

The Royal British Legion

Thomson Snell & Passmore's Construction team acted for The Royal British Legion over a 20-month period in relation to a £2 million+ dispute that arose in relation to the construction of a new specialist dementia care facility and the re-build of the substantial part of an existing nursing home in Norfolk.

The matter settled on very favourable terms on 30 October 2008 and the substantial settlement monies were received and transferred to the Legion, by coincidence, the day before Armistice Day.

We were instructed following a fundamental breakdown between the parties as a result of chronic delays to completion of the first phase of the project, which was the construction of the new dementia care facility building. This delay had a serious knock-on effect to the demolition and re-build of the main facility, which was to be carried out after the new building was complete and residents had been moved between the buildings so as to allow the second phase of works to commence. The contractor claimed for additional time and money associated with its delay.

The Legion resisted liability for the contractor's claims and brought a counterclaim in excess of £1.5 million. This was in response to a claim of just under £1 million initially brought by the contractor in the High Court's Technology and Construction Court for monies withheld under a Notice of Withholding. The Legion's counterclaims related primarily to recovery of the increased price of the replacement contractor who was appointed to complete the remainder of the project (together with associated professional fees). The counterclaims also included the loss of occupancy revenue caused by the substantial increase of time (between 12 and 18 months) in which the facility was having to operate at a reduced occupancy.

The client was embroiled in a complex dispute which involved large numbers of witnesses and documents and which was likely to be long-running. The practical issues were put in hand first, namely the completion of the project by alternative contractors, but we were asked to resolve the dispute bearing in mind the

It was a difficult case but The Legion had the benefit of a highly experienced, strong and very committed team from TSP.

Their efforts were justly reflected in a very positive result. They are also, as it happens, a pleasure to work with.

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The Royal British Legion team is headed by Chris Whittington, Head of Construction.

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client's need as a charity to demonstrate a solution representing value for money. There were complex legal issues involved in respect of the contract and on the performance bond in the client's favour.

The client's case was made all the more difficult by the way the contractor's case was being put, with argument put forward on five alternative bases. Finally there were serious doubts as to the solvency of the contractor, meaning that an outcome that represented hard cash was needed, as opposed to a possibly worthless paper judgment.

We provided the client with clear and unambiguous advice at the relevant stages of the dispute. We took a hard line in the litigation but coupled this with Alternative Dispute Resolution meetings between the parties and pragmatic meetings of the parties' experts in order to reduce gradually the contractor's own claim.

At all times we carried out a cost benefit analysis, providing the client with commercial advice on the options available and clear recommendations as to how to proceed. The quality of the witness statements that we prepared on the client's behalf and our focus on the outcome that the client needed to achieve, being one involving the recovery of cash faced with the potential insolvency of the contractor, were very much instrumental in persuading the bondsman to enter into the settlement discussions in a serious way, which led directly to the favourable settlement achieved.

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