

Claim of the Month: Dead-end drive-through...



Access routes often cause problems – especially when the ‘route’ isn’t really a route at all. Protection of title and mediation determined the success of this claims case study.

Jennifer Owen Construction Ltd, a small house building company, acquired a piece of land for the development of a single high-end property. Access to the plot was gained via two garages which the previous owners had purchased and had been using to “drive through” to the plot behind.

The garages (which were at the end of the block) were to be demolished and replaced with gates as part of the development plan. Jennifer Owen Construction Ltd took out a policy to cover for a lack of legal right of access.

The neighbouring property owners, who had objected to the development from the outset, managed to purchase the beneficial interest in the garage forecourt from the trustee of the estate builder who had recently been declared bankrupt.

They then sought to use this interest to mount a group claim against the insured to prevent the supposed increase in use of the forecourt and the demolition of the garages to create a new access to the new property as well as challenging the insured’s right of access itself.

After correspondence with the residents and their solicitor, it was agreed that a mediation would take place to allow the parties to explore the issues and try to reach a settlement.

The mediation took place, and included a site visit with all parties present. It was agreed that the insured would adhere to a schedule for deliveries to minimise the impact on the residents, and would re-lay the tarmac and edging stones to improve the appearance of the area generally and would repair any damage caused by the deliveries.

A payment to the residents towards their legal costs and a payment to each resident representing a shared percentage of the insured’s expected profit on the development would also be paid.

In return, the residents (and the trustee of the bankrupt builder, who was still the legal owner of the land) agreed to the registration of a legal easement for the new insured properties so that access issues do not cause problems in the future.

With First Title meeting all of the costs incurred and the cost of the settlement itself, Jennifer Owen Construction Ltd was pleased they had chosen to title insure the risk.

***“We were absolutely delighted with the professional and speedy way in which our claim was dealt with. The use of First Title’s lawyers also has to be applauded.*”**

We were particularly impressed with the high level of contact and communication between the parties, at all times everyone seemed to know the up-to-date position and what was going to happen next. We would be very happy to recommend First Title to any other proposers.”

**Malcolm Edmonds, Managing Director
Jennifer Owen Construction Ltd**

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