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Judicial Update

German Federal Court Ruling on Neighboring Heritable Building Rights Enhances Legal Certainty for Developers

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The German Federal Court of Justice (Bundesgerichtshof, or BGH) has clarified that neighboring heritable building rights (Nachbarerbaurechte) are legally permissible, expressly overturning its earlier case law that had cast doubt on the admissibility of such rights where a building extends across multiple adjacent properties.

A heritable building right (Erbbaurecht) grants the right to construct and have a building on land owned by another party. A neighboring heritable building right arises when a single building is constructed across more than one land plot and the heritable building right encompasses this cross-boundary structure. Prior jurisprudence had been unsettled on whether such rights were permissible, especially if the physical building could not be technically divided at property boundaries.

Neighboring heritable building rights often arise with respect to large building complexes in city center locations, as in the case of the dispute that led to this ruling, which involved a large retail complex that physically spanned multiple adjacent parcels.

In a landmark decision on Dec. 19, 2025 (Ref. No. V ZR 15/24), the BGH held that a heritable building right can be validly established for an existing or future single, unified building that extends across neighboring plots (Nachbarerbaurecht) and that a building's indivisibility in technical terms does not void the heritable building right.

The decision significantly enhances legal certainty for existing and future cross-parcel heritable building rights, reducing the risk that such rights could be retrospectively invalidated on technical grounds. Parties and advisers can structure complex developments spanning multiple parcels with greater confidence, knowing that neighboring heritable building rights will be upheld if properly documented.



If you have any questions concerning these developing issues, please do not hesitate to contact either of the following Paul Hastings Frankfurt lawyers:

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