

CITY OF LONDON LAW SOCIETY LAND LAW COMMITTEE

**Minutes of a meeting held on 27 January 2016 at Hogan Lovells, Atlantic House, 50
Holborn Viaduct, London EC1A 2FG**

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

1. MINUTES

The minutes for the November 2015 meeting were approved and will be added to the CLLS website.

2. **DISCUSSION AT NOVEMBER 2015 MEETING WITH JOHN COOK, CHAIRMAN OF THE BPF INSOLVENCY COMMITTEE**

John Cook, Chair of the BPF's Insolvency Committee, will provide dates for future meetings of that Committee, so that a member of the Land Law committee can attend..

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

Warren Gordon provided an update on the wayleave project. Some of the operators considered that the current draft of the wayleave agreement took insufficient account of their concerns. The operators and property owners are to meet shortly to address those concerns and following that meeting, the operators will mark up the agreement to reflect their concerns and this revised document will likely be the subject of a further consultation organised by the British Standards Institution. Warren thought it likely that the project would extend well into 2016.

4. **CLLS LAND LAW COMMITTEE'S CERTIFICATE OF TITLE AND REPORT ON TITLE**

A sub-group of the Committee will be looking at the Short form report on title and the Certificate of title, meeting on 10 February 2016 at 12.30pm at Olswang.

Kevin Hart of the CLLS had ascertained that the report had been accessed 443 times between 1 January 2013 and 26 January 2016, indicating that this was a popular document and an update and refresh of the report would be worthwhile.

While the detailed discussion will take place on 10 February, it was considered useful to have a discussion around key concerns and this took up the majority of the meeting. Items mentioned included:

- Dealing with liability of provider of certificate to multiple addressees, some of whom may not be in existence when the certificate is dated. While the notes to users covers the liability issue, it was considered useful to have a specific statement in the certificate itself to the effect that the liability of the certificate provider should be no greater to the multitude than to the original addressee.
- Should there be a statement that the certificate does not comment on the specific policy details for buildings insurance? Query also exclusion of comment on planning in a development finance situation. Or in a new development scenario, should the certificate not comment and there be a separate construction report? Some of this can be dealt with in the notes to users.
- There was a lengthy discussion around paragraph 3 of Schedule 3 – the property abuts a roadway etc. Did providers of certificate feel comfortable about confirming this off the back of a plan from the local authority highways department confirming this? Most present were happy to do this although there was some concern over whether disclosure was necessary in view of disclaimers on the local authority plans. Some attached the plan itself, which concerned

others who only wanted to consider the certificate. Consideration to be given to whether clause 2.4 should be altered to take account of general caveats on search results such as disclaimers as to their accuracy.

- It was considered that clause 4.2 and paragraph 3.4 of Schedule 1 could be combined as there appeared to be some overlap.
- Any changes to qualifications, reliance language etc in certificate should be reflected in the report on title where appropriate.

5. **IDEAS FOR FUTURE PROJECTS**

The Chair mentioned some ideas from a recent Estates Gazette event, which could form the subject of future Committee projects. They included:

- What happens if the UK exits the EU following the Referendum and query its impact on such areas as procurement?
- Cyber-security and fraud concerns. This links into electronic signing. Martin Elliott mentioned the joint Law Society/CLLS Company and Financial Law committees draft paper on certain forms of electronic signature which will be going to a QC for approval and then released to the wider community. The issue of concerns about fraud will be discussed at the next Committee meeting.
- Ratings revaluation.
- Land Registry privatisation.
- Enfranchisement – reform of valuation methods.
- Separation of Wales and impact on legislation.
- Energy efficiency and green lease clauses.
- Dilapidations.

6. **AOB**

Warren Gordon also mentioned preliminary discussions about whether the Code for Leasing Business Premises should be updated and he will keep the Committee in the loop.

7. **CPD – 1 HOUR 15 MINUTES NB: CPD REFERENCE IS CRI/CLLS.**

8. **MEETING DATES**

Remaining 2016 Committee meeting dates – 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.