

**CITY OF LONDON LAW SOCIETY LAND LAW COMMITTEE**

**Minutes of a meeting held on 17 July 2013 at Hogan Lovells, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG**

<b>In attendance</b>	<b>Jackie Newstead (Chair)</b> <b>Warren Gordon (Secretary)</b> <b>Jeremy Brooks</b> <b>Robert Leeder</b> <b>Jon Pike</b>
<b>Apologies</b>	<b>James Barnes</b> <b>William Boss</b> <b>Nick Brent</b> <b>Jamie Chapman</b> <b>James Crookes</b> <b>Mike Edwards</b> <b>Jayne Elkins</b> <b>Martin Elliott</b> <b>Alison Gowman</b> <b>Alison Hardy</b> <b>Laurie Heller</b> <b>Charles Horsfield</b> <b>Nick Jones</b> <b>Anthony Judge</b> <b>Pranai Karia</b> <b>Emma Kendall</b> <b>Daniel McKimm</b> <b>John Nevin</b> <b>Jeanette Shellard</b> <b>Peter Taylor</b> <b>Nicholas Vergette</b>

**1. MINUTES**

The Minutes for the Committee meeting of 23 May 2013 were approved and are on the CLLS website.

2. **PROTOCOL FOR DISCHARGING MORTGAGES IN COMMERCIAL PROPERTY TRANSACTIONS**

This is close to agreement and a final version will be circulated to the Committee and added to the Committee's webpage shortly afterwards.

3. **PRE-PACKS PROJECT**

There has been a good response to the idea of a questionnaire on pre-packs and CVAs. The questions will be developed further and will be sent to other interested CLLS committees for their comments. There may be the possibility of working with the BPF to publicise the questionnaire. This is to the backdrop of the *Game* appeal, probably to be heard this December/next January, and also The Insolvency Service's review of pre-pack administration.

4. **CERTIFICATE OF TITLE/REPORT ON TITLE**

Jackie Newstead will discuss with the Chair of the Construction Law committee the possibility of an annex to the certificate of title for construction documentation.

The CLLS Report on title appears to have some popularity and could benefit from an update and a re-branding. Please let Warren Gordon know if you wish to join a sub-group to consider this.

5. **LEASE INSURANCE CLAUSES PROJECT**

The clauses are close to agreement. The Insurance Law committee has recently provided some comments, which are being considered by the sub-group. The plan is to have an agreed set of clauses for the Committee to consider in September.

**Post meeting note: Further comments have delayed finalising the clauses, which will be considered at the November Committee meeting.**

6. **DRAFTING FOR COMMUNITY INFRASTRUCTURE LEVY IN PROPERTY DOCUMENTATION**

Some drafting has been produced, which is being considered by the sub-group. Please let Warren Gordon know if anybody else would like to volunteer for this sub-group.

7. **PROPOSALS TO AMEND ESTATE AGENTS ACT 1979**

The Office of Fair Trading guidance [http://www.offt.gov.uk/shared\\_offt/estate-agents/OFT1364.pdf](http://www.offt.gov.uk/shared_offt/estate-agents/OFT1364.pdf) has application to business as well as consumer situations. The Committee would be very grateful if Peter Taylor could report back with his conclusions on the changes.

## 8. **RENTCHARGE REGISTRATION AT COMPANIES HOUSE**

There is a perhaps surprising new requirement to register rentcharges at Companies House. Land Registry has been discussing with Companies House whether rentcharges are now included within the scope of the new filing requirements for company/LLP charges, which came into effect on 6 April 2013.

Although it is not entirely clear from the regulations whether the new filing requirements apply to rentcharges, Companies House and BIS take the view that rentcharges are within their scope. So, where an estate rentcharge is granted or reserved on or after 6 April 2013 by a UK registered company (this includes companies registered in Scotland or Northern Ireland) or a limited liability partnership affecting its property, the rentcharge must be registered at Companies House. Previously, rentcharges were specifically exempted from the Companies House registration regime for company charges. This exemption no longer appears in the Companies Act 2006 as a result of the filing regime for company charges introduced by the Companies Act 2006 (Amendment of Part 25) Regulations 2013; similar provisions apply to LLPs.

This change has caused some consternation and is ironic in view of Companies House no longer registering charges over rent deposits. There is also some uncertainty about the statement that registration does not apply to transfers of property already subject to a rentcharge.

The Committee awaits further comments from the Land Registry and Companies House.

## 9. **PROPOSED REVISIONS TO FORMS CON29 AND CON290**

The following wording in quotes below is to be added to the Land Law Committee's webpage.

"Changes to CON29 forms

The Law Society is currently consulting on revisions to the local authority enquiries (CON29 and CON290) to take account of the community infrastructure levy ("CIL"), assets of community value ("ACV"), Green Deal, the Growth and Infrastructure Act 2013 and other issues. The full set of revised enquiries can be found by clicking [here](#), but set out below, for ease of reference, are the enquiries for ACV and CIL.

### 3.3. Assets of Community Value

(a) Has the property been nominated as an asset of community value? If so:- i. Is it listed as an asset of community value and with effect from what date? ii. Was it excluded and placed on the "nominated but not listed" list? iii. Was it listed but the listing has expired and if so for what reason? iv. Is the Council reviewing or proposing to review the listing? v. Are there any subsisting appeals against the listing?

(b) If the property is listed: i. Has the Council decided to apply to the Land Registry for an entry or cancellation of a restriction in respect of listed land affecting the property? ii. Has

the Council received a notice of disposal and if so when? iii. Has any community interest group requested to be treated as a bidder?

### 3.10. Community infrastructure levy (CIL)

(a) Is there a CIL charging schedule?

(b) Has a decision been taken to issue: i. a liability notice? ii. a notice of chargeable development? iii. a demand notice? iv. a default liability notice?

(c) Have any of the following been received:- i. an assumption of liability notice? ii. a commencement notice? iii. a notice of chargeable development?

(d) Has any demand notice been suspended?

(e) Has the Council received full or part payment of any CIL liability?

(f) Has the Council received any appeal against any of the above?

(g) Has a decision been taken to apply for a liability order?

(h) Has a liability order been granted?

(i) Have any other enforcement measures been taken?

While the proposed revised enquiries may change as a result of the consultation, if enquiries need to be raised with the local authority about CIL, ACV or the other issues covered before the revised enquiries go live, these enquiries provide a starting point.

Please feed back to the Law Society any observations on the enquiries - please click here for details on how to respond and the deadline is 1 August 2013."

## 10. **ADVERTISING THE CLLS IN LAW SOCIETY EMAILS ETC**

Robert Leeder will look into the CLLS advertising itself (and its website knowledge and information) in Law Society publications, emails etc.

## 11. **TOPICS FOR PROJECTS**

The Committee is very interested in any ideas that members may have for future projects so please send them through.

## 12. **CPD- 1 hour** (CPD reference CRI/CLLS).

## 13. **FUTURE COMMITTEE MEETINGS** - 18 September and 20 November 2013 at 12.30pm at Hogan Lovells LLP, Atlantic House, Holborn Viaduct, London EC1A 2FG.