

Thursday 27 November 2014

## Construction

### A Daily Bulletin listing Decisions of Superior Courts of Australia

 Follow @Benchmark\_Legal

### Search Engine

[Click here](#) to access our search engine facility to search legal issues, case names, courts and judges. Simply type in a keyword or phrase and all relevant cases that we have reported in Benchmark since its inception in June 2007 will be available with links to each case.

### Executive Summary (1 minute read)

**DH MB Pty Ltd v Manning Motel Pty Ltd** (NSWCA) - leases - breach of collateral contract and covenant to repair - damages - appeal dismissed

### Summaries with links (5 minute read)

#### **DH MB Pty Ltd v Manning Motel Pty Ltd [2014] NSWCA 396**

Court of Appeal of New South Wales

Meagher, Barrett & Gleeson JJA

Contract - first appellant (DHMB) owned motel - DHMB leased motel to respondent - lease terminated - second appellant (DHBI) owned and operated lodge - third appellant (Mr Duffy) was sole director of and shareholder in DHMB and DHBI - respondent sued appellants for breach of collateral contract and covenant to keep premises in good state of repair - primary judge found Mr Duffy on behalf of DHBI had promised lessee that if it lessee entered lease, DHBI would purchase accommodation from lessee - primary judge awarded damages to lessee for breach of collateral agreement - primary judge also held that there was a breach of covenant in relation to external wooden staircase and awarded damages for the breach - held: collateral contract formed between DHBI and lessee constituted by offer and subsequent acceptance - DHBI bound to terms of its offered promise to purchase accommodation - primary judge did not err in determining the measure of damages to be awarded for breach of the covenant to repair - appeal dismissed.

[DH MB Pty Ltd](#)



**[Click Here to access our Benchmark Search Engine](#)**