

ashurst

Global Real Estate Dispute Resolution

ASHURST CAPABILITIES





“They are in constant communication with each other which means there is confidence you are moving in the right direction at all times.”

CHAMBERS AND PARTNERS, 2019

Ashurst – global real estate dispute resolution practice

Our global real estate dispute resolution team have the expertise and resources to handle a wide array of property-related disputes. We have a reputation for successfully managing high-value, large and complex disputes, from early identification and management of issues through to conclusion of any claims that arise. We give our clients tailored, strategic advice, while delivering technical excellence and commercial acumen.

Our team of specialists have extensive experience in advising our clients on a broad range of commercial real estate related matters such as:

- tenant default
- restrictive covenants
- rent review disputes
- breach of covenant claims
- lease renewal
- termination rights
- service charge
- property related insolvency and corporate restructuring
- contractual disputes
- profit participation disputes
- easements
- rights of way
- vacant possession strategies to enable development

Avoiding a dispute or preventing one escalating is often the objective and, to this end, our team are effective in resolving disputes by alternative dispute resolution as well as in courts, tribunals and expert determination.

We understand that international disputes are often complex – both legally and sometimes culturally, involving fusion of laws and, not infrequently, politics.

We formulate our dispute resolution strategies through a coordinated approach to achieve the best, most cost-effective outcome for you, and deploy our detailed experience of procedural rules, knowledge of leading experts, industry understanding, incisive analysis and presentation of legal and factual material to ensure we achieve the best possible commercial outcome.

Experience highlights EMEA

RETAIL DISPUTE

Advising a local Belgian investor on a real estate dispute with the other co-owners of a residential and retail property off the main Belgian shopping street.

BRUSSELS

INVESTMENT DISPUTE

Advising a Belgian real estate investor on a dispute with a lender over a real estate finance loan.

BRUSSELS

OFFICE LEASE DISPUTE

Advising one of the largest EU funded associations in Brussels on a dispute with their landlord concerning the delay of the entry into force of their lease.

BRUSSELS

INFRASTRUCTURE DISPUTE

Advising a major Japanese conglomerate on their dispute with a potential buyer of their Belgian property.

BRUSSELS

SALE AND PURCHASE AGREEMENT DISPUTE

Representing a UAE property developer in DIAC arbitration proceedings commenced by a purchaser seeking to terminate a sale and purchase agreement for residential property in Dubai.

DUBAI

PROPERTY INSOLVENCY – CVAS

Advising several landlords on the impact of Company Voluntary Arrangements in the retail and hospitality sector.

LONDON

SERVICE CHARGE DISPUTE

Advising a landlord on a claim for damages arising from alleged failure to maintain M&E plant.

LONDON

DEFECT DISPUTE

Advising a tenant in a five-party High Court dispute arising from defects to establish liability as between the shopping centre owner, tenant and contractors.

LONDON

RIGHTS TO LIGHT DISPUTE

Defending High Court proceedings brought by a party who claimed to have the benefit of a right to light over the Tottenham Court Road East Crossrail station site.

LONDON

PROPERTY INSOLVENCY – LIQUIDATION

Advising the Official Receiver of Thomas Cook on property-related liquidation aspects including disclaimer of leases, forfeiture, asset management and disposal issues.

LONDON AND MADRID

TELECOMS DISPUTE

Advising an investment fund owner of a shopping centre on installation of a Distributed Antennae System and application of telecoms code.

LONDON

DILAPIDATIONS DISPUTES

Advising investors on substantial dilapidations claims in the Technology and Construction Court including one relating to a warehouse distribution centre.

LONDON

INSOLVENCY DISPUTE

Advising in connection with the management of foreclosures and insolvency procedures related to the acquisition of portfolios of non-performing loans from SAREB, BBVA (Jaipur Portfolio) and Caixabank (Ágora and Egeo Portfolio).

MADRID

CONTRACTUAL DISPUTE

Advising on LCIA Arbitration proceedings in relation to a claim for damages based on loss of profits arising out of alleged unlawful termination of a hotel Operating and Management Agreement due to alleged failure to use reasonable endeavours to obtain all necessary operating licences.

LONDON

INFRASTRUCTURE DISPUTE

Advising in relation to the ownership and urban rights over properties located in Palma de Mallorca (Maritime Façade), which were sold by Endesa to real estate company Josel (Grupo Núñez Navarro) and later recovered the property.

MADRID

HOTEL DISPUTE

Providing strategic litigation advice to Bank of America Merrill Lynch in relation to a five-loan portfolio acquired from Catalunya Banc, S.A., whereby the debtor is a company called Pinset Center, S.L., who operate in the tourism sector and manage a Spanish hotel group.

MADRID

HOTEL DISPUTE

Advising on disputes related to the operation of hotel establishments (termination of long-term lease contracts, property issues and disputes on contract material).

MADRID

CONTRACTUAL DISPUTE

Advising on a compliance dispute and termination of property contracts at the Urbanización Sotogrande.

MADRID

FOOD RETAIL DISPUTE

Advising on a claim against a Spanish supermarket chain.

MADRID

INSOLVENCY DISPUTE

Advising on the insolvency proceedings of one of the largest property development companies in Spain, Reyál Urbis.

MADRID

Experience highlights EMEA (cont.)

HOTEL DISPUTE

Advising in respect of arbitration proceedings against Occidental Hotels regarding the termination of a lease agreement.

MADRID

CONTRACTUAL DISPUTE

Representing and advising our client in the claim filed by ENEAS PROYECTOS, S.L. in relation to an important real estate project in Barcelona, claiming that Deutsche Bank has breached a Confidentiality Agreement.

MADRID

INVESTMENT MANAGEMENT PRE-DISPUTE ADVISORY

Advising an international investor on vacant possession strategies to enable development in relation to an asset located in the centre of Milan.

MILAN

INVESTMENT DISPUTE

Representing an Italian real estate investment fund in Court proceedings brought by promissory purchasers (disputing on breach of covenants, termination of PSPA and earnest money recovery), as well as tenants (disputing on rent reduction and damages caused to leased property).

MILAN

CONTRACTUAL DISPUTE

Representing a real estate company who specialise in business premises management and office space leasing as part of proceedings instituted by the lessee relating to the termination of a commercial lease agreement due to health and security issues (including asbestos and air quality).

PARIS

CONTRACTUAL DISPUTE

Advising an international investor on property investment and asset management issues relating to assets located in Paris.

PARIS

Experience highlights Asia Pacific

HOTEL DISPUTE

Advising on an LCIA arbitration relating to claims for damages based on loss of profits arising out of alleged unlawful termination of a hotel due to an alleged failure to use reasonable endeavours to obtain all necessary operating licences.

SYDNEY

NUISANCE DISPUTE

Representing the plaintiff in an ACT Supreme Court noise nuisance claim on allegations that the Defendant (which is the Units Plan) is continuing a noise nuisance which derives from faults in the design or construction of the apartment building.

SYDNEY

COMMERCIAL DISPUTE

Advising a leading real estate services company on commercial disputes and also regulatory issues.

SYDNEY

RESTAURANT DISPUTE

Advising a restaurant chain on the termination of leasing agreements, 'make good' claims and disputes over bank guarantees in relation to the premises.

SYDNEY

ACQUISITION DISPUTE

Acting in high profile high value multiparty Supreme Court litigation regarding a compulsory acquisition involving allegations of misleading and deceptive conduct (related to the purpose for which it was said the land was to be acquired). The proceedings raised issues that impacted on the way in which and the forms used for all compulsory acquisitions in NSW and were attended by considerable media interest.

SYDNEY

HOTEL DISPUTE

Representing the investor in a marquee hotel development. This involved a complete restructure of the contractual structure; responding to various claims submitted to various certifiers; reviewing solvency risk; advising on press releases; supporting the administration of the new target cost structure in policing the negotiation and letting of various subcontracts and liaison over lease issues associated with delay and dates with the government authority that owns the leasehold.

SYDNEY

CLADDING DISPUTE

Advising a tenant and various landowners in relation to liability for combustible cladding under the relevant industry codes and the conditions of lease. These matters have involved audits of various property portfolios.

SYDNEY

COMMERCIAL DISPUTE

Advising a client in relation to make good obligations arising out of a heavy industry site and considering fair wear and tear, pre-existing defects and joint usage of common areas.

SYDNEY

Top tier firm practising in real estate

Ashurst is a top tier firm practising in real estate. We are one of a handful of large global law firms for whom real estate remains a key area of focus and of strategic importance. We offer the highest calibre of real estate, planning, construction, environmental, tax, real estate finance, disputes and corporate lawyers within one firm.

We deal with buildings from cradle to grave and can work with clients throughout the entire property lifecycle, depending on our client's requirements and at what stage in the property cycle they require support.

We build teams that are specific to our clients' needs, combining local industry and legal knowledge with cross-border expertise. This means we are well placed to advise on the flow of capital from its source, through to support on the key markets where that capital is invested, and to assist with the development and maintenance of the asset.

Our strong market position is demonstrated in our industry rankings, notably **Tier 1 for Commercial property: Investment, Commercial property: Development and Commercial property: General in the Legal 500 UK 2020.**



OUR FULL SERVICE OFFERING INCLUDES:

Real Estate Investment

Our real estate investment team is well known and respected in the market. Our lawyers have extensive experience of every legal aspect of real estate investments specialising in high value acquisitions for overseas investors, and have advised on some of the most high-profile deals in the market. The team also advises new and long-standing clients on investments and acquisitions, often involving joint venture arrangements, throughout the lifecycle of a real estate transaction.

Real Estate Finance

Acting for investors, lenders and borrowers, the team has a comprehensive understanding of how transactions are structured and funded, enabling it to be both commercially pragmatic and legally robust in its approach. We advise on real estate assets across a number of sub-sectors including hotels, residential property, student accommodation, retail and prime office real estate. We also have extensive experience in advising on development finance.

Real Estate Funds

Ashurst is widely recognised as one of the world's leading investment fund practices. We have a demonstrable track record of working with fund sponsors to deliver efficient fund raisings, and experience on structuring and formation of investment funds.

Asset Management

We understand that asset management is critical for adding value and we get involved at all stages of the process, both high level in terms of proposals for the entire site and dealing with particular tenants. In our view asset management is at the heart of driving value, and having a team that understand the importance of asset management is critical.

Real Estate Development

Our market leading real estate development team deals with all aspects of developments, with expertise in acquisitions and site assembly, planning, joint ventures, structuring, financing, construction, letting and disposal. Our team acts across all sectors from residential, retail and offices to logistics, over station development, infrastructure and major regeneration projects.

Construction

Our construction group provides legal services required to deliver a construction project from concept to delivery. We advise private and public clients on the construction aspects of all types of property investment, development, sales and purchases. The group also advises on procurement strategy and structure and will negotiate all forms of engineering and construction contracts and associated security documentation. Our construction and infrastructure dispute resolution team are experienced in resolving issues and disputes that may arise.

Planning & Environment

The planning and environment team at Ashurst comprises one of the most experienced groups of planning and environment lawyers, a number of whom have previously worked within local authorities and other public bodies. We are recognised leaders in handling complex regeneration and infrastructure projects for the public and private sectors.

Real Estate Tax

Our tax lawyers work closely with our real estate team to structure investments in property around the world in a tax efficient manner. We are experts in relation to the direct and indirect tax aspects of all real estate and real estate related transactions. This means we are able to provide a seamless service to our clients which includes funders, investors, managers and developers.

Corporate Real Estate

Our global corporate practice is central to our business. We are well-resourced in major commercial centres to advise on M&A, private equity, joint ventures, equity capital markets, reorganisations, governance and regulatory issues. This means that our lawyers have the range of experience to advise your business on its reputational and legal risks throughout its lifecycle.

Contacts

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