



# GROUNDS FOR POSSESSION OF COMMERCIAL PREMISES

MAY 2019

## S FRANCES LTD V THE CAVENDISH HOTEL (LONDON) LTD

Certain business tenancies in England and Wales are afforded a protected status under the Landlord and Tenant Act 1954 ("**the Act**").

Tenants under these protected tenancies have enhanced security of tenure, whereby at expiry of their lease, may request a renewal for a further term. In these circumstances, a landlord is only able to successfully object to the request and regain possession of the premises on certain specified grounds, for instance, if the landlord wishes to complete redevelopment works, the tenant has not paid rent or the tenant has breached their covenants under the lease, amongst others.

On this note, The Supreme Court has recently ruled in a matter in which a landlord had sought to rely on the provisions of the Act to cut a tenant's security of tenure. The case provides valuable guidance to both landlords and tenants on what the Court will consider in such circumstances.

### Background

S Franes Ltd ("**the Tenant**") is a specialist firm of textile dealers and consultants, it operates from premises on the ground and basement floors of The Cavendish Hotel in Mayfair, London ("**the Premises**"). The landlord is The Cavendish Hotel (London) Limited ("**the Landlord**"), the freehold owner of the hotel.

The lease of the Premises fulfilled the criteria to be a protected tenancy under the Act.

In March 2015, the Tenant (under the provisions of the Act) served a statutory notice on the Landlord, requesting that their lease of the Premises be renewed.

### The Issue

Upon receipt of the Tenant's notice, the Landlord served a counter notice, opposing the Tenant's request under section 30(1)(f) of the Act, commonly referred to as "Ground (f)". Under the provisions of Ground (f), a landlord may oppose a tenant's request for a renewal of a protected business tenancy if the landlord intends to complete substantial works to the relevant premises, which can only reasonably be completed if the landlord is in possession of the premises.

The Landlord had put forward various schemes in respect of the development of the Premises, proposing an intensive program of works that would require the Tenant to leave. The Landlord however, had openly acknowledged a lack of commercial reasoning for the

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works and that their principal utility was to lead to the Tenant's eviction.

The case questioned whether or not the Landlord's intention to redevelop the Premises under its proposed development scheme was genuine and whether, consequently, the criteria of Ground (f) was made out on the facts.

### The Decision

The Court was not convinced that there was genuine intent or a commercial purpose behind the proposed works, other than to provide for the eviction of the Tenant. The judgment made clear that the Landlord's intention to complete works could also not be borne from a tenant's request to renew a tenancy.

The Court found in favour of the Tenant, meaning that they could remain in occupation of the Premises.

In essence, the case identifies that landlords seeking to rely on Ground (f) to regain possession will need to ensure their proposed schemes and true intentions align and that the Courts will actively scrutinise the intention of a landlord when considering matters that affect the statutory security of tenure enjoyed by tenants.

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