



# Robert Weatherley

**Year of Call:** 2011

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## Property and Estates

### Land and Real Property

The law relating to land registration is a large part of Robert's practice. Robert regularly advises on cases relating to freehold covenants (including applications to discharge or modify the same), boundary disputes and claims for adverse possession of land, as well as cases relating to easements and profits, rights of common and claims to rectify the register on the basis of mistake.

Robert also writes in respect of these areas. In 2024, the second edition of 'Restrictions on the Use of Land' will be published. The text focuses on easements, freehold covenants, applications to list land as assets of community value, village green applications, wayleaves (and issues arising from the rights of statutory undertakers), TPOs (Tree Preservation Orders) and planning enforcement.

### Recent cases have included:

- A claim for rectification of the register in circumstances where there was alleged to be a mistake in the same as a result of another's fraud
- Advice and representation in respect of the registration of a prescriptive easement
- Claims relating to interferences with easements, including those where declaratory relief is sought as to the scope of rights expressly granted
- Claims relating to excessive user of an easement where a change of use was proposed (planning permission for a small-scale residential development)
- Instructions to advise and represent Applicants and Respondents in the First Tier Tribunal (Property Chamber) for adverse possession of land under pre-and post-Land Registration Act 2002 rules
- 7 days at a non-statutory inquiry acting for the objector (as junior to William Webster) at a public inquiry relating to a large-scale development in Exeter (Village Green Application)
- Instructions to advise and represent in relation to the discharge of covenants which impede reasonable user, by way of s.84 application to the Upper Tribunal (Lands Chamber)
- Advice in relation to the enforceability of restrictive covenants including those relating to building schemes
- Advice and representation in relation to profits a prendre and rights of common;
- Advice and representation in relation to disputes as to beneficial ownership of residential property in the absence of express trust declarations (i.e TOLATA claims).
- Representation in the Upper Tribunal in a dispute between a large statutory undertaker (a utility company) against a large telecommunications firm relating to the positioning of telecommunications hardware on nationally important infrastructure.

## **Residential Property**

Robert advises on all matters relating to residential leases, including: the payment of service charges; enfranchisement and lease extensions; forfeiture actions; rent repayment orders and possession (eviction) claims. More unusually, Robert has experience of dealing with particular issues that arise from absentee landlords, cases where the freehold reversion has escheated to the Crown and cases relating to tenancy fraud.

### **Recent work has included:**

- Instructions to advise and represent 42 tenants of a residential block of flats in a dispute concerning the payment of £3.2m in service charges for the replacement of defective cladding
- Instructions to advise and represent a groups of tenants in the First Tier Tribunal (Property Chamber) in a dispute about the reasonableness of service charges
- Instructions to advise and represent a landlord seeking to appeal a decision of the Local Authority to revoke his HMO Licence (First Tier Tribunal (Property Chamber))
- Instructions to advise and represent the Respondent in the First Tier Tribunal (Property Chamber) in resisting a Rent Repayment Order
- Possession claims, including those involving technical defences under the Equality Act 2010 and claims of disability discrimination
- Instructions to advise in relation to implied easements in the context of a poorly drafted sub-lease, where the landowner (the Crown, the land being escheat) was refusing to become involved in the management of the block of flats
- Instructions to advise a landlord in respect of various acts of encroachment by a tenant who was claiming adverse possession of loft space
- Instructions to advise and represent in Judicial Review proceedings, including those in relation to homelessness and local authorities' duties under Part VII of the Housing Act 1996
- Advising the Housing Ombudsmen in relation to complaints made to them pursuant to the Housing Ombudsmen Scheme
- Reviews in the County Court pursuant to S.204 of the Housing Act 1996 where the applicant was seeking to appeal the decision of the local authority.

## **Commercial Property**

Robert advises on all matters relating to commercial leases from simple s.25 notices and forfeiture to dilapidation claims in the High Court. He is able to provide advice on the interpretation and enforcement of leasehold covenants and rent reviews.

### **Recent work has included:**

- Instructions to advise and represent a commercial landlord in their action for forfeiture where a third party was seeking to prevent possession by way of a counterclaim for proprietary estoppel
- Dilapidation claims, including those involving technical defences on the basis of s.18 of the Landlord and Tenant Act 1927
- Contested lease renewals;
- Forfeiture disputes;
- Rent review disputes (including at arbitration); and
- Service charge disputes.

## **Agriculture**

Robert has experience of advising on: Farm Business Tenancies; Agricultural Holdings; and (in a residential/agricultural context) Assured Agricultural Occupancies. Robert also advises in related areas, including: option and overage agreements relating to the development of agricultural land; disputes relating to drainage rights; rights of common and profits; and rights of way disputes between farmers.

## Recent cases have included:

- Advising and representing the tenant of a farm who sought to argue that he had a tenancy protected under the Agricultural Holdings Act 1986. The landlord averred that such protection had been lost and that the facts gave rise to an implied surrender and re-grant of the tenancy post 1995, by operation of law.
- Instructions to advise and represent a landlord who sought to evict a former employee on the basis that he lacked security of tenure, not being an Assured Agricultural Occupant within the meaning of the Housing Act 1988.
- Applications before the First Tier Tribunal (Agricultural Land and Drainage Division) for consent to the operation of a notice to quit an Agricultural Holding
- Disputes relating to agricultural rights of way, including a long running case between two farmers over the extent and scope of an expressly granted right;
- Disputes relating to the contamination of ground water (i.e nuisance claims);
- Cases related to drainage easements.

## Articles

Journal of Planning and Environment Law publishes a superb review of Webster and Weatherley's "Restrictions on the Use of Land".

In a review authored by Dr Ashley Bowes, the Journal of Planning and Environment Law has positively commented on "Restrictions on the Use of Land", William Webster and Robert Weatherley's planning law reference book.

Click below to read the review.

Published by Wildy, Simmonds & Hill [the book](#) covers the law and practice in a number of fields which impact the use of land and there is considerable focus on remedies for the infringement of rights in, on or over land. The areas covered include: easements, town and village greens, public rights of way, restrictive covenants, assets of community value and elements of planning law.

[View Article](#)

## Recommendations

Robert Weatherley's work concerns a wide range of cases, including landlord and tenant disputes and real property issues. He is particularly noted for dealing with restrictive covenant and right of way matters.

Strengths: "Excellent with clients. Robert is a calm yet forceful advocate with a keen understanding of what clients want and how this can be best achieved."

### Chambers UK 2024/Real Estate Litigation/Western circuit

Strengths: "His advocacy is assured."

"Robert provides sensible, pragmatic advice with a strong grasp of the relevant law and a keen understand of the client's case."

"His drafting skills and handling of clients is excellent."

"Robert is very easy to deal with and is always happy to have a quick chat on the phone."

"His ability to digest large amounts of information and documents and deal with clients in a compassionate way is unusual."

### Chambers UK 2023/Real Estate Litigation/Western circuit

Strengths: "He is well organised and speaks the clients' language, understanding where they are coming from even in tough cases." "He is approachable and happy to spend time going through things."

### Chambers UK 2022/Real Estate Litigation/Western circuit

'an encyclopaedia of knowledge'

3PB 'Robert has the ability to boil down huge amounts of information on to a single sheet of paper. He has a great deal of compassion for his clients but is very robust with opponents.'

**Legal 500 2024/** Property and Construction/ Western Circuit/ Leading Junior

The 'terrific advocate' Robert Weatherley has a solid track record in handling land- and property-related disputes, rights of way issues, and commercial lease matters, to name a few areas.

'Robert is fantastic to deal with. He is incredibly intelligent and an absolute asset on any case. He provides invaluable advice.'

**Legal 500 2023/**Property and Construction/Leading Juniors/Western Circuit

'Robert has an easy-going, approachable manner that puts clients at ease, combined with a formidable intelligence and an ability to see the wood for the trees.'

**Legal 500 2022/**Property and Construction/Leading Juniors/Western Circuit

'Robert will always create an excellent working relationship at court with both clients and witnesses and make them feel at ease. I believe this is what makes him stand out from other barristers. Robert has an extensive background of housing law and clients often have fed back that they are impressed with how he handles cases and his work at court.'

"Robert Weatherley is considered a go-to for various property-related commercial disputes."

**Legal 500 2021/**Property and Construction/Leading Juniors/Western Circuit

## Academic qualifications

- MSt, University of Oxford (Distinction)
- LL.M, University College London (Merit)
- LL.B (Hons), University of Warwick

## Scholarships

- Harmsworth Scholar (Honourable Society of the Middle Temple)

## Professional bodies

- Middle Temple
- Property Bar Association
- South Eastern Circuit
- Western Circuit