

THE PROBLEMS OF WILLIAM AND MARY

Scenario

Peter, a building developer, is the owner Blackacre. Blackacre consists of a detached house and grounds and is located in a road of similar properties. The adjacent property to Blackacre is Whiteacre, which has been owned and occupied by William for over 40 years.

Peter has recently been granted planning permission to demolish the house on Blackacre and replace it with a block of flats. The approved building plans provide for the provision of an underground car park below the block of flats. The excavation of the underground car park will be within 6 meters of William's house.

The main contractor for the project is Avery Hill Contractors Ltd. Avery have sub-contracted the task of excavating the basement car park to Boget (Groundworks) Ltd. Boget have already commenced work on site and William is very concerned that the vibrations caused by the piling works will cause damage to his house. He finds the noise and dust caused by the works intolerable and considers that the quality of his life has been ruined. William also fears that the depth of the excavation may well affect the stability of the foundations of his house.

A dispute has now arisen between Avery and Boget about the cost of the sub-contract works. Prior to the start of the works, Avery supplied Boget with a full specification and drawing of the required sub-contract works. In reply, Boget had stated that their "Estimate" for carrying out the works was £33,250.38. Boget are now saying that they are not bound by that estimate.

Further, Mary, a building inspector, has been injured while visiting the site by falling down an unfenced hole on site.

Questions

Questions to be answered by LMs/GDs only

1. Does the "estimate" given by Boget amount to an offer in law which is binding on Boget?
2. What must Mary establish in order to maintain an action for negligence against Boget?
3. To what extent does the work being carried out by Boget amount to a nuisance in law?
4. To what extent (if at all) does Whiteacre have a right of support?

Questions to be answered by LAs/Archts only

3. To what extent does the work being carried out by Boget amount to a nuisance in law?
4. To what extent (if at all) does Whiteacre have a right of support?
5. To what extent (if at all) does the Party Wall Act 1996 apply to the works being undertaken by Boget? What procedure should have been undertaken to comply with the requirements of the 1996 Act?
6. Assuming William did not consent to the excavation works, explain the procedure for resolving the nature of the works/safeguards etc required to protect William's house from damage.

Plagiarism:

Note: This is an INDIVIDUAL piece of work. Your attention is drawn to the University guidelines on plagiarism.

Submission Details:

The multidisciplinary nature of the course means no single time and place will suit all students, so we will accept submissions at Avery Hill, Hadlow and by post providing they all meet the common submission deadline of **4.30 pm on Monday 7th March 2011**.

- Assignments should be handed in to the A&C School Office by that time.
- Hadlow students may submit to Richard Tilley by the same deadline.
- Postal submissions must be sent to The School of Architecture & Construction, University of Greenwich, Avery Hill Mansion Campus, Bexley Road, London SE9 2PQ.
Postal submissions should also be supported by a copy as an email attachment sent to a.j.cleford@gre.ac.uk by the deadline. Both emails and envelopes must be labeled "<Insert your discipline> LEGAL PAPER For the attention of Ivan Clarke."
It is your responsibility to see that postal submissions arrive by the deadline and that you retain a dated certificate of posting.

Guidance:

In considering the questions above, set out fully and clearly the legal principles involved. Define and explain the legal principles or concepts referred to in your answers. Support your answers with citations of relevant statutes and case law.

Reading: you *may* find the following works of assistance:

- The Law of Real Property by Megarry & Wade 7th edition 2008;
- Neighbours and the Law 5th edition 2009 by John Pugh-Smith etc
- Neighbour Disputes: A Concise Guide to the Law & Practice 2006 by Agnew & Morris;
- A Practical Approach to Planning Law 11th edition 2010 by Victor Moore.
- Party Walls 3rd edition 2009 by Bickford Smith & Colin Sydenham

Lexis and **Lawtel** are available via the electronic university library. These sites may be used to research acts, statutory regulations and case law. The Lexis site also gives access to Halsburys Laws of England which is a multi volume encyclopedia of the law.

In addition information may be available on the internet, for example from government departments. In using the internet, make sure the information relates to England (and not America), and is both up to date and from a reliable and accurate source.

All sources (including websites) should be fully referenced via numbered end or footnotes and a bibliography and/or list of sources consulted.