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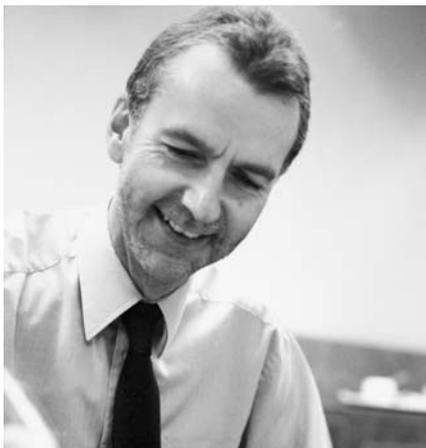
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# evebrief

## Editorial



Tony Chase

Somewhat unusually we report in this edition of Evebrief on the issue of 'estoppel', with not one but two important court decisions. These related to claims by one party for land to be transferred by the other on the basis of an alleged oral or informal agreement in reliance upon which the claimant acted.

The important House of Lords case of *Cobbe v Yeoman's Row Management* reported at item 14 will make it more difficult in future for developers and other professionals to rely upon the doctrine of proprietary estoppel and the establishment of constructive trusts to enable them to enforce either oral contracts or contracts where all the terms have not been agreed between the parties. A party to any such contract who is legally advised or where the negotiations are expressly stated to be "subject to contract" will find it especially difficult to rely upon the doctrine. This has been reinforced by the subsequent decision of the High Court in *Herbert v Doyle* which we report at item 15.

The changes made to the General Permitted Development Order, which sets out development for which planning permission is deemed to be granted, have been reported in the national press. We have summarised some of the principal changes at item 05; these are not particularly far-reaching but will have an impact at least so far as some works to domestic property are concerned. One of the aims was to make it easier to undertake loft conversions and small extensions, but there has been a tightening-up in respect of paving or other hard-surfacing to the front garden of a house; planning permission will now be required where this exceeds five sq m in area unless the surface is porous or provision is made to direct run-off water to a permeable or porous area within the boundary of the house — the aim being to reduce the risks of flooding due to the increasing provision of paved or tarmac areas for parking of cars.

**Tony Chase**

# Landlord & Tenant

## 01

High Court

### **Validity of service of purchase notice by tenants of a block of flats**

\* WESTLEIGH PROPERTIES LTD V GREEN  
(2008) All ER (D) 387 (Jun) — Decision given 27.06.08

**Facts:** Following various disputes between G, a tenant of a flat in a block, and WP, the freeholder of the building, G obtained a judgement in his favour which required him to serve a purchase notice pursuant to s12 of the Landlord and Tenant Act 1987 to enable the freehold reversion to be transferred to the tenants.

**Point of dispute:** Whether G's appeal should be allowed against the decision of the judge in the court below that he had not served a purchase notice pursuant to s12, either by letter dated 10.06.05 or one dated 08.08.05, and that the court had no power to extend the time for doing so.

**Held:** G's appeal was allowed. (i) Neither the incorrect date in the letters nor naming an incorrect Act could have caused a reasonable recipient to have been in any doubt as to what the tenants required. The requirement for addressees to be specified was only a directory, not a mandatory, requirement. In this case although the notice did not expressly identify the person nominated by the tenants as the person to whom the landlord would dispose of his interest, a reasonable recipient could have been in no doubt that the tenants wanted it to be disposed of to themselves. (ii) Where there was a difference between the addressee on the envelope and the addressee on the notice the court had to consider also the terms of the notice. In this case, having regard to the addressee on the envelope, the addressee on the notice and the contents of the notice, the notice had been sent to the landlord.

## 02

CLG Guide

### **Energy Performance Certificates (EPCs) and renting homes: A landlord's guide**

This is a short guide, addressed to residential landlords, on the implications of the new requirement to provide Energy Performance Certificates from 01.10.08.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/957171.pdf>

# Planning

## 03

Statutory Instrument

### **SI 2008/2175 The Crossrail (Fees for Requests for Planning Approval) Regulations 2008**

These Regulations came into force on 10.09.08 and make provision about fees for requests for planning approval made by the nominated undertaker to relevant local authorities pursuant to Schedule 7 to the Crossrail Act 2008.

[http://www.opsi.gov.uk/si/si2008/pdf/uksi\\_20082175\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082175_en.pdf)

## 04

Statutory Instrument

### **SI 2008/2260 The Town and Country Planning (Trees) (Amendment) (England) Regulations 2008**

These Regulations, which come into force on 01.10.08, amend the 1999 Regulations which make provision for the form of tree preservation orders (TPOs) and for applications for consent to carry out work on trees which are subject to a TPO. Regulation 3 inserts a new regulation 9A into the 1999 Regulations to make provision for the form and content of applications for consent and Regulation 5 substitutes a new part 4 to provide new procedures for appeals without a hearing or inquiry under s78 of the Town and Country Planning Act 1990, as applied under TPOs, and to appeals against tree replacement notices under s208.

[http://www.opsi.gov.uk/si/si2008/pdf/uksi\\_20082260\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082260_en.pdf)

## 05

Statutory Instrument

### **SI 2008/2362 The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008**

This Order, which comes into force on 01.10.08, amends the 1995 Order ("GPDO"). It substitutes a new Part 1 of Schedule 2 which confers permitted development rights in relation to certain development within the curtilage of a dwelling house and also adds World Heritage Sites to the list of land defined in the GPDO as "article 1(5) land" and makes minor amendments to the permitted development rights in Part 40 of Schedule 2 to the GPDO in relation to the installation of domestic microgeneration equipment. The changes to Part 1 of the GPDO mean that:

- planning permission will not be required for rear extensions of up to two storeys so long as they do not extend more than three metres from the property;
- planning permission will not be required for loft conversions provided that any enlargement is not less than 20 cm from the eaves and its volume is not more than 50 cubic metres larger than the original roof space (40 for terraced houses);
- in conservation areas loft conversions will be restricted, but ground-floor rear extensions will be permitted;
- planning permission will be required for laying more than five sq m of asphalt or other impermeable materials in gardens; and
- building regulations will still apply to conversions and extensions

[http://www.opsi.gov.uk/si/si2008/uksi\\_20082362\\_en\\_1](http://www.opsi.gov.uk/si/si2008/uksi_20082362_en_1)

## 06

CLG Statistics

### **Development Control Statistics, England, 2007-08**

This publication contains annual statistics for 2007-08 on development control at national, regional and local planning authority level, with historic data for comparison where appropriate. The key points to emerge are as follows:

- district level planning authorities received 649,000 planning applications and decided 596,000 applications, an increase of 1% and 2% respectively compared to the previous year;
- 82% of applications decided were granted — no change since 2005-06;
- 71% of decisions on major applications were made within 13 weeks, unchanged when compared to last year, but 28% higher than in 2002-03;
- 50% of all decisions were for applications by householders, whilst decisions on dwellings accounted for 13%;
- district planning authorities issued 5,565 enforcement notices, an increase of 1% compared with last year and 5,039 planning contravention notices were served, the lowest number since 2004-05;
- county planning authorities received 1,816 applications for 'county matters' developments and made 1,496 decisions;
- 70% of decisions were for waste developments and 24% for minerals sites;
- 21% of 'county matters' planning decisions were made within eight weeks and 61% within 13 weeks; and
- 1,608 decisions were made on applications defined by Article 21, and 39 were issued under the review of mineral planning permissions

<http://www.communities.gov.uk/documents/corporate/pdf/945753.pdf>

## 07

CLG Statistical Publication

### **Previously-developed land that may be available for Development: England 2007**

This publication contains information on "brownfield" land now vacant or derelict, from the National Land Use Database of Previously-Developed Land based on information collected in 2007 from local authorities on previously-developed land in their area.

- In 2007 there were an estimated 62,130 hectares of previously-developed land in England, down 1% from 2006.
- An estimated 33,600 hectares of previously-developed land were vacant or derelict, 54% of the total. The remaining 28,520 hectares were in use but with potential for redevelopment.

Since 2002:

- The total amount of previously-developed land in England has declined by around 6%.
- Vacant and derelict land is down by 17.5% compared with 2002, while land currently in use with potential for redevelopment has increased by around 12%.
- The amount of all previously-developed land assessed as suitable for housing is 7% lower than in 2002, but estimated housing capacity has increased by 19%.

Land with housing potential:

- In 2007 local planning authorities estimated that 26,510 hectares (43%) was potentially suitable for housing and could potentially provide around 1,051,000 dwellings but there are likely to be barriers to developing some of this housing capacity.
- More of the land suitable for housing was currently in use (14,780 hectares) than vacant or derelict (11,720 hectares).

<http://www.communities.gov.uk/documents/corporate/pdf/945914.pdf>

## 08

CLG Statistical Release

### **Planning Performance Checklist – July 2008**

The half-yearly Planning Performance Checklist of how local authorities handled planning applications was published on 27.06.08 for the year ending March 2008, in particular their performance against the three handling targets set from 01.04.02 with the emphasis on the need for timely handling of major applications. The main findings are as follows:

- During the year end March 2008 local planning authorities determined on average 71% of major planning applications within 13 weeks, and 77% of minor planning applications and 87% of other applications within eight weeks.
- Over the same period 86% of planning authorities met or surpassed the Government's target of deciding 60% of major planning applications within 13 weeks, 92% met the target of deciding 65% of minor planning applications within eight weeks and 91% met the target of deciding 80% of other applications within eight weeks.
- 52 planning authorities are classified as 'improving' performers and 14 as 'declining' performers.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/951779.pdf>

# Rating

09

Lands Tribunal

## **Rating of composite hereditament — appellant advertising Chinese medicine practice — home working from ground floor front room — fitting out of room — whether practice had commenced**

\* DR YAN ZHOU V DENNIS PATRICK OSBORNE (VO)

RA/56/2007 Member: A J Trott FRICS — Decision given 19.08.08

**Property:** 70 Lowlands Road, Harrow, Middx, an Edwardian semi-detached house purchased by Z in 1996 with the intention of setting up a medical practice in the ground floor front room. Planning permission for change of use of part of the ground floor to a herb and acupuncture clinic was not obtained, but Z was advised to commence her business at "a low profile" and reapply in ten years time. Z put up signs in her front window advertising her practice and prepared the room for use, but continued in full-time employment elsewhere and never used the room for business purposes. In 2005, following a visit by a representative of the Valuation Office Agency, the property was entered in the 2000 rating list at RV £1,575 with an effective date of 01.04.04 and described as "office and premises".

**Issue:** Whether Z's appeal should be allowed against the Valuation Tribunal's decision that the property had been correctly entered as a composite hereditament in the 2000 rating list wef 01.04.04. The VO relied on the fact that the room had been fitted out as a medical consulting room and contained no domestic furniture, that the "business" appeared to have its own telephone line and that advertisements for Z's business had appeared in 2004 in two publications. Z sought deletion of the entry until 01.01.06, when she claimed that she did commence business as a practitioner of Chinese medicine, and that throughout the period in question from 2004-06 she had been in full-time employment working eight hours a day, six days a week away from home.

**Decision:** Z's appeal was allowed. Whilst she had intended to commence her private practice no patients were in fact treated at the property and the room continued to be used for domestic purposes as living accommodation. The furniture and fittings in the room during the relevant period were not specialised and were commensurate with its use as a normal study. As a matter of fact and degree the room was not used for non-domestic purposes. The property was domestic property for the purposes of the Local Government Finance Act 1988 during the relevant period.

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Lands Tribunal

## **Rating of composite hereditament**

\* GILLIAN LEVINSON (VO) V GRAHAM JOHN ROBESON & ALAN EDWARD HERBERT GRAY

RA/34/2007 — Before His Honour Judge Huskinson — Decision given 11.08.08

**Property:** The Old Vicarage Gardens, Happisburgh Road, East Ruston, Norwich entered by the VO in the local non-domestic rating list as "tea room garden and premises" with RV £950 wef 01.04.00. The dwelling house itself was used wholly for living accommodation as a private residence and was not open to the public, but the garden, which was created by R and G, is opened to the public, for an admission fee, four afternoons a week between April and October. Refreshments and plants are available for sale. In the garden is a tea room, an area used for car parking, a party and function room and a small toilet block built originally for use by R and G's employees.

**Issues:** Whether the VO's appeal should be allowed against the decision of the North Norfolk Valuation Tribunal to delete the entry in the local non-domestic rating list.

**Held:** The VO's appeal was dismissed. On the facts of the case the whole of the garden and all the premises could properly be described as a "yard, garden, outhouse or other appurtenance belonging to or enjoyed with" the Old Rectory and the property was "used wholly for the purposes of living accommodation". To avoid the conclusion that the garden and premises constituted domestic property it would be necessary to read extra words into paragraph (b) of s66(1) of the Local Government Finance Act 1988. As a matter of fact and degree the level of commercial use of the garden was not such as materially to affect the enjoyment of the Old Vicarage as a residence and did not materially affect the enjoyment of the garden as a domestic garden ancillary to R and G's home. Each case of composite use had to be decided on its own facts.

## 11

Lands Tribunal

### **Rating of sludge tank scrapers in sewage disposal works – Valuation for Rating (Plant and Machinery) (England) Regulations 2000 reg 2, sch Class 4 Table 3**

\* THAMES WATER PLC V PETER HANDCOCK (VO)

RA/87/2006 Before The President, George Bartlett QC and A J Trott FRICS — Decision given 18.08.08

**Property:** Sewage Disposal Works, Great Shefford, Hungerford, Berkshire entered in the rating list for 01.04.05 at RV £57,000.

**Issue:** Whether, as argued by TW, the RV of the works should be reduced to £56,500 on the grounds that four rotating half-bridge scrapers located in the sewage tanks are not rateable under the Valuation for Rating (Plant and Machinery) (England) Regulations 2000. Although the value in dispute was small it is of wide significance because of the existence of similar items of plant at sewage treatment works throughout England and Wales. Two questions had to be answered: (i) whether the items of plant in question fall within the list of items specified in Table 3 of the Regulations; and, if they do (ii) whether they are, or are in the nature of, a building or structure. The VO argued that the beam element of the scraper assembly should be regarded as a support, as a bridge and as a walkway ie it consisted of at least three of the listed items, in addition to the handrail.

**Held:** TW's appeal was allowed and the hereditament was entered in the list at £56,500. The scraper assembly was not a listed item, being neither a support, bridge or walkway for the purposes of the Order. Although the handrail is a named item it failed the structure test due to its lightweight construction and the fact that it is attached to a moving piece of plant. If the beam had been found to be a listed item it would nevertheless be excluded from rating on the ground that "it is not, and is not in the nature of, a building or structure". It was clearly not a building, and was not large enough, nor could it be described as being built up of component parts so as to constitute a structure.

## 12

Statutory Instrument

### **SI 2008/2332 The Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2008**

These Regulations, which come into force on 01.10.08, amend the 2000 Regulations by providing that where plant and machinery which is otherwise relevant to a hereditament's value has microgeneration capacity, that capacity is not relevant to the value. This new provision applies to any plant and machinery installed on or after 01.10.08 and has effect between the date of installation and the first five-yearly revaluation of non-domestic hereditaments thereafter. The practical effect is that ratepayers who install plant and machinery with microgeneration capacity will not see any increase in their rates bills as a consequence until the next five yearly revaluation.

[http://www.opsi.gov.uk/si/si2008/pdf/uksi\\_20082332\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082332_en.pdf)

## 13

Statutory Instrument

### **SI 2008/2333 The Non-Domestic Rating (Communications Hereditaments) (Valuation, Alteration of Lists and Appeals and Material Day) (England) Regulations 2008**

These Regulations, which come into force on 01.10.08, will allow BT to make a proposal to alter the rateable value of its hereditament as a consequence of the full unbundling of local loops. Fully unbundled local loops are the single pair of copper wires that connect a customer's premises to the local telephone exchange through which the customer receives both telephone and broadband services and they comprise part of BT's hereditament by virtue of regulation 8 of the Central Rating List (England) Regulations 2005. The Regulations will apply in relation to BT's entry in the central rating list that came into force on 01.04.05 and subsequent rating lists, with the effect that a proposal can be made with respect to entries from 01.04.05 onwards. When a proposal is made as a result of these Regulations it will be for the valuation officer to assess whether the full unbundling of local loops has had any impact on the rateable value of BT's hereditament.

[http://www.opsi.gov.uk/si/si2008/pdf/uksi\\_20082333\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082333_en.pdf)

# Real Property

## 14

House of Lords

### Proprietary estoppel

\*\*\* COBBE V YEOMAN'S ROW MANAGEMENT LTD  
(2008) PLSCS 227 — Decision given 30.07.08

**Facts:** YRM, which owned the freehold of a block of flats, entered into an oral agreement in principle with C, a property developer, that they would develop the property as a joint enterprise, demolishing the flats and replacing them with six town houses. Under the terms of this agreement C was to apply for planning permission at his own expense, and upon this and vacant possession being obtained YRM would sell the property to him for £12m. Once the development was carried out and the new houses sold C would pay to YRM an overage of 50% of the gross proceeds of sale, likely to be in excess of £24m. Planning permission was obtained in 2004 but on the following day YRM reneged on the agreement and demanded an advance payment of £20m for the sale of the freehold.

**Point of dispute:** Whether YRM's appeal would be allowed against the decision of the Court of Appeal, upholding that of the court below, that C was entitled to a lien over the property for the payment of one half of the increase in its value resulting from the grant of planning permission (£2m) by virtue of either proprietary estoppel, due to YRM's unconscionable conduct in encouraging C to expend considerable amounts of time and money on the planning application in the expectation that it would abide by the terms of the agreement, or constructive trust.

**Held:** YRM's appeal was allowed.

- (i) The remedy to which C was entitled was neither based upon estoppel nor proprietary in character. A finding of proprietary estoppel could not just be based on the unconscionable behaviour of the defendant without there being any coherent formulation of the content of the estoppel and the proprietary interest that it was designed to protect. C did not dispute that: (a) being unwritten the agreement was unenforceable; (b) it did not cover all the terms that the parties needed to agree; and (c) he had not acquired any proprietary interest in the property prior to the grant of planning permission. C did not allege that YRM was estopped from asserting any of those matters — thus he had not identified the content of the estoppel or his proprietary interest.
- (ii) A constructive trust could not be imposed pursuant to the principles which applied to failed joint ventures: where one joint venturer acquires a property for the purpose of the venture and subsequently seeks to retain it for his own benefit the courts would regard him as holding it on trust for the joint venturers. A constructive trust could not be imposed in the present circumstances where the land that was to be the subject of the joint venture was already owned by one of the parties. In such circumstances the property had never been a joint venture property and it could not be treated as one.
- (iii) C was, however, entitled to a remedy himself. The value of the property had been increased by the grant of planning permission which meant that YRM had been unjustly enriched at C's expense, but the amount of that enrichment was not the difference in the value of the property with and without planning permission, since the permission had merely unlocked the development potential, but the value of C's services expended in obtaining the permission for which C was entitled to a quantum meruit payment, to include his outgoings and a fee for his services.

## 15

High Court

### Proprietary estoppel – constructive trust

\*\* HERBERT V DOYLE

(2008) PLSCS 235 — Decision given 04.08.08

**Facts:** H was the freehold owner of a two-storey residence with a large walled garden to the rear. A later single-storey building, used as a dental surgery, was attached to one side of the main building. D, a dentist, owned the freehold of the single-storey building and occupied part of the ground floor of the main building under a long lease from H. H had erected three mews-style terraced houses to the rear of the property and divided the houses into flats. The middle mews house had encroached upon part of D's land but H argued that he had entered into an oral agreement with D, evidenced by an email of February 2003, that provided for D to transfer nine parking spaces to him in exchange for ten replacement spaces. H argued that since D had not objected to the proposed encroachment he had acted to his detriment in reliance upon that agreement.

**Point of dispute:** Whether H's claim to the parking spaces would be allowed. D argued that: (i) there had been numerous disputes between the parties; (ii) the email was not the final agreement; and (iii) H had known that D would not transfer any of its spaces until all the elements of the agreement had been fulfilled and recorded in writing.

**Held:** H's claim was dismissed. The 2003 agreement was void and unenforceable since it did not comply with s2(1) of the Law Reform (Miscellaneous Provisions) Act 1989, but that did not prevent a constructive trust from arising if all the other requirements for a successful claim based upon proprietary estoppel were satisfied. This case fell within the category of an informal agreement where the parties envisaged legal formalities to be dealt with later. Following the House of Lords' judgment in *Cobbe v Yeoman's Row Management* (see Item 14 above) it is now extremely difficult for a promisee to rely upon the doctrine of promissory estoppel where the parties are legally advised and the negotiations are expressly stated in writing to be "subject to contract", or where they have failed to resolve a fundamental point of principle that has been expressly raised. In this case the parties were not legally represented and had agreed that the development could proceed if all the terms of their agreement were satisfied, so it was not "subject to contract" in the sense that they could withdraw from it at will. H had acted to his detriment by reference to the terms of the 2003 agreement since he had incurred the cost of the development but failed to acquire legal title to the parking spaces, but until he satisfied all the terms of the 2003 agreement he could not obtain title to them by relying upon a constructive trust. However, the court was prepared to declare in conditional terms that H would be entitled to have the spaces transferred to him if, but only if, he previously or simultaneously satisfied the conditions of the 2003 agreement.

## 16

High Court

### Trespass – basis for assessment of damages

\* FIELD COMMON LTD V ELMBRIDGE BOROUGH COUNCIL

(2008) All ER (D) 141 (Aug) — Decision given 27.08.08

**Facts:** FC was the freehold owner of land lying to the north of an industrial estate owned by EBC. Between the two pieces of land was a private road over which EBC had a right of way. FC complained that EBC had extended its use of the right of way and had encroached on its land ("the red land"). In 1989 EBC carried out tarmac resurfacing works over the right of way, and over the red land without FC's consent. Trespass and encroachment over FC's land continued over the next few years and in 2004 FC sought an order for possession and an injunction to restrain the continued trespass. EBC's contention that it had acquired a prescriptive right of way over the red land was rejected by the court and an assessment of damages was ordered.

**Points of dispute:** (i) Whether the laying of tarmac was a continuing trespass; (ii) whether EBC was liable for the trespasses of the tenants of the industrial estate; and (iii) the appropriate basis for assessing damages.

**Held:** (i) The continued presence of tarmac over the red land constituted a trespass which continued from day to day. (ii) By laying tarmac over the red land EBC had given so much encouragement to its tenants to gain access to the industrial estate by crossing the red land that it could be said to have permitted its use: accordingly EBC was liable for the trespasses of its tenants. (iii) Where a landlord is held responsible for trespasses by its tenants it was right in principle that the wronged party should recover compensation in respect of the benefits that the landlord had enjoyed as a result. This was a permissible extension to the general rule that damages in tort are merely compensatory and the correct basis for the assessment of damages in this case was the hypothetical negotiations approach. Factors that would be taken into account in such negotiations would include the ability and willingness of the existing tenants to pay additional rent.

## Housing

### 17

CLG Statistical Release

#### House Building: June Quarter 2008, England

- In the June quarter of this year there were 33,400 housing starts in England (seasonally adjusted), up 2% on the previous quarter but 19% lower than the June quarter of 2007.
- Private enterprise housing starts (which are not seasonally adjusted) were 27% lower than during the June quarter of 2007, although starts by Registered Social Landlords have risen by 56% over the same period and are now at their highest quarterly level in 11 years.
- Annual housing starts figures for England have continued to decline. They totalled 147,500 in the 12 months to June 2008, down by 12% compared with the same period a year ago and almost 20% below their 2005/06 peak.
- Housing completions in England fell by 9% from the previous quarter to an estimated 36,600 (seasonally adjusted) in the 2008 June quarter. Compared with this period in 2007 completions were down by 13%. Quarterly completions exceeded starts for the third quarter in a row.
- Annual housing completions in England totalled 161,100 in the 12 months to June 2008, down by 4% compared with the previous year.

<http://www.communities.gov.uk/documents/corporate/pdf/934882.pdf>

## Taxation

### 18

#### Stamp duty changes

On 02.09.08 the Chancellor of the Exchequer announced that stamp duty land tax will not apply to purchases of residential property of £175,000 or less. This means that no stamp duty will be payable on any purchase consisting entirely of residential property where the chargeable consideration is not more than £175,000. The relief applies to all such transactions with an effective date on or after 03.09.08 and before 03.09.09. This exemption has been introduced in order to help first time buyers to enter the property market at a time when the housing market is suffering a downturn. Also being introduced is a shared ownership 'HomeBuy' scheme under which developers and the government will offer low interest loans of up to 30% of the cost of a home to first time buyers. The Government has also announced further help for homeowners facing repossession and greater powers for local authorities to build and buy homes for social housing.

#### SI 2008/2338 The Stamp Duty Land Tax (Variation of Part 4 of the Finance Act 2003) Regulations 2008

[http://www.opsi.gov.uk/si/si2008/pdf/ukxi\\_20082338\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/ukxi_20082338_en.pdf)

#### SI 2008/2339 The Stamp Duty Land Tax (Exemption of Certain Acquisitions of Residential Property) Regulations 2008

[http://www.opsi.gov.uk/si/si2008/pdf/ukxi\\_20082339\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/ukxi_20082339_en.pdf)

## Construction

19

CLG Circular and Statutory Instrument

### **Circular 05/2008: The Building Act 1984, The Building Regulations 2000, The Building (Approved Inspectors etc) Regulations 2000**

#### **Provision made for the Electronic Communication of Specified Building Control Documents**

#### **SI 2008/2334 The Building (Electronic Communications) Order 2008**

This Circular draws attention to the Building (Electronic Communications) Order 2008 SI 2008/2334, which was made on 28.08.08 and comes into force on 01.10.08, and the changes that it makes to the Building Act 1984, the Building Regulations 2000/2531 (as amended) and the Building (Approved Inspectors etc) Regulations 2000/2532 (as amended). The Order enables the electronic giving or service of certain specified notices and other documents under the Building Act which are currently required to be given or served in accordance with one of the methods set out in s94.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/circular052008.pdf>

[http://www.opsi.gov.uk/si/si2008/pdf/uksi\\_20082334\\_en.pdf](http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082334_en.pdf)

## General

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CLG Guidance

### **Practical Guides for Using Neighbourhood-Level Data**

A great deal of information is now available to partners who want to better target and assess local neighbourhood regeneration and renewal programmes and this report, one of two published from the *Neighbourhood-level Data* project, provides data users with five practical guides to help support the use of neighbourhood-level data. The five practical guides covered in this report give an overview of using different types of small area data associated with a selection of renewal and regeneration themes and cover the following:

- Monitoring change and identifying programme effectiveness in a deprived neighbourhood.
- Using updated population estimates rather than Census data when looking at trends.
- Health outcomes at neighbourhood level.
- Are my datasets fit for purpose?
- Using crime data at neighbourhood level to target programmes.

<http://www.communities.gov.uk/documents/localgovernment/pdf/932145.pdf>



# Gerald Eve's UK office network

Gerald Eve is an independent firm of chartered surveyors and property consultants, employing more than 300 staff across the UK.

We provide a comprehensive range of services to our private and public sector clients covering agency, asset management, professional and transaction-based advice.

Our philosophy is to serve clients by identifying opportunities and solving problems relating to property through the provision of high quality, thoroughly researched cost effective advice.

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Evebrief has been established for more than 25 years. It is a summary of the latest statutory and legal cases affecting the property industry and is widely regarded in the industry as the most comprehensive document of its type.

#### Useful web links

[www.ukonline.gov.uk](http://www.ukonline.gov.uk)  
[www.odpm.gov.uk](http://www.odpm.gov.uk)  
[www.dft.gov.uk](http://www.dft.gov.uk)  
[www.inlandrevenue.gov.uk](http://www.inlandrevenue.gov.uk)  
[www.hms.o.gov.uk](http://www.hms.o.gov.uk)  
[www.egi.co.uk](http://www.egi.co.uk)  
[focus.focusnet.co.uk](http://focus.focusnet.co.uk)  
[www.newLawonline.com](http://www.newlawonline.com)

#### Abbreviations

The following abbreviations are used in evebrief:

BLD	Lexis Nexis Butterworths (internal abbreviation)
EG	Estates Gazette
EGLR	Estates Gazette Law Reports
EWCA	England & Wales Court of Appeal
EWHC	England & Wales High Court
P&CR	Property, Planning and Compensation Reports
PLSCS	Property Law Service Case Summaries

#### The star system

Cases are marked with one, two or three stars as follows:

- \*\*\* Essential reading on the point of law or valuation with which the case is concerned, because it adds to, or clarifies or changes, the law.
- \*\* Noteworthy case which does not significantly alter the law or which relates to a relatively obscure point.
- \* Interesting but non-essential reading.

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# evebrief

SCOTLAND

Construction

01

Scottish Government Consultation

**Action on Climate Change: Proposals for Improving the Energy Performance of Existing Non-Domestic Buildings**

The Scottish Government aims to reduce emissions by 80% by 2050 and is presently consulting on its Climate Change Bill which will establish the strategic statutory emissions reduction targets and the legislative framework that will be necessary in order to achieve those targets. Improving the energy performance of non-domestic buildings is seen to be crucial towards achieving this aim. The Sullivan Report, "A Low Carbon Building Standards Strategy for Scotland", included recommendations for enhancing the energy standards in buildings regulations towards the goal of zero carbon new buildings, but also highlighted the challenge posed by Scotland's existing buildings and it is with these that this consultation is concerned, focusing on measures to improve the energy performance and carbon impact of its existing non-domestic building stock. The paper sets out outline proposals for measures to require the assessment of the energy performance of non-domestic buildings and the implementation of measures to reduce carbon emissions. At this stage the Scottish Government is seeking views on what measures are required and the general principles behind these with a view to introducing broad enabling powers.

<http://www.scotland.gov.uk/Resource/Doc/235841/0064663.pdf>