



German Real Estate – Legal Updates

ISSUES

Between climate change and the Web 3.0

14 February 2022

German Real Estate – Legal Updates

As the transition to decentralized Web 3.0 continues, there are arguably few industries that can be as optimistic about the future as data center operators.

BGH requests second round regarding proceeding on obligation to pay rent in case of COVID-19-related business closure

12 January 2022

German Real Estate – Legal Updates

The German Federal Court of Justice (*Bundesgerichtshof – BGH*) dealt with the issue of contract adjustment in the event of COVID-19-related closure orders. Instead of a principal judgement, the BGH referred the case back to the Higher Regional Court (*Oberlandesgericht – OLG*), requesting a second round of proceedings.

Commercial tenancy law during the pandemic

26 April 2021

German Real Estate – Legal Updates

Once again, a court decision has been issued in the matter of rent claims at times of official closure orders. This time, the KG Berlin (Judgment dated 1 April 2021 - 8 U 1099/20) held that a 50% reduction in rent during the first lockdown in the last year was justified.

Residential tenancy law - Federal Constitutional Court (*Bundesverfassungsgericht – BVerfG*) overturns Berlin rent cap (*Berliner Mietendeckel*)

22 April 2021

German Real Estate – Legal Updates

On 15 April 2021, the BVerfG published its long-awaited decision on the law limiting rents in the housing sector in Berlin (*Gesetz zur Mietenbegrenzung im Wohnungswesen in Berlin – MietenWoG Bln*).

Residential tenancy law – Decision on the constitutionality of the controversial Berlin rent cap (*Mietendeckel*) approaching

12 April 2021

German Real Estate – Legal Updates

More than a year after the law on rent caps in Berlin (*Gesetzes zur Mietenbegrenzung im Wohnungswesen in Berlin – MietenWoG Bln*) came into force, it is still unclear whether the law in its current form is constitutional.

Residential tenancy law - Early announcement of modernization does not hurt

29 March 2021

German Real Estate – Legal Updates

The Munich tenants' association also used the type of action of model declaratory judgment (*Musterfeststellungsklage*), initially tested in the diesel proceedings, and sued the landlord of a residential complex in the Munich district of Schwabing on account of rent increases that had taken place.

Proportionate property tax relief for landlords and real property whose preservation is in the public interest

9 March 2021

German Real Estate – Legal Updates

Taxpayers suffering direct and not inconsiderable economic damage as a result of the COVID-19 crisis have been promised numerous tax reliefs. Under certain conditions, relief is also available in the area of property tax.

One appeal ruling follows the next – Karlsruhe Higher Regional Court (Oberlandesgericht Karlsruhe) rules in favour of the landlord

2 March 2021

German Real Estate – Legal Updates

The second round of tenancy law disputes about contractual adjustment claims is now considered to be finally open.

Dresden Higher Regional Court (Oberlandesgericht Dresden – OLG Dresden) issues first appeal ruling on contract adjustment claims in the case of official closure orders (behördliche Schließungsanordnungen)

26 February 2021

German Real Estate – Legal Updates

The long wait for the first ruling of an appellate court has now come to an end: On 24 February 2021, the 5th Civil Senate of the Higher Regional Court of Dresden (5 U 1782/20), which is responsible for commercial leases, reversed the judgement of the first instance and decided a 50% reduction of the basic rent should be justified.

Once again, the Regional Court of Munich I (Landgericht München I) rules against a commercial tenant's claim to adjust the contract

17 February 2021

German Real Estate – Legal Updates

Not even three weeks have passed since the Regional Court of Munich I (Verdict dated 25 January 2021 - 31 O 7743/20) ruled against a contractual adjustment claim with regard to a reduction of the rent on the level of the weighing of individual cases, applying the new Article 240 § 7 Introductory Act to the German Civil Code (*Einführungsgesetz zum Bürgerlichen Gesetzbuch – EGBGB*) for the first time.

First Court Ruling with reference to the new Sec. 7 of Art. 240 of the Introductory Act to the Civil Code (Einführungsgesetz

zum Bürgerlichen Gesetzbuch - EGBGB)

3 February 2021

German Real Estate – Legal Updates

The initial hope of many commercial tenants, having a legal claim on rent adjustment by the new Sec. 7 of Art. 240 EGBGB, in case of official closure orders (behördliche Schließungsanordnungen), might be somewhat blurred since the last week.

Real Estate Law Newsletter: Developments in commercial tenancy law in times of COVID-19

19 January 2021

German Real Estate – Legal Updates

The new statute merely establishes the refutable legal presumption that, as a result of the government measures which were taken in response to the Coronavirus pandemic, a circumstance which represented a foundation of the lease in terms of Sec. 313(1) of the Civil Code (BGB) was significantly altered after conclusion of the contract (the purely factual aspect).
