



DAC BEACHCROFT

# SURVEYORS & VALUERS

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DAC Beachcroft – 9 July 2019



## Claims & Cases

- Mortgage Express v Countywide Surveying Services [2016] EWHC 244 / 1830
- Governors of & Bank of Ireland (UK) PLC v Watts Group PLC [2017] EWHC 1667
- Dunfermline Building Society v CBRE Limited [20017] EWHC 2745



## Claims & Cases

- 64 apartment valuations – June 2005
- Capital values £245,000
- Rental values £1,300 - £1,540 per month
- True Rental values £750 per month
- Claimed losses £3,386,304
  
- Interest as Damages/ Interest on Damages
- £1,395,456 / £196,731
  
- Take Aways
- Plead & Prove
- Beware private equity / challenger banks



## Claims & Cases

- Purchase & Development loan £1,400,000 June 2007
- 11 apartment development with projected GDV £2m
- Building Works £999,099 / Developer Profit £200,000
- SPV Borrower part of Modus Group (£20m pre-existing)
- Claimed losses £754,414
  
- Defendant expert fee £1,500 / Bank expert £24,000
- Bank solicitors same instructing/liaising with expert
- Where disagreement between experts, preferred Defendant's expert
  
- Upshot no breach of duty on Defendant's part BUT



## Claims & Cases

- Fact Modus no experience in speculative residential development
- 3 out of 4 of its own guidelines
- Incredibly thin developer profit (10%)
- Pre-existing £20m exposure to Modus / Savills caveats
  
- Master of its own downfall / sufficient to break causation
- Alternatively 75% discount for contributory negligence
  
- Take Aways
- How close is expert to those instructing
- Fee will assisting in defining the nature and scope of the duty of care
- *“take view 75% is about the maximum that can be deducted”*



## Claims & Cases

- April 2007 valuation at £17.5m
- Six acre site with PP for 535 residential unit scheme
- May 2008 costs spiralled by £21m / DTZ valued at -£5.235m
- Claimed losses £3.25m (SAAMCO)
- Bank said worth only £14.25m
- Defendant said worth £16.25m
- Take Aways
- Offer price carries some weight / prior ones would if not too old
- +/-15% either way justified even though PP in place /detailed costings report



## Current Trends



- Network Rail Infrastructure Ltd v Williams & Waistell [2018] EWCA Civ 1514
- Davies v Marshalls Ltd & Connells Survey & Valuation (2018) unreported

# JKW

- Next PPI / Endowment claim tsunami?
- Increasing volumes
- RICS Guidance Note 2012
- Categorisation 1 – 4 / 7 metres habitable space
  
- Academic Research equivocal
- Expert evidence questionable
- Remediation companies / evidence of visibility
- Pool of valuation surveyors 6% without cogent proof
  
- £243,630 / £14,620



# Current Trends

- Structural Defects
- Property Management
- Short Term Lending : Purchase / Development Finance
- Challenger Banks / BTL / HMO portfolios



# Future Predictions

- Limitation
  - Ground Rents
  - Criminality
  - PropTech
  - Corporate Failures / Mergers
  - Cyber & Data Protection
  - Responsible Lending
- 
- Boris, Brexit & Beyond



*"A brutal price war is pushing Britain's biggest lenders into risky mortgages"*

*"There are now 44 lenders offering 95% mortgages"*

*"The price battle has been stoked by the arrival of challenger banks such as Atom & Metro"*

*"Bank of England deputy governor, Sam Woods, warned that the central bank would "be watching like a hawk""*

Sunday Times 26 May 2019



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