

# Construction Law and Tenancy Law

## Construction law

Construction law covers a large area of the law, among other things matters referring to building contracts, tenancy law, contract law, neighbour disputes and such. For instance, construction law refers to advising, mediating and conducting legal proceedings relevant to the construction of houses, purchase agreements regarding immovable property, easements and also the legal concept "hidden defects"<sup>TM</sup>, which a purchaser of immovable property may encounter.

## Purchase of a house

As a consumer you have the right to require that whatever you receive conforms with the purchase. If this is not the case, you may terminate the purchase contract or claim damages; you may also reduce the purchase price. However, you will be required to notify the seller within reasonable time that you are dissatisfied with the delivered good, in order to prevent that the seller or the contractor incurs evidentiary problems. The obligation to complain is paramount. If you do not lodge a complaint in time you will forfeit your right to commence a legal action.

## Building contract

We speak of contracting when you have a house built. The contractor is subjected to considerable obligations which are meant to protect the client. Among other things, the law prescribes that in case of overexpenditure due to additional work, the contractor will only be entitled to payment if he has informed you thereof and if the costs in question are necessary. Furthermore, the contractor will be responsible for the materials and equipment he uses. A good and experienced lawyer in the field of construction law will prevent you from literally being left out in the cold. You should engage such a lawyer in time, also to assess the building contract for accuracy.

## Tenancy law

Tenancy law is about the rights and obligations of both the landlord and the tenant. These rights and obligations arise from the tenancy agreement, the law and case law (legal sources). One of the most important elements in tenancy law is the fact that parties must behave as good tenant and landlord. A tenant will be obliged to pay the rent instalments correctly and promptly. A landlord, on the other hand, is obliged to maintain the rented accommodation and repair any defects. In the event that the landlord or the tenant fails to comply with his obligations, this may lead to a conflict, where it will be advisable to request the assistance of a knowledgeable and specialized lawyer in the field of tenancy law.

The most frequent conflicts between a landlord and a tenant in the private setting are explained hereinafter.

## Rent arrears

In the event that a tenant fails to pay the rent instalments for a period in excess of three months, the landlord may demand the termination of the tenancy agreement and the eviction of the rented property in a legal action at the subdistrict court. This means that the tenant must evict the rented property within a term to be set by the subdistrict court.

Among other things, the subdistrict court will assess whether the tenant has been a good tenant. After all, good tenancy entails prompt and correct payment of rent instalments. However, a number of causes may play a role in the inception of rent arrears, which the subdistrict court will consider in his assessment. For instance, one cause may be that the landlord refuses to repair the defects of the rented property. In that case the tenant will have the right to suspend the rent instalments subject to certain conditions, until the landlord has repaired the defects. Here it is important to consider that not all defects must be repaired by the landlord. Small repair works such as ventilating the heating system, are the responsibility of the tenant. Another cause for the tenant not to pay the rent instalments is force majeure. A tenant may want to pay the rent instalments, but temporarily lacks sufficient income to do so. An experienced and knowledgeable lawyer specializing in tenancy law may be of assistance here. In so far as possible, he may make arrangements for payment with the other party. In individual cases the subdistrict court will assess whether the rent arrears will justify an

eviction and the serious consequences connected therewith.

In the event that the subdistrict court grants the demand from the landlord to terminate the tenancy agreement and the eviction, there will still be possibilities to prevent eviction. In that case it would be advisable to immediately seek the advice of a competent and specialized lawyer in tenancy law.

### Defects of a dwelling

Nothing is more annoying than a dwelling with all sorts of defects and a landlord who fails to repair them, often due to indolence. In most cases it is thought that the tenant is not in a very strong legal position, causing him to regularly leave things as they are. However, the tenant has various possibilities to act against the landlord, one of which is suspension of the rent instalments. For questions about the various possibilities, please contact us free of obligation. After all, it is important that the opportunities offered by the law are used correctly by the tenant and legally qualified assistance is most certainly recommendable here. In any case, small repair works, such as ventilating the heating system will be the responsibility of the tenant.

### Nuisance by tenant

In case a tenant causes extreme nuisance, in such a way that the enjoyment of the property of the surrounding tenants is impaired, the landlord may demand termination of the tenancy agreement in a legal action at the subdistrict court. The subdistrict court will then assess whether the tenant has been a good tenant. For this assessment it is also important to know the extent of the nuisance and whether the tenant has amended his behaviour in order to limit the nuisance.

Conflicts also arise regularly in case of lease on a commercial basis, for instance:

#### 1. Rent adjustment

A commercial lease agreement is most often concluded for a longer period of time, for example for 5 years. In that case, the rent is also set for a longer period of time, often precluding raise in the interim. However, there may be circumstances where the termination of the rental agreement or an amendment of the rent is desirable. In that case it is recommendable to seek assistance from a knowledgeable and experienced party to look at the various possibilities.

#### 2. Defects of the rented property

In commercial leasing conflicts may arise about defects of the rented property as well. If the defects affect the business operations and they are not promptly put right, this may have serious consequences for the lessee. In that case the lessee may apply to the subdistrict court.

### Contact

Should you have questions about one of the subjects discussed hereinbefore, please contact us free of obligation. We will be happy to speak to you, also if you simply are momentarily at a loss and have questions, you may contact us free of obligation. We request you to fill out the fields on the contact form to the fullest extent. Subsequently, we will contact you.