

Ballinora, Waterfall, Cork, Ireland.

T: +353 87 247 7403
E: kmccoy@kmpc.ie
W: www.kmpc.ie



Karl McCoy MCSI MRICS

Commercial High Court Decision on Upward-Only Rent Review Ban

The recent judgment of Mr. Justice Charleton delivered on July 26, 2012

Reox Holdings plc v David Cullen and Simon Davidson

Result

That the guarantor is entitled to a declaration that section 132 of the Land and Conveyancing Law Reform Act 2009 providing for upwards and downwards rent reviews applies to any new lease entered into by that guarantor with the landlord upon the exercise of the landlord of an option to require the guarantor to step into the shoes of the defaulting tenant upon the occurrence of an event of default.

Context of Act

Section 132 of the Land and Conveyancing Law Reform Act 2009 came into force on 28 February 2010 and provided that any clause allowing for the review of rent in a lease could be interpreted as permitting the upwards or downwards review of such rent, irrespective of the terms of such provision. Section 132 applies to all commercial leases entered into on or after the 28 February 2010.

Outcome

The decision is likely to be of interest to those bound by leases, which contain “upwards only” rent review provisions, guarantors and landlords generally.

What to do next

If you have any query or require any further information on any aspect of this note, please contact Karl McCoy.