Falcon Chambers

Martin Dray

Called 1992



Practice Summary

Martin specialises in all aspects of real property law. He has particular experience and expertise in relation to: adverse possession; conveyancing; land registration issues such as priorities and alteration of the register of title; options (to break, renew and purchase) and rights of pre-emption; easements; restrictive covenants; development and overage agreements; landlord and tenant; 1954 Act business lease renewals; 1967 Act and 1993 Act leasehold enfranchisement. He frequently advises on the interpretation and rectification of contractual documents.

Martin is ranked in Chambers and Partners and The Legal 500 as a leading junior in property litigation. Published comments include: “He’s a brilliant lawyer – but he’s also very funny and charming”; “A first-choice junior”; “provides excellent advice” and “a talented advocate” who is “incredibly persuasive”.

Martin prides himself on being commercially minded and giving clients practical advice, and on being accessible and a team-player. The legal press records that he “is excellent to work with, “approachable”, “enthusiastic”, “extremely user friendly”, “has a good grasp of the commercial context’ and “quickly appreciates the key issues from a client’s perspective”.

Martin is equally at home with both advisory and litigation work. He appears in courts, tribunals and arbitrations and at mediations. He has a noted “specialism in high-profile property cases”. He has acted in several leading cases, including: Pye v Graham – the key House of Lords’ decision - and Topplan v Townley on adverse possession; Macepark v Sargeant on easements; Martin v Maryland on service charges.

Not confining himself to British bricks and mortar, Martin is happy to advise in relation to property cases overseas. Recent instructions have centred on properties in Gibraltar, Barbados, and the Turks and Caicos Islands.

In addition to his practice at the Bar, Martin sees cases from ‘the other side of the fence’ in his roles as a Deputy Chancery Master and a Deputy District Judge. He is also a Judge of the First-tier Tribunal (Property Chamber), deciding property cases referred by HM Land Registry.

Martin’s dispute resolution experience extends to arbitration and expert determination too. He is a Fellow of the Chartered Institute of Arbitrators and a member of Falcon Chambers Arbitration. He has often been appointed as arbitrator or expert to adjudicate on disputes (both on the papers and after a hearing). He has acted as legal assessor appointed by an arbitrator.

Amongst other legal writing, Martin has found the time to co-edit the last three editions of Barnsley's Land Options, the leading work for practitioners on the subject. He has co-authored The Law and Practice of Charging Orders of Land and is a former contributor to Fisher & Lightwood’s Law of Mortgage.

Main areas of work

- Adverse possession
- Contractual interpretation
- Easements
- Land registration
- Landlord and tenant (commercial and residential)
- Options and rights of pre-emption
- Restrictive Covenants
- Development and overage agreements
- Leasehold enfranchisement

Education

- Bristol University, LLB (Hons) (1991)

Professional

- Deputy Chancery Master (2020).
- Deputy District Judge (2015).
- Judge of the First-tier Tribunal (Property Chamber) (2013).
- Deputy Adjudicator to HM Land Registry (2008 to 2013).
- Blundell Lecturer 2008 and 2018.
- Property Bar Association Committee Member (2007 to 2011).
- FCIArb

Recent Cases

- **Housing Solutions v Smith [2023] UKUT 25 (LC).** Second application to modify restrictive covenants. Whether abuse of process, res judicata or estoppel. Whether covenant secured practical benefits of substantial value or advantage. Whether application should be granted despite Supreme Court's refusal of the first application.
- **Bath Rugby Ltd v Greenwood [2020] EWHC 2662 (Ch**). Pre-1926 restrictive covenant. Transmission of benefit of covenant. Requirements for annexation.
- **Fivaz v Marlborough Knightsbridge Management Ltd** [2020] UKUT 138 (LC). Whether entrance door to flat a landlord's fixture. Whether replacement a breach of covenant. Commonhold and Leasehold Reform Act 2002, s.168.
- **Re 6 Embankment Gardens, SW3** [2020] FTT. Whether covenants to permit inspection, regarding alienation and requiring carpeting breached. Costs order for unreasonable conduct made, along with order under Commonhold and Leasehold Reform Act 2002, Sch.11, para.5A denying recovery of costs by way of administration charge.

- **Re 6 Embankment Gardens, SW3** [2019] FTT. Right to Manage. Whether claim notice valid when signed but not witnessed. Whether Companies Act 2006, s.44 applicable.
- **Corinium Gym Ventures Ltd v Stroud Regeneration Ltd** [2019] EWHC 1589 (Ch). Wrongful rescission of agreement for lease. Claim for specific performance and damages. Liability for costs following concessions and compromise.
- **O'Connor v The Proprietors, Strata Plan No.51** [2017] UKPC 45. Condominium strata title in the Turks and Caicos Islands. Whether by-laws prohibiting short-term renting valid as restriction on use or invalid as a restriction on dealings.
- **Patel v Freddy's Ltd** [2017] EWHC 73 (Ch). Land registration: fraud; whether mistake on register caused by lack of proper care by person registered as proprietor; whether claimant entitled to alteration of register or indemnity
- **Sheihk Bin Mahfouz v El-Rashid** [2016] (Ch). Removal and appointment of trustees, vesting order and possession of property in £ multi-million case.
- **Metropolitan Properties v Dooley** [2016] (FTT). Individual lease extension under the 1993 Act raising valuation issues.
- **WH Smith v Telford Trustees** [2016] (Cty Ct). Business lease renewal: supplemental expert valuation evidence following redaction of parts of reports; specific disclosure.
- **Brickfield Properties v Dixon** [2016] (FTT). Individual lease extension under the 1993 Act involving valuation dispute.
- **Paton v Cordrey** [2015] (Cty Ct). Recovery of costs in a compromised long-running boundary dispute.
- **TSB v MH Nominees** [2014] (Cty Ct). 1954 Act business lease renewal: late amendment of landlord's acknowledgment of service to include claim for a redevelopment break clause.
- **No.1 Deansgate (Residential) v No.1 Deansgate RTM Co** [2013] UKUT 580 (LC). Right to manage under the 2002 Act: whether building structurally detached for RTM purposes.
- **Dyer v Terry** [2013] EWHC 4829 (Ch). Costs of an appeal: identification of the successful party.
- **Dyer v Terry** [2013] EWHC 209 (Ch). Adverse possession of roadside verge areas through cultivation and parking.
- **Re 89 Trinity Court, WC1** [2012] LVT. Individual lease extension under the 1993 Act; issues regarding independence of expert witness, premium, lease terms and statutory costs
- **Tomlinson v Foster** [2012] EWLandRA 2011_1049. Adverse possession: Schedule 6 to Land Registration Act 2002.
- **Colebourn v Stevens** [2012] EWLandRA 2012_0051. Alteration of the register of title under Schedule 4 to Land Registration Act 2002 to remove mistaken entry of benefit of right of way.
- **Ivory Real Estate v Imac Estates** [2011] (Ch). Specific performance of £4.15 million contract for sale; provision of undertaking; discharge of charges.
- **Re 105-114 Ossulton Way, N2** [2011] LVT. Collective enfranchisement under the 1993 Act: terms of the transfer; rights and easements benefitting intermediate landlord.
- **Re Asburnham Mansions** [2011] LVT. Multiple individual lease extensions under the 1993 Act involving valuation disputes and issues as to lease terms.
- **Miller Properties v Pastoll** [2010] EWHC 2364 (Ch). Equitable charge: possession and sale; Administration of Justice Act 1970, s.36.
- **Caulfield v Yolanda** [2010] EWLandRA 2009_0599. Cancellation of unilateral notice on register of title where sale contract rescinded.
- **Re Vancouver Mansions, HA8** [2010] LVT. Landlord and tenant: determination of breach under Leasehold and Commonhold Reform Act 2002, s.168(4).
- **Hayward & Son v Thompson** [2009], Comm. Ct, Flaux J. Remission of arbitration award for serious irregularity under Arbitration Act 1996, s.68 in light of non-disclosure of witness's contingency fee agreement.

- **Expandable v Clarke** [2008] Ch. Bankruptcy: whether share in enfranchisement claim assigned by trustee in bankruptcy; whether occupation rent payable by former bankrupt.
- **Donington Park Leisure v Wheatcroft & Sons** [2006] EWHC 904 (Ch); [2006] All ER (D) 94 (Apr). Resolution of terms to be included in agreement for use of land in connection with British Motorcycle GP where proceedings settled by Tomlin Order.
- **Brand v Onslow Suffolk** [2005] EWLandRA 2004_0169. Adverse possession: factual possession by the creation of motorbike tracks, creation for chickens etc.; human rights.
- **Topplan Estates v Townley** [2004] EWCA Civ 1369; [2005] 1 EGLR 89, CA. Adverse possession: relevance of historic licences upon whether squatter had possession; whether squatter's possession interrupted by road-widening works.
- **Dewar v Krestic** [2004] All ER (D) 571 (Mar), Lewison J. Liability for costs in boundary dispute.
- **Macepark (Whittlebury) v Sargeant (No.2)** [2003] 1 WLR 2284, ChD. Right of way: whether use of non-dominant land legitimate.
- **J. A. Pye (Oxford) v Graham [2002] UKHL 30;** [2003] 1 AC 419, HL. Adverse Possession: fundamentals of adverse possession.
- **Hallam Land Management v UK Coal Mining** [2002] EWCA Civ 982; [2002] 2 EGLR 80, CA. Claim for specific performance of an option agreement.
- **Lysongo v Railtrack plc** [2002] EWCA Civ 808. Landlord and tenant: terms of tenancy; breach of user covenant; forfeiture; waiver.
- **Re 54 & 66 Woodsford Square, W14** [2002] EWLVT 145. 1967 Act leasehold enfranchisement: valuation disputes.
- **Clapham v City of Westminster** [2002], Parking & Traffic Appeals Adjudicator. Highways: whether land routinely used for parking vehicles, demarcated by parking posts and the subject of notices, dedicated as highway.
- **McMahon v Hickey** [2001] All ER (D) 223 (Jun), Jacob J. Appeal on a point of law against decision of Rent Assessment Committee.
- **Strongfleet v Bank of Wales plc** [2001] All ER (D) 201 (Mar), McCombe J. Vendor and purchaser: whether contract for sale became unconditional.
- **Kachela v J H Watson Property Investment Ltd** [2000], QBD. Land registration: unregistered 125-year lease; whether overriding interest; whether tenant in process of decorating flat in actual occupation.
- **Boissevain v Lindhagen** 27/7/2000 & 5/7/1999, both CA. Landlord and tenant: whether landlord entitled to possession on the basis of rent arrears where a receiver had been appointed to collect the rents.
- **Cank v Broadyard Associates** [2001] CP Rep 4; [2000] WL 108362, CA. CPR case management: striking out and relief against sanction where failure to comply with court order.
- **Martin v Maryland Estates** [1999] 2 EGLR 53; (2000) 32 HLR 116, CA. Landlord and tenant: residential service charges; whether dispensation with requirements of statutory consultation process should be granted.
- **CE & KM Bowra v Barker** [1998] PLSCS 168, Mance J. Arbitration: whether arbitration award should be set aside for misconduct where arbitrator treated initial rent as best evidence of open market rental value.
- **Associated Newspapers Property v Drapers Company** [1997] 2 EGLR 88, CA. Landlord and tenant: scheme involving extinguishment of sublease by merger with headlease; whether commutation of rent contrary to terms of covenant.
- **Friends' Provident Life Office v British Railways Board** [1996] 1 All ER 336, CA. Landlord and tenant: whether original tenant liable under deed of variation executed by assignee.
- **58 Bassett Road Management Company v Clarke** [1996] (Cty Ct). 1993 Act collective enfranchisement; invalidity of reversioner’s counter-notice; consequences.

Publications

- Joint editor, Barnsley's Land Options 6th ed., 2016.
- Contributor to The Law and Practice of Charging Orders on Land, 2013.
- Joint editor, Barnsley's Land Options 5th ed., 2009.
- Joint editor, Barnsley's Land Options 4th ed., 2004.
- Contributor to Fisher & Lightwood's Law of Mortgage, 11th ed., 2001.
- Former contributor to ICSL Bar Vocational Course, Landlord and Tenant Manual.
- Former contributor to the Landlord and Tenant Fact Book, Chapter 10 (residential tenancies).
- Former contributor to Localaw UK - Sweet & Maxwell website - landlord and tenant section.

Articles

- There’s no profit in alienation consents. Solicitors Journal (2016) Vol.160, No.43, page 31.
- The lay of the land. *New Law Journal* (2014), No.164(7592), pages 11-12.
- Deeds speak louder than words. Attesting time for deeds? *The Conveyancer* (2013), Issue 4, pages 298-310.
- There's nothing optional about option notices. *Estates Gazette* (2013) No.1323, pages 66-68.
- Which option is a safe bet? *Estates Gazette* (2013) No.1324, pages 90-92.
- Good House-keeping: Case Study on the Leasehold Reform Act 1967. *Property Litigation Association* website, June 2009.
- Whose land is it anyway? – Title by adverse possession. *Landlord & Tenant Review* (2003), Issue 7(3), pages 40-42.
- Litigation and business tenancies: no room for Russian Roulette. *New Law Journal* (2002), No.152(7031), pages 701-702.
- Property law update: To Consent or Not To Consent? That is The Question. *New Law Journal* (2002), No.152(7053), pages 1596 & 1615.
- Property law update: business security of tenure, and scope of covenant permitting entry to demised premises. *New Law Journal* (2002), No.152(7043), pages 1205-1206.
- Property law update. *New Law Journal* (2002), No.152(7031), pages 701-702.
- The future of the Landlord and Tenant Act 1954, Part 2: continuing the debate. *Landlord & Tenant Review* (2001), Issue 5(4), pages 66-69.

Published Comments

"Martin Dray is exceptional. He's probably the best person I've ever come across to give excellent, incisive, commercial advice or steer. He gives the advice of a KC without the more expensive price tag." *Chambers and Partners UK Bar Guide 2027 (Real Estate Litigation)*

"Martin is a technical genius. His written work is second to none, and no stone is left unturned with him. He is incredibly experienced and as good as any other barrister I have seen." *Chambers and Partners UK Bar Guide 2027 (Real Estate Litigation)*

"Martin is very effective and a pleasure to deal with." *Chambers and Partners UK Bar Guide 2027 (Real Estate*

Litigation)

"Outstanding ability to analyse and comment on the interaction between a series of complex documents." *Legal 500 UK Bar Guide 2027 (Property Litigation)*

"Martin's ability to cut through reams of technical information is incredible, his commercial steer is invaluable and clients love him." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"He is an excellent advocate who leaves no stone unturned." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"Martin is excellent - he is one of the most detailed barristers." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"Excellent all round advocate. Strong on his feet." *Legal 500 UK Bar Guide 2026*

"Martin Dray is a highly sought-after junior with a specialism in high-profile property cases. He covers a range of matters including covenant disputes, lease renewals and adverse possession disputes. He also sits as a judge in the First-tier Tribunal. He is adept in all aspects of landlord and tenant law." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Martin's opinions are a delight to read. He churns very technical detail into readily digestible concepts." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Martin Dray is fantastic to work with and ridiculously bright." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Martin has very good judgement and a very effective approach to litigation." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Martin provides excellent and pragmatic advice." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Martin is a very thorough and shrewd adviser." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"A meticulous junior, who is a go-to counsel for complex property contract disputes." *Legal 500 UK Bar Guide 2025*

"Martin offers very wise advice and a careful analysis based on really getting into the case."

"Martin is technically astute and client-friendly."

"Martin has an encyclopaedic knowledge of adverse possession." *Legal 500 UK Bar Guide 2024*

"Amazingly clever and super impressive in both his written advice and on his feet. He is really good with clients, very patient and calm."

"Martin has great legal and commercial acumen, and his advice is always spot-on." *Chambers and Partners UK Bar Guide 2024*

‘Martin has the complete trust of the client. He is a calm and decisive litigator, getting straight to the point of knotty problems.’ *Legal 500 UK Bar Guide 2024*
"Martin applies a very thorough and common-sense approach to his advice, and is very sympathetic in

managing clients even in difficult cases." *Chambers and Partners UK Guide 2023*

Martin Dray is a highly sought-after junior with a specialism in high-profile property cases. He covers a range of matters including covenant disputes, lease renewals and adverse possession disputes. He also sits as a judge in the First-tier Tribunal. He is adept in all aspects of landlord and tenant law. "He is excellent at unravelling knotty issues and bringing clarity to a legal case." "One of the best juniors on options and overages." *Chambers UK Guide 2022 (Real Estate Litigation)*

"Concise language, speed of response, commitment to the job at hand." *Legal 500 UK Bar Guide2022*

Martin Dray is an "excellent and tatically astute lawyer" who garners praise for his deep knowledge of landlord and tenant law. *Who's Who Legal UK Bar Report 2022*

A highly sought-after junior with a specialism in high-profile property cases. He covers a range of matters including boundary disputes, lease renewals and adverse possession disputes. He also sits as a judge in the First-tier Tribunal. He is adept in all aspects of the landlord and tenant law. Strengths: "Highly responsive and masters the detail of a problem quickly." *Chambers and Partners UK Guide 2021 (Real Estate Litigation)*

"An effective advocate for commercial tenant cases." *Legal 500 UK Bar Guide 2021*

A highly sought-after junior with a specialism in high-profile property cases. He covers a range of matters including boundary disputes, lease renewals and adverse possession disputes. He also sits as a judge in the First-tier Tribunal. He is adept in all aspects of the landlord and tenant law. Strengths: "Excellent to work with and extremely knowledgeable about adverse possession." "Has a good rapport with clients while being clear and firm in his advice." "Very meticulous, always good with clients, down to earth and yet technically brilliant." Recent work: Acted in a lengthy boundary dispute in relation to properties on the St George's Hill Estate in Weybridge. *Chambers and Partners UK Guide 2020 (Real Estate Litigation)*

"Provides a very good service." *Legal 500 UK Bar Guide 2020*

"Extremely knowledgeable" and "very well respected" in the field. His practice encompasses a range of matters including conveyancing and land registration. *Who's Who Legal UK Bar 2019 Guide*

"A highly sought-after junior with a specialism in high-profile property cases. He covers a range of matters including boundary disputes, lease renewals and adverse possession disputes. He also sits as a judge in the First-tier Tribunal. He is adept in all aspects of the landlord and tenant law. Strengths: 'Responsive and excellent on the detail.' 'He provides very good technical advice and sound judgement.' Recent work: Acted for Brickfield Properties as competent landlord in nine lease extension claims." *Chambers UK Guide 2019 (Real Estate Litigation)*

"An excellent all-round senior junior." *Legal 500 UK Bar Guide 2018*

"A highly sought-after junior, with a specialism in high-profile property cases. He covers a range of matters including boundary disputes, lease renewals and adverse possession disputes. He also sits as a judge in the First tier Tribunal. Strengths: 'Provides very clear and detailed technical advice.' Recent work: Represented the claimant in a claim for rectification of the register of title arising from the fraudulent sale of the claimant's property, in a three day hearing in the Chancery Division." *Chambers UK Guide 2018 (Real Estate Litigation)*