



John Furber QC

Call: 1973

QC: 1995

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Clerks' Details

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Qualifications and Appointments

- MA (Cantab)

Memberships

- Chancery Bar Association
- Property Bar Association (Chairman 2011-2014)
- Planning and Environment Bar Association

“His main strength lies in advancing potentially complex arguments in a very clear way.”

The Legal 500 2020

Publications

- *Hill and Redman's Law of Landlord and Tenant* (2019) (general editor of this looseleaf textbook since 1996)
- The Landlord and Tenant Act 1954: 'substantial work of construction' and the role of the building surveyor (with Christopher Sullivan and Vivien King), *Journal of Building Survey, Appraisal and Valuation*, Autumn 2017
- ['Relief from forfeiture: Can the landlord gather a windfall?'](#) (2016) *Wilberforce Property Update* (Issue 2) April 2016
- ['Mount Eden Land Limited v Bolsover Investment Limited'](#) (2014) *Wilberforce Property Update* (Issue 1) May 2015
- *A new lease of life* (on the drafting of lease clauses) (January 2015) (with Vivien King) *Estates Gazette*.
- ['Expert determinations and the powers of the court'](#) (2012) *Development Disputes: Current issues for property litigators* (Wilberforce Chambers)

Practice Overview

John is a specialist in all areas of real property law and litigation, with particular emphasis on commercial leases and issues related to property development. He also has many years of experience in the law and practice of town planning and compulsory acquisition of land. He accepts instructions to act as an independent expert and as a legal assessor in arbitrations

John's practice is both advisory and litigious. The advisory work often relates to development projects and possible impediments to them (for example, restrictive covenants and easements), where a robust and reliable view is needed. Some recent decided cases will provide an impression of John's litigious work. In *Cosmichome Ltd v. Southampton City Council* [2013] 1 WLR 2436, John established that a restrictive covenant relating to broadcasting studios was not enforceable because it was not intended to protect the amenity or value of the covenantee's land. *Mount Eden Land Ltd v. Bolsover Investments Ltd* [2014] EWHC 3523 (Ch) concerned a landlord's objection to the development of commercial premises to provide flats, on the grounds that future lessees of the flats might enjoy rights of enfranchisement; John established that, in the circumstances of the case, such an objection did not provide a reasonable ground for refusing consent to the proposed alterations. *Stadium Capital (No. 2) Ltd v. St Marylebone Property Company Ltd* [2012] 1 EGLR 103 was, as Vos J put it, "the third instalment of a long-running battle concerning an advertising hoarding on the west side of the Finchley Road, projecting into the airspace of a cleared development site". In the "first instalment" John had established that his developer client was entitled to damages for trespass and the decision of Vos J is now one of the leading cases on the method of assessment of such damages.

Examples of cases in which John has been instructed in 2019 are as follows:

- advising a central government department in relation to a claim for an "overage" payment arising out of the development of a solar farm;
- advising a county and district council as to the drafting of planning obligations relating to a proposed development including 3000 homes;
- drafting pleadings and advising on defences to a claim in the Chancery Division for rectification of an option agreement relating to affordable housing in a development under construction;
- advising as to the valuation for taxation purposes of a development site including a "ransom strip".



Publications continued

- [Stokes v Cambridge: What does it say? How does it help?](#) (2008) *Hot Topics in Property Law: A Surveyor's Guide* (Wilberforce Chambers)
- *Guide to the Commonhold and Leasehold Reform Act* (2002) (joint author)
- Past contributor to *Halsbury's Laws of England on Landlord and Tenant and on Compulsory Acquisition of Land*

Practice Overview continued

In Chambers UK 2020 it is stated that he is *"user-friendly, very well regarded and impresses with his strategic advice"*.

In The Legal 500 2019, he is described as *"good technically, very approachable and clear with clients"*.

In Chambers UK 2019, he is described as *"very detailed, hugely experienced and enormously well respected"*.

In The Legal 500 2017, it is stated that *"his advice is direct, balanced and always clear"* and the following comments are recorded in Chambers UK 2018:

"John's advice, both orally and in writing, is excellent, focused, to the point and commendably concise."

"Very good and very thorough, he gives very considered opinions and doesn't miss a trick."

Chambers & Partners 2016 records that he frequently advises on landlord and tenant issues and is well versed in the areas of commercial property and development projects. *"He is hugely experienced and very effective. His approach and manner make him a great choice for any solicitor and client."*

In Who's Who Legal 2016, he is *"commended for his 'sharp mind' and 'quick and decisive nature' which has garnered him a 'brilliant reputation' among clients."*

In The Legal 500 2016, he is described as providing *"strong legal analytical skills and practical advice, especially regarding tactics."*

Property

During more than 40 years in practice, John has appeared in many reported cases in the House of Lords, Court of Appeal and at first instance. His cases in the Court of Appeal since 2000 are as follows, giving some illustration of the range of his work.

- *HMV UK Ltd v. Propinvest Friar Limited Partnership* [2011] EWCA Civ. 1708 (consideration of test to be used under section 69 of the Arbitration Act 1996 on an application for permission to appeal against a decision of an arbitrator relating to a rent review of a high street shop).
- *Stadium Capital Holdings (No. 2) Ltd v. St Marylebone Property Company Ltd* [2010] EWCA Civ 952 (issue on the assessment of damages for trespass to land, following finding by trial judge that the projection of an advertising hoarding into the airspace of a cleared development site constituted a trespass).
- *Landlord Protect Ltd v. St Anselm Development Company Ltd* [2009] 2 EGLR 23 (landlord's requirement for an extended guarantee on an assignment of a lease of a block of flats found to be unreasonable; intended purchaser of lease entitled to rescind contract and recover deposit).
- *Debenhams Retail plc v. Sun Alliance & London Assurance Co Ltd* [2005] 3 EGLR 34. (VAT to be included in calculation of turnover rent payment under lease of a department store).
- *Well Barn Shoot Ltd v. Shackleton* [2003] EWCA Civ 02 (consideration of whether sporting rights could be relied upon to prevent the development of barns for residential purposes; "negative declaration" granted; development in accordance with undertakings given would not cause substantial interference with rights).
- *Keelwalk Properties Ltd v. Waller* [2002] 3 EGLR 79 (rejection of alleged proprietary estoppel relating to renewal of leases on an estate of bungalows).
- *J Murphy & Sons Ltd v. Railtrack PLC* [2002] 2 EGLR 48 (consideration of the valuation hypotheses required on the renewal of a business lease under section 34 of the Landlord and Tenant Act 1954).
- *National Car Parks Ltd v. Trinity Development Co (Banbury) Ltd* [2001] 2 EGLR 43 (consideration of whether an agreement relating to a car park created a lease or a licence).



Domestic Arbitration

John has more than forty years experience of dealing with disputes relating to the law of landlord and tenant and real property. As such disputes are often required to be referred for determination to an arbitrator or an expert, John is very familiar with the law applicable to such determinations and the procedure which must be followed. John has acted as an expert and arbitrator himself and has advised surveyors acting in these capacities, in addition to advising the parties to disputes referred for such determination. His essay on '[Expert determinations and the powers of the court](#)' was published in [Development Disputes](#) (Wilberforce Chambers 2012).

Most recently John has advised a party to a rent review dispute on legal issues relating to mixed use premises on the fringe of the City of London, which was referred to an expert surveyor for decision. He also advised an expert surveyor who was appointed to determine a dispute relating to the sale of land and 'onerous planning conditions'; for these purposes, he attended a hearing where the case was argued by leading counsel for the parties to the dispute.