

CITY OF LONDON LAW SOCIETY LAND LAW COMMITTEE

Minutes of a meeting held on 25 November 2015 at Hogan Lovells, Atlantic House, 50 Holborn Viaduct, London EC1A 2FG

In attendance	Jackie Newstead (Chair) Warren Gordon (Secretary) John Cook (Chair of BPF's Insolvency committee) James Barnes Nick Brent Mike Edwards Martin Elliott Laurie Heller Anthony Judge Pranai Karia Emma Kendall Sangita Unadkat Ian Waring
Apologies	Jamie Chapman James Crookes Caroline DeLaney Bruce Dear Jayne Elkins Alison Gowman Alison Hardy Kevin Hart David Hawkins Charles Horsfield Nick Jones Daniel McKimm John Nevin Jon Pike Darren Rogers Peter Taylor Nicholas Vergette

1. **WELCOME**

The Committee welcomed John Cook, Chair of the British Property Federation's Insolvency Committee.

2. **MINUTES**

The minutes of the September 2015 Committee meeting were approved.

3. **DISCUSSION WITH JOHN COOK, CHAIRMAN OF THE BPF INSOLVENCY COMMITTEE**

There was a very interesting discussion with John Cook. John explained some of his committee's current activities. Among their activities, John said that his committee is often used as a sense check for Company Voluntary Arrangement proposals. The Committee expressed concerns about the lack of information given by insolvency practitioners on transactions and John agreed to take that point back to his committee. It was agreed that his committee and the Land Law committee would work together on topics of mutual interest and a member of the Land Law committee would attend a future meeting of the BPF committee.

4. **UPDATE ON WAYLEAVE PROJECT AND DIGITAL INFRASTRUCTURE WAYLEAVE AGREEMENT**

The Committee was updated on the current position with the wayleave project and digital infrastructure wayleave agreement, a project being run by the British Standards Institution. There is still an opportunity for final comments and the Committee will be sent a link to the document.

5. **SHORT FORM CLLS LAND LAW COMMITTEE'S REPORT ON TITLE – UPDATE OR REMOVE?**

The Committee decided that the CLLS Land Law committee's short form report on title served a number of useful purposes and would be updated in 2016. This project would run alongside the project to create a 2016 updated version of the 7th edition of the Certificate of title. Please can I have volunteers for those projects. James Barnes has already kindly volunteered to provide some input on the report on title.

Kevin Hart will let the Committee know how many hits there have been over the last couple of years on the page of the CLLS website containing the short form report on title.

6. **CHANGES IN LAND REGISTRY'S REQUIREMENTS ON DOCUMENTS EXECUTED BY FOREIGN CORPORATIONS – FOREIGN COUNSEL'S OPINION MAY NOT SUFFICE.**

In view of the changes in Land Registry's requirements on documents executed by foreign corporations including that a foreign counsel's opinion may not suffice, a warning note will be added to the form of overseas legal opinion on the CLLS Land Law Committee webpage. Practitioners should remember to seek a certified copy of the

constitution in addition to any overseas legal opinion as the Land Registry is likely to require this.

7. **SUBSTATION LEASES AS A PROJECT**

Warren Gordon will mention to Central London Forward (who are leading on the wayleave project) concerns around substation leases and ascertain whether there is any appetite for a standardisation project here. It may be more a lobbying process to focus on and alleviate key concerns.

8. **UPDATE ON NEW CON29 LOCAL AUTHORITY ENQUIRIES**

The new CON29 local authority enquiries will go live in July 2016 – members should consider asking some of the new enquiries prior to their official launch, for example, in relation to the community infrastructure levy.

9. **UPDATE ON NEW 3RD EDITION OF STANDARD COMMERCIAL PROPERTY CONDITIONS**

The new 3rd edition of the Standard Commercial Property Conditions is close to launch subject to agreement with Oyez, the joint copyright holder with the Law Society.

10. **TENANT REQUEST FOR LIABILITY CAP IN LEASE**

A tenant's request for a liability cap in a lease is very rare and usually only encountered in project finance to cap an indemnity liability.

11. **AGREEMENTS FOR LEASE, MORTGAGES AND LAND REGISTRY PRIORITY**

Mention was made of the fairly expected outcome in the Land Registry priority case of A2 Dominion Homes v Prince Evans (where the agreement for lease was noted on the landlord's title prior to registration of a mortgage on that title and the High Court decided that the lease granted in strict conformity with the agreement after registration of the mortgage did not need the mortgagee's consent). Query, however, the outcome where the lease granted does not strictly conform to what the agreement for lease allows for.

12. **NOTE FOR WEBSITE ON THE FACTORS THAT COULD INDICATE A PROPERTY FRAUD AND SHOULD MAKE A CONVEYANCER SUSPICIOUS AND SOME PRACTICAL SUGGESTIONS**

At the next Committee meeting there will be a discussion of an issue raised by Jayne Elkins - Note for CLLS website on the factors that could indicate a property fraud and should make a conveyancer suspicious and some practical suggestions. This was particularly pertinent with firms becoming increasingly vigilant about requisite approvals to electronic payments and provision of account details.

13. **AOB**

At the next meeting, the Chair will mention some ideas from a recent session organised by Estates Gazette, which may provide some ideas for future Committee projects.

14. **CPD – 1.5 HOURS NB: CPD REFERENCE IS CRI/CLLS.**

15. 2016 Committee meeting dates – 27 January, 30 March, 25 May, 13 July, 28 September and 23 November, all at 12.30pm at Hogan Lovells LLP, Atlantic House, Holborn Viaduct, London EC1A 2FG.