

Parker, Christine

From: Wortley, Stuart
Sent: 18 June 2018 13:43
To: Wortley, Stuart
Cc: Parker, Christine
Subject: Consultation - Howard Kennedy (2)

From: Peter Ling [mailto:Peter.Ling@howardkennedy.com]
Sent: 15 June 2018 15:31
To: 'Peter Bourke' <Peter.Bourke@wilsonslp.com>; Wortley, Stuart <StuartWortley@eversheds-sutherland.com>; 'Charlotte.Tyfield@gowlingwlg.com' <Charlotte.Tyfield@gowlingwlg.com>
Cc: Amanda McNeil <Amanda.McNeil@howardkennedy.com>
Subject: RE: Consultation on unauthorised development and encampments - URGENT

Dear Peter

I know from conversations with my clients that the Brentford client had insurance cover both for legal and clearing up but I am not sure about the two. Given who they are I suspect they will have although it is not really an issue that I get involved in.

Regards

Peter

Peter Ling
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From: Peter Bourke [mailto:Peter.Bourke@wilsonslp.com]
Sent: Friday, June 15, 2018 3:27 PM
To: Peter Ling; 'StuartWortley@eversheds-sutherland.com'; 'Charlotte.Tyfield@gowlingwlg.com'
Cc: Amanda McNeil
Subject: RE: Consultation on unauthorised development and encampments - URGENT

Dear Peter

Thank you for taking the time to respond.

Do you know if your clients were covered by insurance in respect of the clean-up costs or was this something that they had to bear themselves.

I look forward to hearing from you.

Kind regards

Peter

Peter Bourke
Partner



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From: Peter Ling [<mailto:Peter.Ling@howardkennedy.com>]

Sent: 15 June 2018 15:25

To: 'StuartWortley@eversheds-sutherland.com'; Peter Bourke; 'Charlotte.Tyfield@gowlingwlg.com'

Cc: Amanda McNeil

Subject: FW: Consultation on unauthorised development and encampments - URGENT

Dear Charlotte, Peter and Stuart

I write with reference to the above.

The following is provided in confidence in so far as the place names can identify my client.

QUESTION 2

1. Brent Way, Brentford

January 2017

Late Friday afternoon, travellers removed a number of concrete bollards and gained access to land cleared for redevelopment. At most there were 10 caravans and assorted vehicles.

On Monday squatter proceedings were issued in Chancery. A Possession Order was obtained Tuesday afternoon and a Writ of Possession enforced by a High Court Enforcement Office (HCEO) late Tuesday afternoon.

There was substantial fly-tipping which cost approximately £20,000 to clear.

2. Wimbledon Stadium

November 2017

On Sunday evening travelling threatened a security guard with a knife and gained access to the substantial car park at the Wimbledon Stadium. Within a day or so there were approximately 30 caravans and assorted vehicles.

On Monday an application for an Interim Possession Order was issued in the local County Court and listed for hearing on Friday.

On Tuesday (at the same time as the Process Server served the Interim Possession Order papers) the Police served a Section 61 Notice.

On Wednesday, with a substantial Police presence, the travellers moved on (with two arrests and two caravans impounded).

Again, there was substantial fly-tipping which cost approximately £100,000 to clear.

The Police were persuaded to use their Section 61 powers due to pressure from the client (a major London developer) and the high profile of the incident.

3. Sleaford Street, Battersea

January 2018

Late Thursday afternoon travellers arrived and occupied part of a car park of an industrial estate. At most there were 15 caravans and assorted vehicles.

On Monday, squatter proceedings were issued in Chancery. A Possession Order was obtained Tuesday afternoon and a Writ of Possession enforced by a HCEO late Tuesday afternoon.

Again, substantial fly-tipping, the cost of which to remove is not known to me.

4. Brent Way, Brentford

May 2018

Late Monday evening travellers removed a number of concrete bollards and gained access to (the same) redevelopment land. About 10 caravans and assorted vehicles.

On Tuesday morning the travellers "moved on" following a HCEO using the Landlord's common law powers to obtain possession of land. There was a Police presence during the removal

A little fly-tipping but not too much due to the speed in obtaining possession.

As a general observation, when travellers have left there is not normally too much damage of buildings etc but there is a substantial clean-up operation due to the amount of fly-tipping.

QUESTION 6

In my experience the Police are very reluctant to use their Section 61 powers and only tend to do so if the matter is either particularly high profile or indeed the Police are put under pressure to do so.

Several years ago I had a major traveller incident in premises outside Sheffield and the Police only exercised their Section 61 notice powers following pressure from local councillors and local MPs and a large increase in criminality in the immediate area (i.e. filling up with petrol/diesel at petrol stations and driving off without paying etc, fights in pubs etc.)

SECTION 12

I mainly use the Interim Possession Order ("IPO") procedure to obtain possession of premises occupied by squatters.

In respect of travellers I have found that the quicker one acts the less opportunity there is to fly-tip.

Accordingly, in recent times it has been my practice to seek a squatter Possession Order in the Chancery Division and to enforce the same by instructing a HCEO to enforce a Writ of Possession.

However, on the last occasion I merely instructed a HCEO to enforce the Landlord's common law powers to take possession of its land which proved particularly effective.

The main advantage of the Interim Possession Order procedure is that the County Courts tend to list them for hearing reasonably quickly and indeed temporary possession is usually obtained within 24 hours of serving the Interim Possession Order. This works for the "normal squatters" but not for Travellers.

In conclusion:-

1. My first choice is to instruct a HCEO to exercise the client's common law rights to possession of their land.
2. My second choice is to issue Chancery squatter proceedings (the Chancery Masters seem particularly willing to expedite hearings etc, particularly if they have evidence of criminality) and enforce through a HCEO acting under a Writ of Possession.
3. The IPO procedure in the local County Court is really a third choice albeit it does tend to be the cheapest procedure, not least because HCEO seem to charge very, very well for their work.
4. The Police using their Section 61 Powers is rare

I hope the above is of assistance to you but if I can be of any further help please do not hesitate to contact me.

Regards

Peter

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From: Property Litigation Association [<mailto:mary.block=pla.org.uk@mail62.suw15.mcsv.net>] **On Behalf Of**
Property Litigation Association

Sent: Monday, June 11, 2018 5:42 PM

To: Peter Ling

Subject: Consultation on unauthorised development and encampments - URGENT



Message to all PLA members

As you may be aware, the Ministry of Communities and Local Government is conducting a consultation on unauthorised development and encampments (a) to establish the effectiveness of the existing powers of local authorities and the police are effective and (b) to assist the Government in considering future policy and legislative proposals.

<https://www.gov.uk/government/consultations/powers-for-dealing-with-unauthorised-development-and-encampments>

Whilst most of the questions raised by the consultation are directed at local government, many of our members will have relevant experience of dealing with unauthorised encampments (both for local government clients and private landowners) which we would like to collate and pass on.

The Law Reform Committee would like to hear from any members in relation to the following issues:-

To assist us in responding to Question 2 of the Consultation

- a. If PLA members have dealt with the removal of unauthorised traveller encampments within the last 2 years, please provide details of location and scale.
- b. If the relevant land needed repairing or cleaning afterwards, what was involved and was the approximate cost ?
- c. How did the unauthorised encampment come to an end and how long did it take ?

To assist us in responding to Question 6 of the Consultation

If PLA members have experience of asking the police to exercise powers to direct

travellers to leave land pursuant to sub-ss 61 / 62A Criminal Justice and Public Order Act 1994, what was their experience ?

To assist us in responding to Question 12 of the Consultation

If PLA members have used the procedure for obtaining an Interim Possession Order (CPR Parts 55.20 to 55.28), what was their experience ?

With apologies for the short notice, please reply to Stuart Wortley, Peter Bourke and Charlotte Tyfield who are co-ordinating the Association's response **by 5.30 pm on Friday 15 June.**

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