

DILAPIDATIONS

Dilapidations are a growing concern for landlords as leases become shorter and break options more common.

Also, many older buildings are now becoming vacant as the leases expire and need substantial expenditure before they will attract a new tenant. Not unreasonably, landlords look to the former tenant to leave the property in good condition, but unfortunately, this is seldom the case. The Civil Procedure Rules have had a significant impact in how courts now deal with dilapidations issues.

Changes introduced

The Civil Procedure Rules — introduced in April 1999 — aim to:

- > put parties on equal terms
- > reduce expenses
- > allot appropriate resources according to the size of the claim, the importance of the case and the complexity of the issues

Any claim made by a landlord must be thoroughly considered with appropriate information provided to the tenant or their surveyor.

The current protocol

A draft Pre-Action Protocol was prepared by the Property Litigation Association (PLA) and is referred to in the RICS Guidance Note on dilapidations. It is anticipated that this is likely to receive formal status under the Civil Procedure Rules in the near future. The draft Protocol was intended to streamline dilapidations claims prior to the service of proceedings, enabling disputes to be settled prior to cases going to court, and has recently been revised by the PLA to further smooth out the dilapidations process. The RICS Guidance Note will shortly be revised to take this into account.

What we do

Our Building Surveying team is highly skilled in dilapidations matters, and have successfully acted for the likes of Nationwide Building Society, the Post Office, Onyx, Pizza Express and Thistle Hotels. We also have substantial experience in representing tenants, which also benefits our landlord clients. It gives us a unique insight into the arguments and strategies that the tenant is likely to pursue to reduce the claim.

The dilapidations services we offer include:

- > strategic advice on how best to maximise the claim
- > inspection and preparation of interim and terminal schedules of dilapidations, repairs notices and scott schedules
- > negotiations
- > expert evidence

At the start of any lease, our team could assist by preparing and agreeing a Schedule of Condition for your property, if required.

“As landlords, if we had timed our dilapidations claim incorrectly, we would have been left with costly protracted negotiations and vacant space. Gerald Eve's Building Surveying team advised us throughout the whole process, helping us achieve an excellent settlement figure from the tenant." difference.”

Rod Hewett, managing director
Fresh Wharf Estates Ltd

OUR TRACK RECORD AND SPECIALIST EXPERTISE

Case study: Fresh Wharf Estates, Barking

In this case, the tenant had heavily fitted-out the premises with its own partitioning, equipment and a substantial built-in safe. The first stage was to review the lease and licence documentation in great detail, which highlighted two areas in particular that strengthened the landlord's relative negotiation position. At the second stage, we issued unpriced and priced schedules to serve upon the tenant before and after the end of the lease, respectively. Finally, we undertook without prejudice negotiations with the tenant's surveyor and achieved a settlement figure of only 15% less than the original claim. The key to the successful outcome of this case was to provide early strategic advice which ultimately enabled the landlord to achieve a very favourable settlement.

Case study: Thistle Hotels, London NW1

Our client, Thistle Hotels, asked us for dilapidations advice on one of its properties occupied by an American operator who was unfamiliar with the UK's complicated dilapidations legislation. The negotiations therefore had to be undertaken particularly carefully to ensure a fair and reasonable settlement. Following careful negotiations, we reached a settlement at 80% of the original claim value.

Landlord and tenant services

"Landlord and tenant" is a collective term which covers a number of specialist building surveying skills that we undertake including:

- > building surveys
- > schedules of condition
- > schedules of dilapidations
- > project management of building works
- > negotiations
- > expert witness

The firm

Gerald Eve LLP is a leading firm of chartered surveyors and property consultants operating from a network of nine offices across the UK. We have achieved one star accreditation and are classified as a 'first class place to work' by The Sunday Times Best Companies to Work For' survey.

Our clients – including 40 per cent of the FTSE100 – hold some of the largest property portfolios in the country. We provide advice to ensure that our clients' operational and non-operational properties cost them as little as possible and deliver the maximum return possible.

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