

TANFIELD

PROPERTY & REAL ESTATE BARRISTERS



Nicola Muir

Year of call

1998

Nicola Muir specialises in all aspects of landlord and tenant and real property litigation both residential and commercial. Nicola is recommended by both Chambers and Partners and the Legal 500 which says "*Nicola provides straight-forward yet accomplished advice which is hugely beneficial to both her instructing solicitors and their clients*". She was shortlisted by the Legal 500 as Junior of the Year 2019 for Real Estate, Environment and Planning.

Nicola regularly appears in Court and in both the First Tier and Upper Tribunals of the Property Chamber. She is well known for her enfranchisement, service charge and land registration claims. Nicola also has a thriving commercial property practice and has been involved in a number of high profile boundary, adverse possession and beneficial interest disputes.

Nicola is a Judge in the First-tier Tribunal (Property Chamber) in the Land Registration division and a qualified mediator.

Nicola is a former solicitor. She gives lectures on a variety of land law related topics as well as being a regular contributor to the Estates Gazette.

Residential Landlord & Tenant

Nicola's residential landlord and tenant work includes:

- Possession and injunction claims for breach of the lease terms including Rent Act related work
- Determination of breach applications in FTT prior to forfeiture
- Service Charge disputes
- Enfranchisement and lease extension work
- Rights of First Refusal

Examples of recent work:

- Service Charge dispute in relation to Brunswick Centre and issue of whether superior landlord needs to consult underlessees.
- Claim for possession where occupier claimed to have succeeded to Rent Act protected tenancy.
- Test case on whether the cost to a Council of replacing analogue TV aerials with digital aerials could be claimed via service charge
- Series of claims in relation to calculation, reasonableness and apportionment of management charges
- Lands Tribunal appeals on premium payable under Leasehold Reform Act 1967 where leases granted over 300 years ago and position on the ground changed in the meantime.
- Appeal on the terms of a leaseback following enfranchisement
- Advising on rights of tenants where landlord failed to serve notices on them pursuant to the Rights of First Refusal provisions in the Landlord and Tenant Act 1987

Commercial Landlord & Tenant

Nicola's commercial landlord and tenant work includes:

- Forfeiture and dilapidation claims
- Business lease renewals
- Construction of leases

Examples of recent work

- Acting for landlord in claim for forfeiture for breach of a repairing covenant in a restaurant lease where counterclaim for relief from forfeiture.
- Representing the landlord of a tattoo parlour in Soho on a business lease application.
- Advice on tenants' service charge liability in respect of maintenance of bridges in a dock development
- Acting for the tenant of a public house in relation to a claim for damages for the alleged breach of a beer tie and a counterclaim for rectification of the lease.

Real Property

Nicola's real property work includes:

- Boundary disputes
- Easement problems
- Adverse Possession claims
- Land Registration issues
- Rectification of Title claims
- Beneficial Interest disputes
- Conveyancing problems and disputes
- Restrictive Covenant work
- Mortgages

Examples of Recent Work

- A 6 day neighbour dispute involving harassment, rights of way, boundaries, parking easements, malicious falsehood, adverse possession and assault which was widely reported in the national press.
- An adverse possession claim where the original judgment was overturned by the Court of Appeal and a re-trial granted – LB Havering v Chambers.
- A claim for a beneficial interest brought by an aunt against her nephew where the aunt claimed that the registered title holder was not her nephew but another man of the same name – see *Jayasinghe v Liyanage* Chancery [2010] EWHC 265 (Ch) [2010] PLSCS 53
- Claim for alteration of the register or indemnity following sale of land to innocent third party by fraudster masquerading as client.

Commercial Disputes

Nicola is a specialist in property and landlord and tenant law. Inevitably many commercial disputes involve land and Nicola undertakes commercial litigation with a property aspect.

Her work includes:

- Professional negligence claims;
- Construction of agreements in relation to land;
- Forfeiture and dilapidations claims;
- Property related insolvency work.

Examples of Recent Work

- Arbitration proceedings in relation to the construction of a Joint Venture Agreement made for the purposes of disposing of a site intended for the development of a Tesco's Superstore.
- Claim against solicitors where plot on the title deeds was not the same as the plot on the ground.
- Claim against solicitors for failing to act with proper speed in relation to the grant of a commercial lease and related sale and leaseback where proposed lessee was killed in an air crash prior to completion of the lease.
- Drafting proceedings in claim against a mining consultant who failed to identify the existence of a disused mine beneath development land.

Notable Cases

Daejan Investments Ltd v Collins [2024] UKUT 26 (LC)

Leasehold enfranchisement – premium – improvements – value of precarious rights – comparables – post-valuation date evidence – relativity – value of Act rights

Eastern Pyramid Group Corp SA v Spire House RTM Co. Ltd [2021] EWCA Civ 1658

Right to Manage – Validity of Notice of Withdrawal.

Corvan (Properties) Ltd v Abdel-Mahmoud [2018] EWCA Civ 1102

Qualifying Long Term Agreements – whether the agreement was for a term of more than twelve months.

Corvan (Properties) Ltd v Abdel-Mahmoud [2017] UKUT 228 (LC)

Leaseholders of Foundling Court & Other v Camden LBC, Allied London (Brunswick) Ltd & Others [2016] UKUT 366 (LC)

Service Charges – whether superior landlord is required to consult only its own tenant or its undertenants as well.

Tibber v Buckley [2015] EWCA Civ 1294

Enfranchisement, Leasehold Reform Housing and Urban Development Act 1993, terms of leaseback.

Tibber v Buckley & Wilcox [2014] UKUT 0074 (LC)

Enfranchisement, Leasehold Reform Housing and Urban Development Act 1993, terms of leaseback.

Jastrzemski v Westminster City Council [2013] UKUT 0284 (LC)

Service Charges. Consultation and Dispensation.

South Tyneside Council v Ciarlo Upper Tribunal (Lands Chamber) [2012] UKUT 247 (LC)

Service Charge. Management Charges. Payability. Reasonableness. Apportionment.

Re: Clarke, Re Upper Tribunal (Lands Chamber) [2012] UKUT 226 (LC)

Enfranchisement. Leasehold Reform Act 1967. Premium. Easements.

Chambers v Havering LBC Court of Appeal (Civil Division) [2011] EWCA Civ 1576; [2012] 1 P. & C.R. 17; [2012] 1 P. & C.R. DG15

Adverse Possession. Fences. Motive Extent of Use and Occupation required.

Jayasinghe v Liyanage Chancery Division, [2010] EWHC 265 (Ch); [2010] 1 W.L.R. 2106; [2010] 1 E.G.L.R. 61; [2010] 16 E.G. 108

Beneficial Interests. Extent of Jurisdiction of Adjudicator to HM Land Registry.

Westminster City Council v CH2006 Ltd Upper Tribunal (Lands Chamber), [2009] UKUT 174 (LC)

Leasehold Enfranchisement. Whether price "agreed". Whether LVT had jurisdiction to determine price.

Recommendations

"Her client service is excellent and she deals particularly well with lay clients and is a reassuring presence for them."

Chambers UK 2024

"Nicola has an impressive depth of knowledge of leasehold enfranchisement that allows her to deal with complex technical matters with ease."

Chambers UK 2024

"Nicola is always willing to help out and never fails to give strong, reliable advice." "Nicola Muir's advocacy is measured and persuasive." "Nicola has a nice relaxed manner with clients and is also excellent at handling witnesses."

Chambers UK 2023

"A very good advocate. Nicola is calm, measured and persuasive."

Legal 500 2023

"Nicola works exceedingly well with our clients and consistently obtains exceptional results." "She is very solid and experienced."

Chambers UK 2022

"Nicola has an excellent grasp of technical enfranchisement matters and arguments (particularly in terms of valuation) and consistently obtains exceptional results which makes her the preferred counsel of several of our clients. Nicola provides straight-forward yet accomplished advice which is a hugely beneficial to both her instructing solicitors and their clients."

Legal 500 2022

"Approachable, pragmatic and knowledgeable."

Chambers UK 2021

"She is adept at thinking on her feet and has become a renowned barrister in the field of leasehold enfranchisement."

Legal 500 2021

"Very thorough and a good cross-examiner." "Her advice is clear, concise and provided in a timely fashion."

Chambers UK 2020

"A leading player in residential disputes."

Legal 500 2020 (Property Litigation)

"Very client-friendly, commercial and pragmatic." "Approachable and gives really excellent, balanced and user-friendly advice."

Chambers UK 2019

"She immediately installs faith and confidence in both solicitors and clients."

Legal 500 2018

Appointments

- Fee-Paid Judge of the Property Chamber

Publications

Nicola is a contributor to "Service Charges & Management" by Tanfield Chambers, 3rd Edition & 4th Edition

Nicola also has a regular column in **Estates Gazette** – "Residential View".

Her recent published articles include:

- "What to look out for in residential property law in 2023" Nicola's annual predictions for the year ahead in residential property law – Estates Gazette 3rd January 2023
- "Residential Forfeiture: abandoning a flat with no forwarding address" – The dangers of leaseholders moving abroad and failing to comply with their service charge obligations – Estates Gazette 3rd May 2022
- "Validity of Notices – Where are we now? A look at the complex provisions in RTM and enfranchisement legislation" – Estates Gazette 24th January 2022
- "Whose land is it anyway? – A recent adverse possession case has rendered successful claims even less likely" – Estates Gazette 19th August 2021
- "Solutions on the Horizon – Nicola Muir and Anna Phillips look at two cases that highlight issues with the right to manage procedure" – Estates Gazette 1st September 2020
- "Leasehold – A new dawn – Further detail is needed, but the government's proposals promises a leasehold revolution" – Estates Gazette 18th January 2021
- "The consequences of breaching absolute covenants – The long-awaited Supreme Court judgment in

Duval is out. What does it mean for leaseholders?" – Estates Gazette 11th May 2020

- "Leasehold enfranchisement: The wait is over – The Law Commission has published its report on reducing leasehold enfranchisement premiums" – Estates Gazette 20th January 2020
- "Goodbye section 21 – and end to "no fault" evictions" – Estates Gazette 23rd April 2019
- "How long is an AST? The unexpected consequences of the ground rent scandal" – L&T Review 2019, 23(2), 55
- "Leasehold Enfranchisement Claims – Why it is difficult to reach an amicable solution" – Flat Living Magazine 28th February 2019

Qualifications

- LLB (Hons), University of Edinburgh
- CPE, Chester College of Law
- Qualified as a solicitor
- Called to the Bar in 1998
- Associate Member of the Civil Mediation Council

Memberships

- Association of Leasehold Enfranchisement Practitioners
- Chancery Bar Association
- Property Bar Association