

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

**Minutes of a meeting held on 17 January 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>James Barnes</b> <b>William Boss</b> <b>Nick Brent</b> <b>Jeremy Brooks</b> <b>Jamie Chapman</b> <b>Mike Edwards</b> <b>Alison Hardy</b> <b>Laurie Heller</b> <b>Nick Jones</b> <b>Anthony Judge</b> <b>Nicholas Vergette</b> <b>Robert Leeder</b>
<b>Apologies</b>	<b>James Crookes</b> <b>Jayne Elkins</b> <b>Martin Elliott</b> <b>Alison Gowman</b> <b>Charles Horsfield</b> <b>Pranai Karia</b> <b>Emma Kendall</b> <b>Daniel McKimm</b> <b>John Nevin</b> <b>Jon Pike</b> <b>Jeanette Shellard</b> <b>Peter Taylor</b>

**1. WELCOMES**

Alison Hardy of Wragge & Co was welcomed as a new member of the Committee. Robert Leeder, the CLLS Policy & Committees Coordinator, explained his role to the Committee.

## 2. MINUTES

The Minutes for the Committee meeting of 21 November 2012 were approved and are on the CLLS website.

## 3. PRE-PACKS PROJECT

Mike Edwards will lead a sub-group comprising Mike, Jackie Newstead, Peter Taylor, Pranai Karia and Warren Gordon. This will explore the impact on the investment community of the rush to pre-packs- are landlords being left behind? what is the long term impact on the security of rental streams? The project may have a survey element involving discussions with clients.

A focal point will be the drafting of a standard letter for payment of rents on a monthly basis. There are many implications of such a letter (including the impact on guarantors) and it was considered that this would be worthwhile particularly with landlords looking for ways to improve their position in the light of the tactics of administrators and liquidators highlighted by the Goldacre and Luminar cases.

**Post-meeting note:** A meeting has been arranged for 25 March.

## 4. SDLT

Warren Gordon took the Committee through legislative proposals in relation to transfer of rights and SDLT; deregulation for SDLT and leases; the 15% SDLT rate; and the annual residential property tax.

Jackie Newstead will liaise with the Chair of the CLLS Revenue Law committee to ascertain what action that committee is taking in relation to the draft legislation issued on transfer of rights and SDLT, the annual residential property tax and SDLT deregulation. There is still an opportunity (as at 17 January) to pass comments on the legislation to HMRC.

## 5. REPORT ON SUB-GROUP MEETING TO DISCUSS PROTOCOL FOR DISCHARGING MORTGAGES

The sub-group is to meet on 21 January 2013 to continue its discussions on a draft protocol for discharging mortgages in commercial property transactions including suggested forms of contractual provisions and undertakings. The sub-group includes members of the Committee, the CLLS Financial Law Committee and the Association of Property Lenders.

**Post-meeting note:** The sub-group met on the 21st to discuss the form of protocol. A draft of the protocol was circulated to the Committee on 22 February and we have asked a representative of the Financial Law Committee to circulate the draft to that committee. We will be discussing the protocol at the Committee meeting on 27 March.

## 6. INSURANCE PROVISIONS

A meeting will be arranged for early 2013 of the insurance provisions sub-group to finalise the provisions for commercial property leases. The sub-group will also consider the draft BPF's lease's treatment of insurance.

**Post-meeting note:** The sub-group had a fruitful meeting on the provisions on 14 March, resulting in the issue of a further draft. A further meeting has been arranged for 26 April.

## 7. RIGHTS TO LIGHT

The deed of release produced by a sub-group of the Committee has been added to the Committee's webpage (please click [here](#)). The rights to light surveyors will be chased for their contributions to the accompanying note.

Warren Gordon awaits a response from Lance Harris of Anstey Horne in relation to a possible contribution to a short note to accompany the rights to light deed. The note will essentially be a top tips on rights to light issues covering points both for a developer and adjoining property owner. There will also likely be an insurance element.

**Post-meeting note:** The Law Commission has launched its consultation on changes to the law in relation to rights to light. A sub-group comprising representatives of the Land Law and Planning and Environmental Law committees will draft a response.

## 8. CLLS CERTIFICATE OF TITLE

Jackie Newstead will send through a form of questionnaire for the 7th edition of the Certificate of title. Warren Gordon has written an article for Property in practice on the new Certificate and will be talking at a public seminar on that topic on 1 February.

Jackie Newstead will liaise with the Chair of the Construction Law committee with a view to a joint project for the two committees to create an annex document for the 7th edition Certificate dealing with construction documentation (collateral warranties, Contracts (Rights of Third Parties) Act 1999, contracts, appointments etc).

A sub-group will be set up to update the CLLS's report on title. Consideration will also be given by the sub-group to whether there should be a separate Certificate of title for development transactions. Volunteers are requested please.

## 9. SRA AND MORTGAGE FRAUD

It has been reported that the Solicitors Regulation Authority is considering cutting the need for solicitors to hold client money in conveyancing transactions, as part of a review of its strategy to help firms reduce the risk of mortgage fraud. The SRA is looking again at its draft conveyancing strategy published in April 2011 to ensure it provides "appropriate support" to solicitors. An important question is the appropriateness of the SRA's approach if applied to commercial transactions (where, for example, a corporate deal may trigger conveyancing provisions). It was considered that it would be useful for an SRA

representative to attend a Committee meeting to discuss this and other matters of mutual interest.

A representative of the SRA (Richard Collins) will attend the Committee's next meeting on 27 March to discuss issues of mutual interest for the Committee and SRA. Please let Warren Gordon know if there are any items that members would like raised. Thanks to Jamie Chapman for helping to organise this.

**10. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

A sub-group of the Committee will be established to consider drafting for CIL for property documentation. Laurie Heller has already volunteered and other volunteers are requested.

**11. SECURED TRANSACTIONS REFORM**

The Committee will consider the Financial Law committee's paper on secured transactions reform.

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

Peter Taylor to confirm whether there is anything further for the Committee to do on this issue.

**13. AOB**

- Include an Executive summary at the start of any paper produced by the Committee.
- The Committee was reminded of the Law Society's Triennial review call for evidence.
- BPF lease- some concern was expressed about only one type of lease being used. Members will talk to organisations about whether to adopt the lease.

**14. CPD- 1.5 hours** (CPD reference CRI/CLLS).

**15. Next Committee meeting on 27 March 2013** at 12.30pm at Hogan Lovells LLP, Atlantic House, Holborn Viaduct, London EC1A 2FG.