



Commercial Property

Occupiers & the liability for common parts

Businesses renting accommodation in buildings in multiple occupation could face claims for failing to ensure communal areas are properly maintained.

This follows from a recent case where an office occupier in a building in multiple occupation was sued by an employee who suffered serious injuries when her hand and arm were caught in a lift door situated in the common parts of a shared building.

Safety devices which would have stopped the incident were not in operation. Whilst the employee had no responsibility for maintenance of the lifts, the Court of Appeal held that the employer was liable under the Provision and Use of Work Equipment Regulations 1998 and had to pay substantial damages to their employee.

The employer argued that the lift was not work equipment within their building and that under their lease the landlord was responsible for maintenance of the lift. Under the Regulations, every employer is required to ensure that work equipment is maintained in good order and repair. However, the Court held that 'work equipment' extended beyond the range of equipment solely within a tenant's own office and extended to include items situated in the common parts of a multi-let building.

The follow on from this is that businesses occupying such accommodation need to be certain that their own insurance covers the possibility of such claims for which they have a liability (for further details see PRP Architects v. Reid).

Steady returns ahead

London's position as the world's principal, financial market has been established over a number of years and was convincingly confirmed following the defeat of the proposed takeover bid by New York's NASDAQ Exchange.

In addition to this now prominent status, London has emerged as the world's favourite capital for the 'super rich' with some 23 billionaires living here.

The high levels of demand and prices achieved for trophy buildings have fuelled speculation that the property investment market is now probably overheating with caution now necessary on the part of investors.

The investment characteristics of commercial property have not only demonstrated solid returns over the course of the last decade but have also shown that it is probably the least volatile of the major investment asset classes – by comparison to the somewhat erratic performance of both gilts and equities over the last few years.

In particular, commercial property has demonstrated good counter cyclical performance at a time when the stock markets have demonstrated relative weakness in terms of their returns.

Whilst the high prices and low yields achieved for commercial real estate investment, particularly in Central London, have been spectacular and have shown strong growth over the last few years. There is every likelihood that current prices do not yet signal the top of the market – with investment demand likely to be fuelled still further through the formation of REITs (Real Estate Investment Trusts).

The reality is that the demand for the asset and prices achieved are reflective of the laws of supply and demand, and recent years have witnessed an influx of overseas investment flooding into the London property market whilst UK based pension funds have also increased their asset allocation to commercial property.

Whilst we would not therefore expect to see returns as spectacular as the previous few years, one now expects a return to the underlying fundamentals of property performance with good quality properties let to sound tenants in good locations being in most demand – and with annual overall investment returns being likely of the order of 8 – 10% per annum. ■

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about Alpha Browett Taylor
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