and incredibly easy to work with." and "...a deep thinker and strategist".

Real Estate Litigation, Chambers and Partners, 2024

"A very strong and competent KC who is a pleasure to work with."

Property Litigation, Legal 500, 2024

"Tom is very collaborative, and you can see the way his brain is working as he analyses the case." "He is very knowledgeable and the person clients go to when they have a ridiculously complex case."

Real Estate Litigation, Chambers and Partners, 2023

"A silk possessing forensic knowledge of the law of restrictive covenants and a real ability to apply the law to the particular case. Tom gives clear, insightful and detailed advice and is undoubtedly one of the leading property barristers in the country."

Property Litigation, Legal 500, 2023

"He is clear, helpful and excellent on his feet. He presents things step by step and lays it out really well." "He is a leading specialist in restrictive covenants and he is user-friendly and very bright."

Real Estate Litigation, Chambers and Partners, 2022

"Good on expert evidence and witness statement evidence and general preparation for trial. Tom is a team player who goes the extra mile for clients. Very good expertise on restrictive covenants."

Property Litigation, Legal 500, 2022

"Tom is ultra-reliable and gives prompt, focused and intelligent advice." "He's got a certain gravitas but he doesn't stand on ceremony." "Extremely approachable and commercial, offering practical solutions and advice."

Real Estate Litigation, Chambers and Partners, 2021

"He is brilliant – very reactive, straightforward, practical and commercial." "He is very focused, has strong views and gives strong advice." "Provides leading advice on complex issues."

Real Estate Litigation, Chambers and Partners, 2020

"Carving out a name as the primus inter pares for property development disputes."

Legal 500, 2020

"Really gets to grips with a case and delivers highly effective advocacy."

Chambers and Partners, 2019

Cases and inquiries

05 03 24 The High Court (Joanna Smith J) has handed down judgment in *Reeve v McDonagh* [2024] EWHC 439 (Ch)

04 04 23 *Reeve v McDonagh* [2024] EWHC 439 (Ch)

01 02 23 *Fearn and others v Board of Trustees of the Tate Gallery* [2023] UKSC 4

21 12 21 *Bath Rugby Ltd v Greenwood* [2021] EWCA Civ 1927

22 04 21 *Nathwani v Kivlehan* [2021] UKUT 84 (LC)

18 12 20	Blue Angel Properties Ltd v Jenner [2020] UKUT 360 (LC)
09 10 19	Bella Italia Restaurants v Stane Park Ltd [2019] EWHC (Ch)
20 02 18	Knight v Goulandris [2018] 1 WLR 3345
19 02 18	Theodossiades' Application, Re [2017] UKUT 430 (LC)
23 11 17	Re Falmouth Dockyard [2017] UKUT 430 (LC)
03 08 17	Sparks v Biden [2017] EWHC 1994 (Ch)
18 10 16	Re University of Chester's Application [2016] UKUT 457 (LC)
30 08 16	Re Surana's Application [2016] UKUT 368 (LC)
30 11 15	Hermesen-Wilkinson v Hermesen (2015)
18 12 14	Nata Lee Ltd v Abid & Anor [2014] EWCA Civ 1652
04 12 14	Nata Lee Ltd v Abid [2015] 2 P&CR 3
03 04 14	Siemens Hearing Instruments Ltd v Friends Life Ltd [2015] 1 All ER (Comm) 1068
25 03 14	Shebelle Enterprises Ltd v Hampstead Garden Suburb Trust Ltd [2014] 2 P&CR 6
19 06 13	Cusack v Harrow LBC [2013] 1 WLR 2022
29 05 13	Re Clearwater Properties Ltd's Application [2013] UKUT 210 (LC)
04 03 13	Garwood v Bank of Scotland Plc [2013] BPIR 450
01 02 13	Mustapha v Zafrani
31 01 13	Pavledes v Hadjisavva [2013] EGLR 123
14 12 12	Freetown Ltd v Assethold Ltd [2013] 1 WLR 7012
29 02 12	Re Stanborough's Application [2012] JPL 756
25 02 11	Baxter v Mannion [2011] 1 WLR 1594

09 02 11	MW Trustees Ltd (2) Robert Posel (3) Pamela Posel v Tellular Corporation [2011] L&TR 19
08 11 10	Re Zenios [2011] EWCA Civ 1645
13 10 10	Renewal v Lowry [2010] EWHC 2902 (Ch)
27 07 10	Steward v Gallop [2011] 1 P&CR 17
01 11 09	Crown Estate Commissioners v Wilson
01 11 09	HSBC v Colleldevall [2010] 2 P & CR 4
01 10 09	Dennis v Davies [2010] 1 ELGR 81
28 04 09	Quinto v Santiago Castillo Limited [2009] UKPC 15
12 02 08	Falmouth House Freehold Ltd v Rahimzadeh [2008] NPC 17
09 11 07	Chinnock v Hocaoglu [2008] 2 EGLR 77
23 05 07	Young v Laurentani [2007] 2 FLR 1211
12 12 06	Jones v Cleanthi [2007] 1 WLR 1604
26 06 06	Tomkins v Bristol & West Investments Plc [2006] EWCA Civ 977
31 12 05	Pirabakaran v Patel [2006] 1 WLR 3112
01 07 05	Wretham v Ross [2005] NPC 87
12 05 05	Fairgate International Ltd v Citibank International Plc [2006] 1 P & CR2
11 02 05	Lancecrest Ltd v Asiwaju [2005] EWCA Civ 117, [2005] 1 EGLR 40
20 12 04	Scribes West Ltd v Relsa Anstalt (No.3) EWCA Civ 1744, [2005] 1 WLR 1847
10 10 03	Mann & Mann v Cooper
01 01 03	Castlegroom Ltd v Enoch (No.2) [2003] 2 EGCR 54
05 10 01	Berkeley Leisure Group Ltd v Hampton [2001] EWCA Civ 1474, [2001] 2 WLR 224

19 04 00 Michaels v Harley House [2001] Ch 493

25 01 99 Tadema Holdings v Ferguson [2000] 32 HLR 866

Publications

Rights of Light: The Modern Law (Jordans, 2015, 3rd ed)

Property Notices (LexisNexis, 2021, 3rd ed)
