

Dilapidations Review

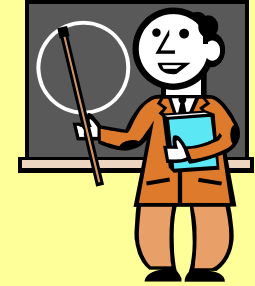
Schedules of Condition

and Property Reports

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Dilapidations

Lecture Overview



Lecture One – Dilapidations overview and schedule of condition

Lecture Two – Schedules of Condition, Dilapidations and Scott Schedules

Lecture Three - RICS Guidance / Protocol, Dilapidations Game

Lecture Four – Legal Frame work

Lecture Five - Clients / Terms & Conditions

Lecture Six - Client

Review Dilapidations Overview

Leases



Landlord and Tenant Act gives contractual obligations to both parties

Breaking obligations gives Dilapidations

Schedule of Condition can protect Tenants against Dilapidation claims

Course Work Requirements

Course work requirement:

Oral presentation on Dilaps
??/??/20??

Structural survey assignment
3000 words ??/??/20??

Timed exam ??/??/20??



Dilapidations Two

First Part

- Schedule of Condition and benefits to the tenant
- Dilapidations battle
- Dilapidations Schedule
- Scotts Schedule – the battle

Second Part

- Prepare a Schedule of Condition and property report or schedule of Dilapidations

Last Half Hour

- Feed back

Further reading

- Read RICS Dilaps Guidance Notes



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Dilapidations Process

- ✓ Client rings for advice / quote
- ✓ Talk to client
- ✓ Confirm instruction
- ✓ Gather available information
- ✓ View property
- ✓ Prepare Schedule of Condition and Property Report or Dilapidations report
- ✓ Advise and agree way forward with your client
- ✓ Meet other surveyor
- ✓ Negotiate and agree
- ✓ Negotiate and disagree and go to court

Freehold

- Within the law you're free to do what you like with the property

Leasehold

- Limited by the lease and statute

Dilapidations in one slide

Dilapidations are all about leases

- the rights and responsibilities the landlord and tenant have relating to these
- and how they settle any disagreement



How Surveyors can help the Tenants



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Tenant – Saved by a Schedule of Condition



A Schedule of Condition is a record of what the property is like at the time the lease is taken on.

Tenants / business owners protect themselves by having a Schedule of Condition prepared.

Example of an External Section of a Schedule of Condition

<u>Name the ELEVATION</u>		
DESCRIPTION	CONDITION	ACTION REQUIRED
Chimneys:		
Roofs:		
Gutters and Downpipes:		
Walls:		
External Joinery:		
General Comments:		

Schedule of Condition

Example of a few External Pages from a Schedule of Condition

FRONT ELEVATION



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FRONT ELEVATION		
DESCRIPTION	CONDITION	ACTION REQUIRED
Chimneys: Two chimneys (stone clad one to right hand side and brickwork one to left hand side)	Average condition	
Roof: Shallow pitched roof We can also see the flat roof.	Some tiles missing and also from our investigations there is rotten timber beneath.	Re-apply reflective paint and check for ad-hoc repairs.
Gutters and Downpipes: Box guttering, downpipes and Fascias and soffits	Leak to left hand side	Repair
Walls: Cavity brickwork Vertical tiling	Marks and old fixing works Some tiles missing	Clean and repair Replace
External Joinery: Front entrance door Casement windows	Marked and sill worn	Repair and redecorate Clean, repair and redecorate
Paved Area: Hexagonal concrete paved area with smokers tent	Damaged and dirty	In need of repair, replacement and cleaning
Signage and Lighting:	Copyright of 1stAssociated.co.uk, Average, some marks. not to be used in any format	General clean and touch up.

Property Report



The client will also need a Property Report

- The Property Report identifies the key issues the property has and looks specifically at issues relating to how they wish to use the property

Client Details

And in this case
our client wants
to use the pub
as a pub!



Divide



- Divide into groups of six
- Move the tables

Pick a Role

- Landlord
- Landlord's Surveyor
- Landlord's Solicitor

Or

- Tenant
- Tenant's Surveyor
- Tenant's Solicitor



Pick a Building



- Pick a local building, which could be a:
 - Café
 - Bar
 - Public building, such as a library, university or leisure centre etc.

It just needs to be open now and within walking distance.

First and Second Time

- Prepare a Schedule of Condition
- Third time plus add key issues for a Property Report

LEFT HAND GABLE END



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LEFT HAND GABLE END		
DESCRIPTION	CONDITION	ACTION REQUIRED
Chimneys: One brick chimney with two pots	Average condition	
Roof: Shallow pitched roof. Able to see flat roof.	Some repair work required to perimeter tiles and some minor moss.	Repair
Gutters and Downpipes: Metal	Leak to downpipe, causing moss staining	Repair
Walls: Cavity brickwork Extract fan	Average condition	Clean and make good Clean
External Joinery: Casement windows		Clean, repair and redecorate
Parking Area: Concrete parking with centrally placed drain.	General vegetation	Clean
Garage Garage with flat roof	Brickwork has a vertical crack from the ground to the roof and over garage door. Some decorate brickwork. To the side of the gates is brickwork that has spalled. and a movement crack between the brickwork of the gate and the main building	Replace
Boundaries: The boundary is surrounded by a wall, approx 2 metres in height.	Copyright of 1stAssociated.co.uk, not to be used in any format	Repoint and general clean.

RIGHT HAND SIDE



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RIGHT HAND SIDE		
DESCRIPTION	CONDITION	ACTION REQUIRED
Chimneys: Large stone clad chimney with two chimney pots	Average	
Roof: Shallow pitched roof. Able to see flat roof.	Some repair work required to perimeter tiles and some minor moss.	Repair
Flat Roof: Asphalt	Some repairs visible	On-going maintenance
Gutters and Downpipes: Metal	Average	Repair and redecorate
Walls: Cavity brickwork	Some marks	General clean
External Joinery: Timber and metal windows at low level	Below average	Clean, repair and redecorate.

Schedule of Condition

Your turn, what the tenant sees



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Right Gable



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Right Gable



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Questions you should be asking?



- Major defects in the lease term (next 12 years)
- Defects requiring immediate repair
- High level issues – what the roof configuration is, gutters, down pipes
- What the roof structure is like
- What the first floor is like (without actually going on to it)
- Any cracks? Are they important cracks?
- Sketch front, rear and floor plans

Front Right



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Front



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Front Left Side



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Left Side and Part Front



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Left Side



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- Major defects in the lease term (next 12 years)
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Brick chimney - What type of flashing?



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Roof: Shallow pitched roof. Able to see flat roof.	Some repair work required to perimeter tiles and some minor moss.	Repair
Gutters and Downpipes: Metal	Leak to downpipe, causing moss staining	Repair
Walls: Cavity brickwork Extract fan	Average condition	Clean and make good Clean
External Joinery: Casement windows		Clean, repair and redecorate
Parking Area: Concrete parking with centrally placed drain.	General vegetation	Clean
Garage Garage with flat roof	Brickwork has a vertical crack from the ground to the roof and over garage door. Some decorate brickwork. To the side of the gates is brickwork that has spalled. and a movement crack between the brickwork of the gate and the main building	Replace
Boundaries: The boundary is surrounded by a wall, approx 2 metres in height.	Copyright of 1stAssociated.co.uk, not to be used in any format	Repoint and general clean.

Garage wall vertical cracks



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Vertical Crack



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What type of flat roof?



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Type of brick bond and ?



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Should the schedule include the path?



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Is the tree a problem?



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Timber exposed to fascia



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DPC, right level?



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Flat roof type? Problems?



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Reflective paint - why?



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Garage Roof



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Front Flat Roof



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Have a system



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Vertical tiles



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Cast iron down pipe and what type of roof?



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Roof repairs?



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Roof repairs?



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Flashing ok?



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Gutters and fascia



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Window paint work



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Gutter



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Gutter inside



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Shallow pitch



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Under roof tile



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Sky lights ok?



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Fire exit



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Legal Frame work for Commercial Property



- Law of Property Act 1925
- Landlord and Tenant Act 1927
- Leasehold Property (Repairs) Act 1938
- Occupiers Liability Acts (1957 and 1984)

Tenant / Business Owner Protection



Tenants can and do negotiate using a Survey and a Schedule of Condition.



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Business Owner



- See “Property to Let” sign
- Business owner thinks ‘I can make a good profit from that building / location’ it’s up to you to give property advice (not refer on to other specialists)
- Typically business owner will make an initial offer based on a **Heads of Terms, before you see the property**
- **The deal is often nearly complete before you see the property.**

Heads of Terms

- Example we will use

HEADS OF TERMS OF PROPOSED LETTING

Address of Property to be leased

Landlord: Landlord's name and
address details

Landlord's Solicitor: Landlord's solicitor's
name and address details

Tenant: Tenant's name and address
details

Tenant's Solicitor: Tenant's Solicitor's name
and address details.

Terms:

1. **Subject to Contract.**
2. **Demise**
All those premises known as **Address of Property**
3. **Lease**
For a term of 12 years on full repairing and insuring terms with rent reviews at 4 yearly intervals.
4. **Tenants' Break Option**
The tenants to have break options at the end of Year 4 and Year 8 on not less than 3 months' written notice.
5. **Rent**
£32,000 per annum exclusive with 3 months rent free at the commencement of the term.
6. **Rates**
Rateable Value £17,750.
Rates payable £ - £8,200.50.
7. **References**
 to obtain the usual references.
 Solicitor
8. **Sureties/Rent Deposit**
As part of the negotiations it has been agreed that the Landlord will require a rent deposit.

In order to take the property off the market, the proposed tenants have paid a non-returnable reservation fee of £5,000 to the landlord's solicitor. This £5,000 will be used as part payment of the rent deposit should the transaction proceed to a satisfactory conclusion.
9. **VAT**
The Landlord has elected to waive its exemption and VAT at the standard rate is payable by the occupiers on the rent and all other costs where applicable.

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**We need to get inside the
buildings too**

Example of an internal schedule
of condition

Example of an Internal Section of a Schedule of Condition

<u>Room</u>		
DESCRIPTION	CONDITION	ACTION REQUIRED
Ceilings:		
Walls:		
Floors:		
Joinery:		
Services:		

Schedule of Condition

Examples of some Internal Pages from a Schedule of Condition

**Front of House
Public Bar**



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Front of House - Public Bar

DESCRIPTION	CONDITION	ACTION REQUIRED
Ceilings: Painted embossed and painted decked area	Average, some marks and scuffs	Repair and redecorate
Walls: Painted brickwork and painted plaster. Timber dado Bricks around bar and timber trim	Some marks Average General ingrained dirt	Repair and redecorate Repair and redecorate Repair, clean and redecorate
Floors: Vinyl wood look floor	Some marks and cigarette burns	Repair or replace

Back of House Catering / Domestic Kitchen



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Catering/Domestic Kitchen		
DESCRIPTION	CONDITION	ACTION REQUIRED
Ceilings: Painted panels, one roof light	Average. Some light fittings missing.	Repair and redecorate
Walls: Extract fan	Heavily marked	Repair and redecorate Clean
Floors: Vinyl	Dirty	Deep clean
Joinery: Entrance door	Damaged	Repair and redecorate
Catering Equipment: This is domestic quality catering equipment so we do not believe it will meet Local Authority approval. You and your solicitor need to carry out your own investigation..	Basic	Replace
Services: Electrics	We carried out a one off test in the kitchen and found it had an earthing point missing.	Have an Institute of Electrical Engineers (IEE) Test and Report

FIRST FLOOR – PRIVATE LIVING ACCOMMODATION

Lounge



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FIRST FLOOR – PRIVATE LIVING ACCOMMODATION

Lounge

DESCRIPTION	CONDITION	ACTION REQUIRED
Ceilings: Fibreboard	Marked	Repair and redecorate
Walls: Papered embossed	Dirty	Repair and redecorate
Floors: Carpet	Average	
Joinery: Metal style window (known as crittal windows) and French doors Entrance door	Damaged Impact damage	Repair and redecorate Replace

Dilapidations Process

- ✓ Client rings for advice / quote
- ✓ Talk to client
- ✓ Confirm instruction
- ✓ Gather available information
- ✓ View property
- ✓ Prepare Schedule of Condition or Dilapidations report
- ✓ Advise and agree way forward with your client
- ✓ Meet other surveyor
- ✓ Negotiate and agree
- ✓ Negotiate and disagree and go to court

We will be looking at real properties

- McDonald's, Victoria Road
- Leisure Centre, Victoria Road
- Riverside Inn, Victoria Road
- The Wheat sheaf, Victoria Road
- ????????????
- Keep to Victoria Road and Duke Road

Your client

- 1. Accountants**
- 2. Bakery restaurant**
- 3. Bank**
- 4. Building society**
- 5. Children Nursery**
- 6. Dental Practice**
- 7. Doctors Surgery**
- 8. Dry cleaners**
- 9. Fast Food**
- 10. Financial Advisers**
- 11. Garden Centre**
- 12. Hair dressers**
- 13. Internet Café**
- 14. Out door activities**
- 15. Phone shop**
- 16. Wine Merchants**

HEADS OF TERMS OF PROPOSED LETTING

Address of Property to be leased

Landlord: Landlord's name and
address details

Landlord's Solicitor: Landlord's solicitor's
name and address details

Tenant: Tenant's name and address
details

Tenant's Solicitor: Tenant's Solicitor's name
and address details.

Terms:

- 1. Subject to Contract.**
- 2. Demise**
All those premises known as **Address of Property**
- 3. Lease**
For a term of 12 years on full repairing and insuring terms with rent reviews at 4 yearly intervals.
- 4. Tenants' Break Option**
The tenants to have break options at the end of Year 4 and Year 8 on not less than 3 months' written notice.
- 5. Rent**
£32,000 per annum exclusive with 3 months rent free at the commencement of the term.
- 6. Rates**
Rateable Value £17,750.
Rates payable £ - £8,200.50.
- 7. References**
Solicitor to obtain the usual references.
- 8. Sureties/Rent Deposit**
As part of the negotiations it has been agreed that the Landlord will require a rent deposit.

In order to take the property off the market, the proposed tenants have paid a non-returnable reservation fee of £5,000 to the landlord's solicitor. This £5,000 will be used as part payment of the rent deposit should the transaction proceed to a satisfactory conclusion.
- 9. VAT**
The Landlord has elected to waive its exemption and VAT at the standard rate is payable by the occupiers on the rent and all other costs where applicable.

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Heads of Terms

- Demise – Ground Floor only
- Lease - 12 year Full Repairing & Insuring
- Break clause - option at the end of year four and year eight

Questions you should be asking?



- Major defects in next 12 years
- Defects requiring immediate repair
- High level issues – what the roof configuration is, gutters, down pipes
- What the roof structure is like
- What the first floor is like (without actually going on to it)
- Any cracks are they important cracks!
- Sketch front, rear and floor plans

Question Sheet 1

- Why do we have leases?
- Why don't all wealthy businesses own the properties?
- Would you recommend the client leases your property?



Feedback Session



- ☐ Where you went
- ☐ Whether you spotted any major defects with the property
- ☐ Minor problems
- ☐ Problems in the next twelve years
- ☐ What the roof configuration is
- ☐ What the roof structure is like
- ☐ What the first floor is like (without actually going on to it)
- ☐ Do you have sketches?