Library Workshop for ENVR 3420
Hong Kong Environmental Legal Information

Sept 25th, 2019
7:00 – 8:30pm

Victoria Caplan
Library Reference
lbcaplan@ust.hk
Library Guide

http://libguides.ust.hk/envr3420

ENVR 3420 - Environmental Law and Regulations: Home
Will help students in their assignments and study for ENVR 3420

Goals

This guide and the workshop it is designed to supplement has these goals:

- Short term - Help you learn the start of the mechanics of searching for legal information for ENVR 3420
- Long term: Help you learn about
  - Legal Information creation & dissemination process & how you can search it strategically
  - Legal Information as an EXAMPLE of ONE type of information.

By learning to explore & use the world of legal information, you will develop skills and attitudes that will allow you to explore and learn to use information in other areas of study or interest.

Contact:

Victoria Caplan
Email Me
Basic Concepts & Terms

**Primary Sources**
- Laws & law cases

**Secondary Sources**
- books, & articles in law journals

**Common law** 普通法
- Laws + law cases

**Statutes** = legislation= laws = Ordinances

**Hong Kong** – we call laws “ordinances” –
Example: the Noise Control Ordinance
Hong Kong SAR

Hong Kong e-Legislation (HiKEL)
An electronic database of the consolidated statute laws of Hong Kong established and updated by the Department of Justice (DOJ).

Hong Kong Legal Information Institute
Provides access to Hong Kong legislation, cases, reports, and more.

HKSAR Government Gazette Legal Supplements
The Government of the Hong Kong Special Administrative Region gazette. (E-Resources)
KNR1.5 H655
It is published weekly in Chinese and English when the Legislative Council is in session. It consists of a main volume and seven supplementary volumes. The following supplements are important.

Lifecycle of an Ordinance

<table>
<thead>
<tr>
<th>Stage</th>
<th>Manifestations</th>
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<tbody>
<tr>
<td>Proposals for change in the law from various sources: Govt. Law Reform Commission, other organizations.</td>
<td>Consultation papers, LRC reports</td>
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<tr>
<td>Draft bill</td>
<td>Send to interested parties for comments</td>
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<tr>
<td>Bill</td>
<td>LS3 (blue paper)</td>
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<td>Hansard</td>
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<td>Third reading</td>
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<td>Chief Executive's assent</td>
<td>Signed on Legal Supplement 1</td>
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<td>Ordinance published</td>
<td>Legal Supplement 1</td>
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HKeL- Hong Kong e-Legislation (a)

https://www.elegislation.gov.hk/

- Official e-version of Laws of Hong Kong
- Browse-able, keyword searchable
• Choose “browse” for subject index
Ordinances for Environmental Issues?

Subject index search (1)

1. Choose “select subject”

2. Type - environment
Ordinances for Environmental Issues?
Subject index search (2)

3. Choose “Environmental Protection & Conservation”

4. List of related ordinances will appear

Ordinances for Environmental Issues?
Full index pdf
<table>
<thead>
<tr>
<th>Cap. / Instrument</th>
<th>Environmental Protection &amp; Conservation</th>
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<tbody>
<tr>
<td>311</td>
<td>Air Pollution Control Ordinance</td>
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<td>610</td>
<td>Buildings Energy Efficiency Ordinance</td>
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<td>605</td>
<td>Banker Oil Pollution (Liability and Compensation) Ordinance</td>
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<td>312</td>
<td>Civil Aviation (Aircraft Noise) Ordinance</td>
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<td>208</td>
<td>Country Parks Ordinance</td>
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<td>624</td>
<td>District Cooling Services Ordinance</td>
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<td>466</td>
<td>Dumping at Sea Ordinance</td>
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<td>598</td>
<td>Environment and Conservation Fund Ordinance</td>
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<td>459</td>
<td>Environmental Impact Assessment Ordinance</td>
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<td>570</td>
<td>Fixed Penalty (Public Cleanliness and Obstruction) Ordinance</td>
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<td>96</td>
<td>Forests and Countryside Ordinance</td>
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<td>607</td>
<td>Genetically Modified Organisms (Control of Release) Ordinance</td>
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<td>595</td>
<td>Hazardous Chemicals Control Ordinance</td>
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<td>476</td>
<td>Marine Parks Ordinance</td>
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<td>414</td>
<td>Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance</td>
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<tr>
<td>413</td>
<td>Merchant Shipping (Prevention and Control of Pollution) Ordinance</td>
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<td>400</td>
<td>Noise Control Ordinance</td>
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<td>264</td>
<td>Oil (Conservation and Control) Ordinance</td>
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<thead>
<tr>
<th>Cap. / Instrument</th>
<th>Environmental Protection &amp; Conservation</th>
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<tr>
<td></td>
<td>Oil Pollution (Land Use and Requisition) Ordinance</td>
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<td>Crane Layer Protection Ordinance</td>
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<td>Product Eco-responsibility Ordinance</td>
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<td>Protection of the Harbour Ordinance</td>
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<td>Shipping and Port Control Ordinance</td>
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<td>Waste Disposal Ordinance</td>
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<td>Water Pollution Control Ordinance</td>
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<td>(See also Animals; Fisheries; Plants)</td>
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<tr>
<th>Cap. / Instrument</th>
<th>Evidence</th>
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<td>8</td>
<td>Evidence Ordinance</td>
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<td>11</td>
<td>Oaths and Declarations Ordinance</td>
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<tr>
<th>Cap. / Instrument</th>
<th>External Affairs</th>
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<tr>
<td>191</td>
<td>Administration of Estates by Consular Officers Ordinance</td>
</tr>
<tr>
<td>367</td>
<td>Consular Conventions Ordinance</td>
</tr>
<tr>
<td>557</td>
<td>Consular Relations Ordinance</td>
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<tr>
<td>437</td>
<td>Foreign Corporations Ordinance</td>
</tr>
<tr>
<td>319</td>
<td>Foreign Judgments (Reciprocal Enforcement) Ordinance</td>
</tr>
<tr>
<td>46</td>
<td>Foreign Judgments (Restriction on Recognition and Enforcement) Ordinance</td>
</tr>
</tbody>
</table>
Quick search = problematic
Avoid for now
Use title search instead
Another method – go to chapter (a)

1. Type 311 in chapter/Instrument no. box

2. Select & view a section
Another method – go to chapter (b)

https://www.elegislation.gov.hk/hk/cap311
Not as official – but more user-friendly
A is for Air Pollution
Books to Help You (1)

**Annotated ordinances of Hong Kong: with relevant subsidiary legislation.** (Reference KNQ 9302.3 )
- Comprehensive annotations to 150+ major ordinances
- Has lots of cross references to relevant legislation and case law.

**Halsbury's laws of Hong Kong** (Reference KNQ9302.3 .H35)
- Multi-volume legal encyclopedia for Hong Kong.
- Each volume has statements of laws on special topics
  - Contract, tort, human rights and environment
  - References to Hong Kong legislation and case law.

**Halsbury's laws of Hong Kong. Current service.**
(Reference KNQ9302.3 .H352)
- An updating service for the bound volumes: *Halsbury's laws of Hong Kong.*

**Hong Kong legal dictionary** (Reference KNR2.6 .H66 2004)
Selective inclusion in law reports

Must have “legal significance and value as precedents” to be included

Major HK law reports

• Hong Kong Law Reports
• Hong Kong Cases

HK Unreported Judgments

Judgments not collected in any law reports
All Hong Kong case law
    Complete e-version: Westlaw International --> Hong Kong Case Law.

*The Authorised Hong Kong Court of Final Appeal reports.*
    (Periodicals KNR2.3.A2 H63) – on LG4

*The Authorised Hong Kong law reports & digest.*  (Formerly: *The Hong Kong law reports*).
    (Periodicals KNR 2.23 .A3 H65) - on LG4)
Understand & Decipher Legal Citations

https://libguides.ust.hk/envr3420/legal-citations

LibGuides @ HKUST Library

ENVR 3420 - Environmental Law and Regulations: Understand & Find Legal Citations

Will help students in their assignments and study for ENVR 3420

Legal Citations

Why Cite cases? Legal citations are made to back up points by using previous decisions: "Precedents"

- Lawyers use them to support the legal argument that they are making
- Judges use them to reach judgments or support judgements.

Case Citation: Often published in case reports.

Examples:

- Dimes v Grand Junction Canal Proprietors Ltd (1852) 3 HL Cas 759
- Congreve v Home Office (1976) 1 QB 629

Often made up of the following parts:

<table>
<thead>
<tr>
<th>Party 1 of lawsuit</th>
<th>versus</th>
<th>Party 2 of lawsuit [etc.]</th>
<th>Date</th>
<th>Source Title (often abbreviated)</th>
<th>Page number</th>
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<tr>
<td>Dimes</td>
<td>v</td>
<td>Grand Junction Canal Proprietors Ltd</td>
<td>1852</td>
<td>3 HL Cas (Ill House of Lords Cases)</td>
<td>759</td>
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<td>Congreve</td>
<td>v</td>
<td>Home Office</td>
<td>1976</td>
<td>1 QB 629 [Court of Appeal - Queens Bench]</td>
<td>629</td>
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Try using WestLaw, unless you are pretty sure that it's only available in hard copy.
WestLaw & Websites

https://libguides.ust.hk/envr3420/westlaw-websites

Westlaw Asia

- Extensive legal database which provides full-text legislation, case law and law reviews covering the jurisdictions of Hong Kong, the United Kingdom, Australia & other jurisdictions
- Treaties and international agreements are also included
- Content highlights
  - Hong Kong Law Reports and Digest (1905-)
  - Hong Kong Latest Judgment Alert Service (1999-)
  - UK statutes (1267-) and UK cases (1865-)
  - Legal Journals Index which provides citations and abstracts of over 800 law journals published in the UK and Europe (1986-).

HK content

Finding HK Content

The default welcome page allows a combined search on all Hong Kong content.

Things to note:
- Check the desired home to find your search.
Use WestLaw to Find Law Cases

Go to WestLaw box

Westlaw Asia

- Extensive legal database which provides full-text legislation, case law, and law reviews covering...

DATABASE
Westlaw Asia.
Eagan, MN : Thomson Reuters. 2015-
Online access

View it online

For Request  Sign in

Total number of records:
Access via Westlaw Asia  Show license
WestLaw

WestLaw default search is “Westlaw Asia”

Select Cases
YUE TAI PLYWOOD & TIMBER CO LTD v FAR EAST WAGNER CONSTRUCTION LTD & ANOTHER

Court of First Instance

CFI

High Court Action No 3147 of 2000

High Court Action 3147/2000
WestLaw – BBC v. Johns (1965) Ch 32

Search

Results

1. BBC v Johns Court of Appeal, 1964-03-05
   Subject: Tax
   Keywords: Public companies; Surplus; Trading
   Documents: Case Analysis [1965] Ch. 32 [1964] 2 W.L.R. 1071
   Hit terms in context:
   ... Johns (Inspector of Taxes)...

2. BBC v Johns Chancery Division, 31 July 1963
   Subject: Tax
   Keywords: BBC; Income tax; Profits; Trading
   Documents: Case Analysis
1. Westlaw Asia

2. Boraston's Case Court of King's Bench, 1587-01-01
   - Subject:
   - Keywords:
   - Where Reported: 76 E.R. 664; (1587) 3 Co. Rep. 16
   - Documents: Case Analysis 76 E.R. 664
     - Hit terms in context:
     - Boraston's Case...

3. Westlaw Asia

   Documents on Westlaw Asia
   - 76 E.R. 664
     - Case Analysis
       - Where Reported
       - All Cases Cited
       - All Cases Citing
       - Tabular View

   *664 Boraston's Case

   1 January 1587
   (1587) 3 Coke 16a
   76 E.R. 664
   1587

   [16 a]
   Hil. 29 Eliz. in B. R. Rot. 790. 1587.

   [Distinguished, Locke v. Lamb. 1867, L. R. 4 Eq. 382. See Patching v. Barnett. 1880, 49 L. J. Ch. 668;]
Case Analysis of Boraston

Boraston's Case
Court of King's Bench
01 January 1587
Case Analysis

Where Reported
76 E.R. 684; (1587) 3 Co. Rep. 16,

All Cases Cited
Baker v Farmer
(1867) L.R. 4 Eq. 382; Ct of Chancery; 01 June 1867
Richard Earl of Clanrickard, and the Lady Francis his Wife v Robert Sidney
80 E.R. 151; (1613) Hb. 1; KB; 01 January 1613

All Cases Citing
Mentioned by
Phipps v Akers
134 E.R. 453; (1842) 4 Man. & G. 1107; CCD; 01 August 1842

Mentioned by
Overton v Banister
49 E.R. 317; (1841) 4 Beav. 206; Ct of Chancery; 29 June 1841

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Case Analysis
Boraston mentioned (cited) in Phipps v. Akers

Opened in new tab
Search Terms and Connectors

Westlaw [guide]
"credit card"

"credit card" & fraud

negligence /p liability

negligence /s liability

"chan chi man" /5 ABC company

car automobile

trust % charitable

fraud!

("gm food" "genetically modified food") & (law! label!)

Meaning

Retrieve the phrase "credit card."

Both the phrase "credit card" and "fraud" will appear.

"Negligence" must be within the same paragraph as "liability."

"Negligence" must be within the same sentence as "liability."

"Chan Chi Man" must be within 5 words of "ABC company."

Retrieve either search term or both terms.

Exclude the word "charitable."

Retrieve "fraud," "frauds," "fraudulent," or "fraudulence."

Combine sets of related terms with brackets.
No. 11 - LegCo Debates –Hansard (1)

LegCo - Current and Past Meeting Records (Hansard)

To find the debate for 26 June 2002

1. Choose Second Legislative Council -
2. Choose the years 2001-02
3. Find the June 26th meeting

Council Meetings

Second Legislative Council (2000 - 2004)

The Council normally meets every Wednesday afternoon in the Chamber of the Legislative Council Building to conduct its business while in session. Its business includes: the tabling of subsidiary legislation and other papers; reports and addresses; statements; questions; the scrutiny of bills; and motion debates. From time to time, the Chief Executive attends a special Council meeting to brief Members on policy issues and to answer questions from Members. All Council meetings are open to the public. The proceedings of the meetings are recorded verbatim in the Official Record of Proceedings of the Legislative Council (Hansard).

The records of proceedings of the Council are first presented in the original language as delivered by Members and officials at Council meetings (Floor version). They will then be translated into the English and Chinese versions separately.
### Meetings (Year 2001-2002)

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<td>July, 2002</td>
<td>3 &amp; 4</td>
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<td>10, 11 &amp; 12</td>
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### 26 June, 2002

<table>
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<tr>
<th>Agenda</th>
<th>Minutes Voting Result</th>
<th>Hansard (English)</th>
<th>Hansard (Floor)</th>
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Resumption of Second Reading on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Noise Control (Amendment) Bill 2001.

NOISE CONTROL (AMENDMENT) BILL 2001

Resumption of debate on Second Reading which was moved on 27 June 2001

PRESIDENT (in Cantonese): Mr IP Kwok-him, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee’s Report.

MR IP KWOK-HIM (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Noise Control (Amendment) Bill 2001 (the Bills Committee), I would like to report on the deliberations of the Bills Committee.

The Noise Control (Amendment) Bill 2001 (the Bill) seeks to provide that where an offence specified under the Noise Control Ordinance (NCO) has been committed by a body corporate, certain directors and officers of the body corporate shall be guilty of the like offence where the body corporate commits a further offence at the same site. Furthermore, the Bill seeks to empower the Noise Control Authority (the Authority) to issue codes of practice to various industries.

http://www.legco.gov.hk/yr01-02/english/counmtg/hansard/cm0626ti-translate-e.pdf
No. 12. *Hong Kong Lawyer*

Search the Library Catalog (1)

Hong Kong Lawyer, 01 of 2002, pp. 38-43
Hong Kong Lawyer, 01 of 2002, pp. 38-43

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<th>Library has</th>
<th>1994-2014</th>
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<tr>
<td>Notes</td>
<td>Description based on: Dec. 1993; title from cover. Imprint varies. Some articles also in Chinese.</td>
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<tr>
<td>Subjects</td>
<td>Law -- China -- Hong Kong -- Periodicals &gt; Law Society of Hong Kong. &gt;</td>
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No. 16 Gammon (HK) Ltd. (1)

Back to WestLaw

- Hong Kong Cases
- Weekly Law Report
- Appeal Case Law Report
1. ATTORNEY GENERAL v GAMMON HONG KONG LTD AND OTHERS Court of Appeal, 11-13 January; 11 February 1983
   Principal subject: Criminal law and procedure
   Catchwords: Criminal Law and Procedure Building Ordinance s.40(2A)(b) and 40(2B)(b) - divergence from approved plans and carrying out works likely to cause risk of injury or damage - mens rea - both offences offences of strict liability - "permitting" - "permitting" in s.40(2B)(b) does not import mens rea but is relevant to whether the defendant had power to control whether the actus reus should be committed or not
   Citations: [1983] HKLR 93
   Documents: Case Analysis [1983] HKLR 93
   --- Hit terms in context:
   ... but is relevant to whether the defendant had power to control whether the actus reus should be committed or not ATTORNEY GENERAL v GAMMON HONG KONG LTD AND OTHERS [1983] HKLR 93 WL HKCLII Court of Appeal Criminal Appeal No. 1033 of ...

2. Gammon (Hong Kong) Ltd v Attorney General of Hong Kong Privy Council (Hong Kong), 08 May 1984
   Subject: Criminal law
   Keywords: Building regulations; Hong Kong; Offences; Strict liability
   --- Hit terms in context:
   ... Gammon (Hong Kong) Ltd...
   ... Attorney General of Hong Kong...
   ... GAMMON (HONG KONG) LTD & ORS v ATTORNEY GENERAL OF HONG KONG...
   ... Gammon (Hong Kong) Ltd...
   ... Attorney General of Hong Kong...
No. 16 Gammon (HK) Ltd. (3)

[1985] A.C. 1

Lord Fraser of Tullybelton, Lord Scarman, Lord Bridge of Harwich and Lord Brightman
1984 Feb. 28, 29; March 1, 5; May 8

[Appeal from the Court of Appeal of Hong Kong]

Crime—Mens rea—Statutory offence—Building works—Deviation from approved plans—Likelihood of causing risk of injury or damage—Whether offences of strict liability—Buildings Ordinance (Laws of Hong Kong, 1981 rev., c. 123), s. 40(2A)(b) (2B)(b)

Section 40 of the Buildings Ordinance provides:

"(2A) ... any ... registered contractor ... directly concerned with [building works] who ... (b) diverges or deviates in any material way from any work shown in a plan approved by the building authority under this Ordinance ... shall be guilty of an offence and shall be liable on conviction to a fine ... and to imprisonment. (2B) Any person ... directly concerned with any [building works] who ... (b) carries out or permits ... such "2 works to be carried out, in such manner as is likely to cause a risk of injury to any person or damage to any property, shall be guilty of an offence and shall be liable on conviction to a fine ... and to imprisonment ...");

The first appellant company was the registered contractor under the Buildings Ordinance carrying out building works on a site in Hong Kong. The second appellant was the project manager employed by the company and the third appellant was its site agent, and the company had delegated to them the fulfilment of its obligations under the Ordinance. A temporary lateral support system was erected as required in the interests of safety by plans approved by the building authority. Part of the lateral support system was subsequently removed, which was a substantial deviation from the plans and was likely to cause a risk of injury to anyone or damage to any property. The company was charged with deviating in a material way from approved plans contrary to section 40(2A)(b) of the Ordinance.

[1984] 3 W.L.R. 437

[1985] 80 Cr. App. R. 194

Lord Fraser of Tullybelton, Lord Scarman, Lord Bridge of Harwich and Lord Brightman
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The first appellant company was the registered contractor under the Buildings Ordinance carrying out building works on a site in Hong Kong; the company and the third appellant was its site agent, and the company had delegated to them the fulfilment of its obligations under the Ordinance. A temporary lateral support system was erected as required in the interests of safety by plans approved by the building authority. Part of the lateral support system was subsequently removed, which was a substantial deviation from the plans and was likely to cause a risk of injury or damage. The company was charged with deviating in a material way from an approved plan contrary to section 40(2A)(b) of the Buildings Ordinance (Hong Kong, 1981 rev., c. 123) s. 40(2A)(b) (2B)(b).

By section 40 of the Buildings Ordinance (Hong Kong, 1981 rev., c. 123) s. 40(2A)(b) (2B)(b)

"(2A) ... any ... registered contractor ... directly concerned with [building works] who ... (b) diverges or deviates in any material way from any work shown in a plan approved by the building authority under this Ordinance ... shall be guilty of an offence and shall be liable on conviction to a fine ... and to imprisonment.

By section 40 of the Buildings Ordinance (Hong Kong, 1981 rev., c. 123) s. 40(2A)(b) (2B)(b) the second appellant was charged with carrying out the works, and the third appellant with permitting the works to be carried out, in a manner likely to cause risk of injury or damage contrary to section 40(2B)(b). The charges were dismissed by the magistrate at the end of the prosecution case holding that none of the facts was a necessary ingredient of the offences and had not been proved. On appeal by the Crown the Hong Kong Court of Appeal held that it was not necessary for the prosecution, under section 40(2)(b), to prove that a defendant knowingly or intentionally caused a material way from the approved plans or, under section 40(2)(b), that a defendant knowingly or intentionally caused a risk of injury or damage. Accordingly, the Crown allowed the appeal and remitted the case "to the magistrate. On appeal therefore by the appellant to the Judicial Committee of the Privy Council...
Conclusion

For these reasons their Lordships conclude that to the extent indicated the offences charged against the appellants are of strict liability. Their counsel did develop a detailed argument on the long history of the Buildings Ordinance beginning with its enactment in 1956 and continuing through many amendments until the present day. But there is nothing in the history to suggest any view of the Ordinance or the subsections under consideration other than that taken by the Court of Appeal and now adopted by their Lordships. The basic submission of the appellants was that the imposition of strict liability (to the extent analysed in the earlier part of this judgment) "could not in any way affect the observance of the law ..." (words taken from Lim Chin Aik v. The Queen [1963] A.C. 160, 175). Their Lordships reject the submission for the reasons which they have given.

Their Lordships will humbly advise Her Majesty that the appeal be dismissed. The order of the Court of Appeal that the case be remitted to the magistrate stands. The appellants must pay the respondent's costs "20 in the Court of Appeal and before the Board. The costs in the magistrates' court must be for the magistrate to decide upon conclusion of the further hearing in his court.

Representation

Solicitors: Denton Hall & Burgin; Charles Russell & Co.

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Representation

Solicitors: Denton Hall & Burgin; Charles Russell & Co.
No. 18. Tetley v. Chitty

Tetley v Chitty

Queen's Bench Division

26 July 1985

Case Analysis


Where Reported

Case Digest

Subject: Landlord and tenant

Keywords: Damages; Liabilities; Local authorities' powers and duties; Nuisance

Summary: Nuisance by tenants; consent of landlords; whether landlords liable; whether injunction appropriate

Abstract: Where a landlord expressly or impliedly gives his consent to a use of land which has as a necessary and natural consequence the cause of sufficient noise to be classed as a nuisance, the landlord can be liable in nuisance. A local authority gave permission to a go-kart club to operate a go-kart track on certain land in its ownership, and subsequently

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No. 18 - Tetley v. Chitty (2)

Tetley v. Chitty

England and Wales Queen's Bench Division, Jul 26, 1985, Case Overview

Tetley v. Chitty [1986] 1 All ER 663 [1986] 1 All ER 663 Queen's

Tetley and others v. Chitty and others - [1986] 1 All ER 663

England and Wales Queen's Bench Division, All England Law Reports

... Tetley and others v Chitty and others...
... of claim dated 3 February 1881 the plaintiffs, Christopher Robert Cecil Tetley, Michael James Beggs and Rodney Daniel O'Driscoll, sought as against the first defendant, Peter Chitty, on his own behalf and on behalf of all other...
... It stopped you would notice that it was not there. Mr Tetley, the first plaintiff, is a master at King's School in...
... was plainly audible at Mr Beggs's house and down beyond Mr Tetley's at no. 138. On that day his conclusion was that,
Tetley and others v Chitty and others [1986] 1 All ER 663

QUEEN'S BENCH DIVISION
MCNEILL J
4, 5, 6, 7, 10, 11 JUNE, 26 JULY 1985

Nuisance — Landlord's liability — Nuisance created by tenants — Landlord's consent to nuisance — Ordinary and necessary consequence of use of land by occupier — Council letting land to go-kart club for use as go-kart track — Plaintiffs claiming injunction against council to restrain continuation of use of land as go-kart track — Whether council liable for nuisance — Whether nuisance an ordinary and necessary consequence of operation of track — Whether plaintiffs entitled to injunction.

In August 1980 the defendant council granted permission to a go-kart club to develop a go-kart track on land belonging to the council, and in January 1981 it granted a seven-year lease to the club for the express purpose, inter alia, of using and developing the site as a go-kart track. The plaintiffs, who were ratepayers in the area near the track, brought an action against, inter alia, the council claiming damages for noise nuisance and an injunction restraining the operation of the track. The council contended (i) that they were not liable in nuisance since they had neither created nor permitted any nuisance to be caused by the club either expressly or impliedly and (ii) that in order to

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