

## Property Law

### Implied Easements

Gerry has been in possession of a registered fee simple estate or 'freehold' estate since September 1990. Barton (Construction) Ltd were the registered owners of the unadopted service road that runs along the rear of Gerry's property up until March 2015 whereupon Barton (Construction) Ltd sold the road to Hyde Ltd as part of a land package.

Hyde Ltd has since established a business operation that uses the service road for access. As part of that process they have also erected a lockable gate across the public highway end of the road that is only accessible by using keys held by their employees. Gerry has for a continuous period used the service road in order to park his car and by assumption it is understood that Gerry does not park on the service road itself rather he uses it only as a means of access.

When considering Gerry's position in relation to his denial of access to the service road it would be prudent to refer to the common law position on easements.<sup>1</sup> For an easement to be legally considered there are a number of criteria first established in *Re Ellenborough Park*<sup>2</sup> which when met permit such a justification:

- I. A *dominant* tenement<sup>3</sup> and a *servient* tenement burdened by the easement must be shown to exist.
- II. The easement must benefit the dominant tenement.
- III. The dominant and servient tenements must fall under different ownership.<sup>4</sup>
- IV. The easement must be capable of forming the subject matter of a grant.

These criterion are then subject to further right clarification; one of which being a right of way<sup>5</sup> and a potential right to park<sup>6</sup> should it require consideration. In Gerry's case we are also discussing a *positive* easement which is to say that it facilitates access by the dominant tenement to the servient tenements land in order to use it for a specific purpose, on this occasion being driven upon in order to park his car within the rear of his own property.

Easements themselves are created through a number of means but for the purposes of Gerry's claim it is necessary to focus on implication and prescription. Implied easements<sup>7</sup> are property rights arising from continuous and apparent use of servient land by the dominant tenement. In this instance Gerry had enjoyed long and continuous use of the adopted service road for a period of almost twenty-five years since he purchased his property. The landowner Barton (Construction) Ltd had at no point expressed any objection to his using it which by presumption translates that they approved to his use by implied permission thereby granting him access and entitlement to an easement.

---

<sup>1</sup> Easements are rights possessed by the owner of one piece of land whereby the owner of the other land is obliged either to suffer something to be done to his land, or to refrain from doing something on his own land for the benefit of the other land owner.

<sup>2</sup> [1956] Ch 131.

<sup>3</sup> A land owner or tenant within registered land proximate to the subject of the easement.

<sup>4</sup> Although this requirement does not prevent the existence of an easement where the dominant tenement is let on a tenancy or leasehold.

<sup>5</sup> *Drewell v Towler* [1832] 3 B & AD 735; *Borman v Griffith* [1930] 1 Ch 493.

<sup>6</sup> *Moncrieff v Jamieson* UK HL 42.

<sup>7</sup> *Wheeldon v Burrows* [1879] Ch D 31.

Under the ruling in *Wheeldon v Burrows*<sup>8</sup> it was shown by the court that a grantor must not derogate from his grant therefore when the land was sold to Hyde Ltd it ought to have been expressed by the vendor that such an easement existed. Because no express intention was shown at the time of conveyance it would be likely seen by the courts that a positive easement had by implication been granted by Barton (Construction) Ltd in favour of Gerry (and his neighbours) so as to facilitate reasonable enjoyment of the property<sup>9</sup> (or part thereof). Furthermore if it was found by the courts that an easement had been agreed by implication it is adopted that such a grant is now implied by deed. Therefore where a registrable disposition occurs whether under term of years absolute or fee simple, the easement becomes legally enforceable under s.1 (1)(a), s. 52(1)(a) and s.62(1) of the Law of Property Act 1925.

The doctrine of prescription can be relied upon under three approaches: common law, the fiction of the 'lost modern grant' and protection of the Prescription Act 1832. When considering prescription under common law there exists an outdated presumption requiring proof of easement from 1189 to the date of contention, a yardstick that while simple enough in its design, has long passed its legal expiration date and is no longer deemed fit for purpose.<sup>10</sup>

Instead this caveat was eventually replaced by a presumption that long and continuous<sup>11</sup> use by the dominant tenement for a twenty-year period during which servient acquiescence is evident, allows for easement by prescription under the fiction of the 'lost modern grant'. By lost it is assumed that due to an absence of objection by the servient landowner the court can only interpret that a grant *was* provided but in the passage of time misplaced<sup>12</sup> as clarified through the statement given by Buckley LJ:<sup>13</sup>

Where there has been upwards of 20 years' uninterrupted enjoyment of an easement, such an enjoyment having the necessary qualities to fulfil the requirements of prescription, then unless, for some reason such as incapacity on the part of the persons or persons who might at some time before the commencement of the 20-year period have made a grant, the existence of such a grant is impossible, the law will adopt a legal fiction that such a grant was made in spite of any evidence that no such grant was made.

S. 2 of the Prescription Act<sup>14</sup> refers to the premise that in order for a legal easement to exist there must be proof that the claiming party had enjoyed uninterrupted use for a period of twenty years or more.<sup>15</sup> Meanwhile s.4 provides that where a dominant tenement has been obstructed from use of the easement by way of action on the part of the servient landowner for a minimum period of one year immediately prior to the claim of right<sup>16</sup> then such a claim is lost without support of the doctrine of the lost modern grant.<sup>17</sup>

<sup>8</sup> [1879] Ch D 31.

<sup>9</sup> "If one man agrees to confer a particular benefit on another, he must not do anything which substantially deprives the other of the enjoyment of that benefit because that would be to take away with one hand what is given with the other" Denning LJ *Moulton Buildings Ltd v City of Westminster* [1975] 30 P & CR 182.

<sup>10</sup> Law Commission, *Making Land Work: Easements, Covenants and Profits à Prendre* (Law Com No 327, 2008)

<sup>11</sup> By definition *continuous* implies more than causal or occasional use but does not require ceaseless use 24hrs a day.

<sup>12</sup> *Angus & Co v Dalton* [1877] 3 QBD 85.

<sup>13</sup> *Tehidy Minerals v Norman* [1971] 2 QB 528.

<sup>14</sup> 1832

<sup>15</sup> Where forty years of continuous use is shown the right become unimpeachable.

<sup>16</sup> Subject to non-protest by the dominant tenement during that period.

<sup>17</sup> M. P. Thompson, *Modern Land Law* (5th edn, OUP 2012) ch13 para 2, 570

Furthermore it is also important to show that the claimant has demonstrated a right to use the easement without the need of force (*nec vi*<sup>18</sup>), stealth (*nec clam*<sup>19</sup>), or permission (*nec precario*<sup>20</sup>). These principles also lend themselves well to implication with particular emphasis on an exertion of right rather than by permission, which in the latter case would render easement use as that by licence rather than proprietary entitlement. In Gerry's case it is evident that none of those principles could apply as Barton (Construction) Ltd never gave verbal or written consent (nor objection) and it is presumed that Gerry openly used the service road at various times of the day and night prior to a gate being erected.

The Land Registration Act 2002 also provides that an overriding interest on the part of the dominant tenement exists on the provision that upon transfer or disposition the easement in question was obvious upon reasonably careful inspection of the land.<sup>21</sup> It is therefore not unreasonable to suggest that prior to the purchase of the land by Hyde Ltd an inspection would have shown that in order for Gerry and his neighbours to access the rear of their properties they would have been forced to use the adopted service road as no other means of access existed.<sup>22</sup>

To summarise I would advise Gerry that his right to enforce continued access to the rear of his property relies upon implied easement by deed,<sup>23</sup> prescription and overriding interest under the protection of statute. All three principles carry adequate legal weight when taken in their proper context and while the burden of implication falls upon Barton (Construction) Ltd protection of claim under S.62 of the LPA<sup>24</sup> requires the sensibilities of both vendor and purchaser alike.

***“The obvious problem with the rules of implication is their complexity”<sup>25</sup>***

There are two questions asked in relation to the above statement so I shall address each in turn before providing a brief summary to conclude. The first asks if agreement is found with the Law Commission statement surrounding implication complexity within easements, and the second asks if such proposals merely create a different but more complex test. In order to begin answering these it would be wise to first examine what is meant by the term implication, both in a literal and legal sense.

The Oxford English Dictionary<sup>26</sup> definition of implication includes the action of involving, entwining or entangling; of being intimately connected; a relationship between propositions such that the one implies the other. So it is that when considering the complexities of implication it is done so in the knowledge that mere will is of less importance than the fact that two things are inextricably linked. This certainty brings tremendous bearing upon the legal relevance of implication, particularly concerning property rights, and while satisfied that in a literal sense there is little ambiguity, it is now only proper to clarify current legal thinking around implied easements.

To date there are five ways that an easement can be created through implication:

<sup>18</sup> *R (Beresford) v Sunderland CC* [2004] 1 AC 889.

<sup>19</sup> *Union Lighterage Co v London Graving Dock Co* [1902] 2 Ch 557.

<sup>20</sup> *Odey v Barber* [2006] EWHC 3109.

<sup>21</sup> S.29 (1) (2) (a) (ii) Sch 3 para 3 (1).

<sup>22</sup> This might also raise questions around the implication of necessity although unless land-locking is present the courts would not generally grant favour to such a claim.

<sup>23</sup> *Ward v Kirkland* [1967] Ch 194; *William Old International Ltd v Ayra* [2009] EWHC 599 considered.

<sup>24</sup> Law of Property Act 1925

<sup>25</sup> Law Commission, *Making Land Work: Easements, Covenants and Profits à Prendre* (Law Com No 327, 2008) 33

<sup>26</sup> <[www.oed.com/view/Entry92477?redirectedFrom=implication](http://www.oed.com/view/Entry92477?redirectedFrom=implication)> accessed 19 November 2015

- I. Where a grant contains certain descriptives inferable to the existence of an easement.<sup>27</sup>
- II. Where foresight on the part of a servient landowner was given to permit, or at the very least anticipate that the land granted was to be used in particular manner, in some instances by way of necessity (see V).<sup>28</sup>
- III. By way of derogation from grant by a landowner either upon or prior to conveyance.<sup>29</sup>
- IV. By way of estoppel under the ruling in *Wheeldon v Burrows*.<sup>30</sup>
- V. Where access is denied to the dominant landowner, any use of said land is then rendered useless and detrimental to its existence.<sup>31</sup>

As is evident from the variation in means, implied easements are not subject to narrow interpretation, rather they are enforceable through numerous mechanisms, all of which are then subject to further exemptions and exclusion depending on the context in which they are applied. This in itself raises more questions than answers and so it is wholly understandable that the Law Commission felt compelled to produce their version of events (so to speak). The following text will aim to provide greater detail of the reform proposals and where possible a simplified translation will help elucidate their intended benefits (or limitations where found).

Para.3.30 sets out that when determining whether an easement should be implied, it should not be material that it takes effect by grant or reservation.<sup>32</sup> By removing the need to determine which party is requesting the right to an easement it is suggested that the 'burden of proof' is equally decidable. This translates that rather than giving the servient tenement an assumption of cloaked entitlements, the proposal instead asks that when dealing with matters of conveyance the vendor now has as many prerequisite obligations to forward plan as the purchaser might themselves anticipate. However when looking at how implied easement by reservation has decided fortunes it would be prudent to consider *Suffield v Brown*<sup>33</sup> whereupon Lord Westbury commented:

When the owner of two tenements sells one for an absolute interest therein, he puts an end, by contract, to the relation which he had himself created between the tenement sold and the adjoining tenement; and discharges the tenement so sold from any burthen imposed upon it during his joint occupation; and the condition of such tenement is thenceforth determined by the contract of alienation and not by the previous user of the vendor during such joint ownership.

This statement also supports the principle that greater requirements ought to befall vendors when drawing up a deed of sale, as opposed to such burdens becoming the onus of the purchaser to establish; a common source of frustration also found within Trust Law and one succinctly clarified by Jessel MR in *Lysaght v Edwards*.<sup>34</sup> That is not to say that potential purchasers are themselves entitled to exclusive rights, but rather that in some

<sup>27</sup> *Roberts v Karr* [1809] 1 Taunt 495.

<sup>28</sup> *Hall v Lund* [1863] 1 H & C 676.

<sup>29</sup> *Browne v Flower* [1911] 1 Ch 219 "It is well settled that such a grant or demise will (unless there be something in the terms of the grant or demise or in the circumstances of the particular case rebutting the information) impliedly confer on the grantee or lessee, as appurtenant to the land granted or demised to him, easements over the land retained corresponding to the continuous or apparent quasi-easements enjoyed at the time of the grant or demise by the property granted or demised over the property retained." (Parker J) 224, 225

<sup>30</sup> [1879] Ch D 31.

<sup>31</sup> *Wong v Beaumont Property Trust Ltd* [1965] 1 QB 173.

<sup>32</sup> Law Commission, Making Land Work: Easements, Covenants and Profits à Prendre (Law Com No 327, 2008) 33

<sup>33</sup> [1864] 4 De G.J & S 185.

<sup>34</sup> [1876] 2 Ch D 499 at 506 "The moment you have a valid contract for sale, the vendor becomes in equity the trustee for the purchaser of the estate sold...it must therefore be considered to be established that the vendor is a constructive trustee for the purchaser of the estate from the moment the contract is entered into." (Jessel MR)

respects a fiduciary relationship is inherently implied although not privilege to existing precedent. By promoting a balanced formulae for determination of implied easements it would seem that while concurrence is found with the notion of equality between parties, time will ultimately prove determinant of equitability when agreement cannot be found.

Para. 3.45<sup>35</sup> expresses that an easement shall be implied as a term of disposition upon consideration of:

- I. The use of the land at the time of the grant.
- II. The presence of relevant physical features on the servient land.
- III. Commonly held knowledge regards future use of the servient land.
- IV. Available easement routes.
- V. Any interference or inconvenience to both servient land or owner.

The problem arising from (I) is that it is immediately compromised by (III) and (V) where future development occurs. Given the presumption that an implied easement is legally enforceable it must also be agreed that in the absence of a crystal ball it is impossible for either the dominant *or* servient tenement to know or even agree upon, possible intentions to alter the use of the land forming the easement at the time of disposition.

It must also be considered that should the servient tenement decide to sell the land in part or whole while seeking to remove any implied easement rights within the deed of transfer, it must do so in full agreement of the dominant tenement in order for extinguishment to succeed; otherwise continued development restrictions would no doubt apply unless where compulsory purchase is permitted under s.226 of the Town and Country Planning Act 1990<sup>36</sup> or where s.237 provides exemption for local authority development subject to compensation provision to affected third parties.<sup>37</sup>

When placing greater focus on (V) it needs to be clarified just what qualifies as an 'inconvenience' to the servient tenement or land? As has already been seen in necessity cases<sup>38</sup>, the criteria must surely require narrowness in order to prevent confusion, although when taken in their proper collective context it appears that when disturbed, continuous implied easements will no doubt prove harder to qualify when faced with the impositions surrounding the proposed (servient) tenement rights.

Inconvenience to the servient tenement will no doubt arise when future needs require more of the land than perhaps existed when (I) was considered, as through the passing of time and change of ownership it is inevitable that at some point the area previously enjoyed by the dominant tenement will become the subject of contention when planning permissions are sought, or where the cessation of peaceful enjoyment becomes compulsory to local authority objectives.<sup>39</sup> Either way a change of name and refinement of process cannot fully remove the inherent complexities that accompany easements, which suggests that perhaps the best evaluation of the merits of the Law Commission reform proposals will come from briefly comparing several other easement jurisdictions instead.

<sup>35</sup> Law Commission, *Making Land Work: Easements, Covenants and Profits à Prendre* (Law Com No 327, 2008) 36

<sup>36</sup> Note that the easement will not be extinguished entirely, rather it will bind the land when in the hands of parties other than the acquiring authority as per *Wilson's Brewery Ltd v West Yorkshire MBC* [1977] 34 P. & C. R. 224

<sup>37</sup> *R v Mayor and Commonality and the Citizens of London v Royal London Mutual Insurance Society, ex p Master Governors and Commonality of the Mystery of the Barbers of London* [1996] 2 EGLR 128; see also s.295 of the Housing Act 1985.

<sup>38</sup> *Nickerson v Barraclough* [1980] Ch. 325; *Manjang v Drummeh* [1990] 61 P. & C. R. 194; *Adealon International Ltd v Merton LBC* [2007] EWCA Civ 362.

<sup>39</sup> *Yarmouth Corp v Simmons* [1878] 10 Ch. D. 158 whereby construction of a pier required removal of a public right of way.

While in many respects the US law surrounding easements (or 'servitudes' as referred to in civil law) follows domestic jurisprudence, there exist numerous more complex versions of easement<sup>40</sup> beyond those typically detailed within English land law. That said, at the most basic level there are two types of easement used to determine which procedure need be followed; one being *appurtenant easements* and the other known as *easements in gross*. Appurtenant easements are those derived from continuous use both prior to and after conveyance has occurred, while subject to the same requirements as those found in domestic common law; that being there needs to exist a dominant and servient 'tenant' whereupon enjoyment is found on the part of the dominant party while not to the detriment of the servient party. In contrast, easements in gross are not reliant upon ownership of title but rather through a personal interest held by such agents typically concerned with utility rights-of-way, major highways and the right to flow land with water by the damming of a river;<sup>41</sup> furthermore such easements do not require benefit by the parties burdened, rather mere compliance with the rights afforded through their existence.

Where creation through implication<sup>42</sup> is concerned there are three means by which agreement can be found<sup>43</sup> however for the purpose of this analysis it is best to focus briefly on implication through prior use, which once established<sup>44</sup> is again subject to four additional criteria as laid down by the Supreme Court of Ohio:<sup>45</sup>

- I. A severance of the unity of ownership in estate must occur and;
- II. That before separation takes place such an action will give rise to the easement provided that long and continuous use is evident so as to make it permanent
- III. That the easement shall be necessary for the reasonable and beneficial enjoyment upon those to whom it is granted or reserved
- IV. That the easement use shall be distinguishable as continuous from temporary or occasional<sup>46</sup>

When comparing principles followed in the American courts regarding implied easements to those proposed *and* in existence within the United Kingdom, there seems to be a broader emphasis of reliance on the part of the dominant tenant to show a need to continue enjoying the easement where challenged and less importance on duration, and while reminiscent yet wholly different from licences, easements in gross serve to provide access for third parties precluded from proximation, yet not given to public interest concerns when applying. This is perhaps something that if included within English land law might add further complications so on the surface would appear to disadvantage domestic reform.

Having considered the current (property) and land laws of Australia, Singapore, Nigeria, Canada and New Zealand, it emerges that Nigeria takes no legal position surrounding the creation or enforcement of easements, with 'customary tenancy' being the closest area that could possibly relate to third party use of owned land. However the marked difference is that such a relationship permits perpetual possession of

---

<sup>40</sup> Aviation easements, energy easements, solar access easements, communications easements, conservation easements, recreational easements, historic preservation easements (relevant as per section II of para.3.45 of Law Commission, Making Land Work: Easements, Covenants and Profits à Prendre (Law Com No 327, 2008)), drip easements, researching easements, special use easements (see also *easements in gross* regards canals, cemeteries, dams, mills, ferry landings etc.)

<sup>41</sup> D. A. Wilson, *Easements Relating to Land Surveying and Title Examination* (Wiley 2013) 22

<sup>42</sup> Implied easements, whether by grant or by reservation, do not arise out of necessity alone, and their origin must be found in presumed intention of parties to be gathered from language of instruments when read in the light of circumstances attending their execution, physical condition of premises, and knowledge which parties had or with which they are chargeable. *Joyce v Devaney*, 78 N.E.2d 641, 322 Mass. 544 (1948)

<sup>43</sup> (i) Implied easement from prior use (ii) implied easement by necessity and (iii) implied easement from a subdivision of plat.

<sup>44</sup> There are four elements required to form an implied easement: (i) Common ownership of both properties at one time (ii) The occurrence of an ownership severance (iii) Evidence of use both before the severance and after notice (not just through visibility but also through apparentness or discoverability by means of inspection) (iv) That the easement is both beneficial and reasonably necessary.

<sup>45</sup> *Cobb v Daugherty*, 225 W. Va. 435, 693 S.E.2d 800 (W.Va. 2010)

<sup>46</sup> *Ciski v Wentworth* (1930), 122 Ohio St. 487, 172 N.E. 276.

granted land along with remuneration for such privilege subject to good behaviour.<sup>47</sup> New Zealand has followed America with its inclusion of easements in gross<sup>48</sup> while elsewhere mirroring that of the UK, Australia<sup>49</sup>, Singapore<sup>50</sup> and Canada<sup>51</sup> in terms of easement creation and enforcement.

In conclusion what the above similarities and differences illustrate is that despite aiming to simplify or perhaps 'modernise' the laws around implied easements, it would appear that the very inherent nature of easements will never be easily demystified, but rather better explained instead. If this approach were to form the premise of legal reform then one suggestion would be to revisit the fundamental principle of implied easements and aim to serve them with greater discipline as opposed to moving the goalposts for the sake of appeasement.

---

<sup>47</sup> A. Olong, *Land Law in Nigeria* (2nd edn, Malthouse 2013) 77; Such tenancies being akin to leaseholds.

<sup>48</sup> S. 122 Property Law Act 1952

<sup>49</sup> As defined in *Wilcox v Richardson* [1997] 43 NSWLR 4.

<sup>50</sup> As enforceable through the Land Titles (Strata) Act 1998

<sup>51</sup> See *Barton v Raine* [1980] 114 DLR (3d) 702 (Ont. CA) which follows *Wheeldon v Burrows*

## Bibliography

### Books

- Bennion T, Brown D, Thomas R, Toomey E, *New Zealand Land Law* (Thomson 2006)  
 Boyer RE, Hovenkamp H, Kurtz SF, *The Law of Property : An Introductory Survey* (4th edn, West 1996)  
 Bradbrook AJ, MacCallum SV, *Bradbrook and Neave's Easements and Restrictive Covenants* (3rd Edn, LexisNexis 2103)  
 Burns EH, Cartwright J, *Maudlsey & Burn's Land Law Cases & Materials* (9th edn, OUP 2009)  
 Clarke A, Kohler P, *Property Law: Commentary and Materials* (CUP 2006)  
 Davey M, *Landlord and Tenant Law* ( Sweet & Maxwell 1999)  
 Gaunt J, *Gale on Easements* (19th edn, Sweet & Maxwell 2013)  
 Hopkins N, *The Informal Acquisition of Rights in Land* (Sweet & Maxwell 2004)  
 Gray K, Gray SF, *Land Law* (7th edn, OUP 2007)  
 Jackson P, *The Law of Easements and Profits* (Butterworths 1978)  
 Merrill TW, Smith HE, *Property* (OUP 2010)  
 Moore V & Purdue M, *A Practical Approach to Planning Law* (13th edn, OUP 2015)  
 Morrison B, (ed), *Fundamentals of American Law* (OUP, 1996)  
 Mossman MJ, Flanagan WF, *Property Law: Cases and Commentaries* (Montgomery 1998)  
 Olong A, *Land Law in Nigeria* (2nd edn, Malthouse 2013)  
 Rainey P, Walsh M, Harrison P, Dovar D, *Megarry's Manual of The Law of Real Property* (9th edn, Sweet & Maxwell 2015)  
 Ricquier WJM, *Land Law* (3rd edn, LexisNexis 2009)  
 Sara C, *Boundaries and Easements* (5th edn, Sweet & Maxwell 2011)  
 Smith R, *Property Law: Cases and Materials* (6th edn, Pearson 2015)  
 Stevens J, Pearce RA, *Land Law* (3rd edn, Sweet & Maxwell 2005)  
 Sydenham A, *Public Rights of Way and Access to Land* (4th edn, Jordans 2010)  
 Tee L, *Land Law: Issues, Debates, Policy* (Willan 2002)  
 Thompson MP, *Modern Land Law* (5th edn, OUP 2012)  
 Wilkie M, Luxton P, Morgan J, Cole G, *Landlord and Tenant Law* (5th edn, Palgrave 2006)  
 Willoughby P, Wilkinson M, *Registration of Titles in Hong Kong* (Butterworths 2002)  
 Wilson DA, *Easements Relating to Land Surveying and Title Examination* (Wiley 2013)  
 Wright R, Gitelman M, *Land Use: Cases and Materials* (5th edn, West 1999)

### Cases

- Adealon International Ltd v Merton LBC [2007] EWCA Civ 362  
 Angus & Co v Dalton [1877] 3 QBD 85  
 Barton v Raine [1980] 114 DLR (3d) 702 (Ont. CA)  
 Borman v Griffith [1930] 1 Ch 493  
 Browne v Flower [1911] 1 Ch 219  
 Ciski v Wentworth (1930) 122 Ohio St. 487, 172 N.E. 276  
 Cobb v Daugherty, 225 W. Va. 435, 693 S.E.2d 800 (W.Va. 2010)  
 Drewell v Towler [1832] 3 B & AD 735  
 Hall v Lund [1863] 1 H & C 676  
 Joyce v Devaney, 78 N.E.2d 641, 322 Mass. 544 (1948)  
 Lysaght v Edwards [1876] 2 Ch D 499  
 Manjang v Drummeh [1990] 61 P. & C. R 194  
 Moncrieff v Jamieson UK HL 42  
 Moulton Buildings Ltd v City of Westminster [1975] 30 P & CR 182  
 Nickerson v Barraclough [1980] Ch. 325  
 Odey v Barber [2006] EWHC 3109  
 R v Mayor and Commonality and the Citizens of London v Royal London Mutual Insurance Society, ex p Master Governors and Commonality of the Mystery of the Barbers of London [1996] 2 EGLR 128  
 R (Beresford) v Sunderland CC [2004] 1 AC 889  
 Re Ellenborough Park [1956] Ch 131  
 Roberts v Karr [1809] 1 Taunt 495  
 Suffield v Brown [1864] 4 De G.J & S 185  
 Tehidy Minerals v Norman [1971] 2 QB 528  
 Union Lighterage Co v London Graving Dock Co [1902] 2 Ch 557  
 Ward v Kirkland [1967] Ch 194

Wheeldon v Burrows [1879] 12 Ch D 31  
Wilcox v Richardson [1997] 43 NSWLR 4  
William Old International Ltd v Ayr [2009] EWHC 599  
Wilson Brewery Ltd v West Yorkshire MBC [1977] 34 P. & C. R. 224  
Wong v Beaumont Property Trust Ltd [1965] 1 QB 173  
Yarmouth Corp v Simmons [1878] 10 Ch. D. 158

### **Command Papers and Law Commission Reports**

Law Commission, Making Land Work: Easements, Covenants and Profits à Prendre (Law Com No 327, 2008)

### **Legislation**

Civil Aviation Act 1982  
Compulsory Purchase Act 1965  
Housing Act 1985  
Inclosure Act 1845  
Land Registration Act 2002  
Lands Clauses Consolidation Act 1845  
Land Titles (Strata) Act 1998  
Law of Property Act 1925  
Law of Property (Miscellaneous Provisions) Act 1989  
New Towns Act 1981  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Prescription Act 1832  
Property Law Act 1952  
Requisitioned Land and War Works Act 1948  
Town and Country Planning Act 1990

### **Online Articles**

Laughton S, 'Easements' <[www.westlaw.co.uk](http://www.westlaw.co.uk)> accessed 26 November 2015

### **Websites**

Oxford Online Dictionary <[www.oed.com](http://www.oed.com)> accessed 19 November 2015