



# 3thinking

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Please turn over to read the full story

## The Jackson Cost Reforms

### Lord Justice Jackson's reforms relating to civil litigation costs came into force on 1st April 2013.

They are aimed at personal injury litigation so that a litigant entering into a conditional fee agreement (i.e. 'no win, no fee') will no longer be able to recover those costs from the losing side. Instead any future success fee will be paid by the party entering into the agreement. This should reduce, if not curtail, personal injury claims as damages will need to be set off against the success fee. This should be welcome news for those managing properties as in the last few years vexatious personal injury claims have grown at a fantastic rate.

There are new rules too on cost management, already piloted in the Technology and Construction Court. For claims under £2 million parties are required to exchange detailed cost budgets early on, which the Court will only depart from with good reason.

The Civil Procedure Rules have also been updated so that all cases should be dealt with "justly and at proportionate cost". Proportionality will depend on the value, complexity and importance of each claim. Unfortunately, there is little in the way of guidance that has been issued, so that it will be left to the Courts to interpret what this means as best they can and for litigants and their advisers to respond accordingly. It is quite possible that this will in turn encourage the giving of "concurrent evidence", an example of which is "hot tubbing" whereby experts for the respective parties give evidence at the same time. For instance, the two experts could be in the witness box together so that examination in chief, cross-examination and re-examination are intermingled on a multi-expert, cross-party basis.

If you would like further information please contact Nick Eden on: 020 7643 1510.

## The Partnership Approach was the Key

**Kinney Green's Property Asset Management team has always prided itself on understanding clients' needs and tailoring services to meet their specific requirements.**

**In a recent tender process, we were again successful; demonstrating the ability to align our services with the client, This Property Matters (TPM), who were looking for a professional firm of managing agents to assist and partner them in the management of a portfolio comprising high value office and retail premises in Central London.**

Andreas Liesche of TPM commented:-  
"I knew our long term success would be dependent upon finding the right partner with the right values. Kinney Green was a front-runner very early on in the process due to its Directors' clear and sensible approach to managing assets. I also liked Kinney Green's partnership approach which recognised that we would need to work together to demonstrate our commitment to our tenants and

earn their trust and appreciation. Kinney Green's openness and responsiveness matches my own approach to property management and I can see our partnership having a very successful future."

**If you would like to find out more about how Kinney Green's specialist and partner-led property management approach could assist you, please call David Thomson 020 7643 1521.**

## Two new additions to the Kinney Green team

James Bell has joined our City based property asset management team having completed Reading University's Real Estate Masters course last year. Previously he attended the University of Edinburgh where he studied Philosophy.

James enjoys outdoor sport at the weekend, particularly golf and fishing, but also likes watching football and most other sports. The Kinney Green Management team is a growing part of the business and James is looking forward to managing his own allocated properties in 2013.



Henry Brewster has joined the West End Agency team after working for Land Securities. Henry graduated from Oxford Brookes University in 2011 where he completed his BSc (Hons) in Real Estate Management. An avid fitness enthusiast, Henry's main interests include running, swimming, and socialising with friends.

**For further information please contact James Bell on 020 7643 1522 or Henry Brewster on 020 7647 8966**

## EducationRUs

In March, after a rigorous process, Regent's College, who we have advised on their property matters throughout, gained University status. Regent's University, which is a not-for-profit provider of higher education is one of barely a handful of private universities in the country. The University's main site comprises about 12 acres in the centre of Regent's Park, where it has been established since the 1980s. It continues to be a busy time for Regent's University, and property matters feature prominently. With effect from 1st April, Regent's University took over American Intercontinental University premises, with facilities in and around Marylebone High Street. We are proud to be involved with these important developments, and it is satisfying to see these steps come to fruition after years in the planning. Advice we have given covers matters as diverse as rental and capital values, rating, planning, acquisition and development.

**If you would like further information please contact Nick Eden on: 020 7643 1510.**



## Kinney Green's Residential Department - One Year On!

Our newly established residential consultancy service, now one year old, has been hugely successful over the past 12 months acquiring and disposing of properties, along with advising clients around central London. Working closely with our West End, Midtown and City offices, our residential team offers a range of services including planning and affordable housing advice, residential valuations and



appraisals for change of use to residential for a variety of clients.

Our most recent work involves the disposal of offices at 10 Gough Square for a client. The property is suitable for a variety of uses, including residential due to its location in a "residential cluster" in the City of London. We have had strong interest from developers looking to acquire a Freehold in the City and believe the property will sell very well.

**For more information please contact either Rob Macnab on 0207 269 8804 or Nick Thornton on 020 7643 1507.**

Earlier in the year we disposed of an office building in the west of the City which was marketed to selected short listed developers

### Q1 2013 West End Office Market Update

The West End office market has bounced back in the first three months of 2013, with letting activity reaching almost 1.4 million sq ft, the highest volume recorded since June 2000. This boost in take-up was dominated by the TMT sector, accounting for 71% of total leasing, and was heightened by Google's owner-occupation of 863,000 sq ft of space at King's Cross, N1.

Occupier demand, on the other hand, has fallen this quarter by 13% to approximately 5.3 million sq ft. The TMT sector has been driving demand in Q1 and has made up 31% of requirements.

Prime rents in the West End have experienced an increase for the first time in seven quarters, driven by Angola LNG's £105.00 per sq ft letting at 5 Hanover Square and Angelo, Gordon & Co's £105.00 per sq ft letting at 23 Savile Row.

**For further information please contact Henry Brewster on 020 7647 8966.**

### Potential Rates Savings for Tenants of Non Contiguous Floors

**A recent ruling in the Court of Appeal has dismissed a challenge from the Valuation Office Agency (VOA) that two floors occupied by the same tenant but separated by other floors should be treated as two separate assessments.**

Previously, the VOA treated individual floors separated by other floors as separate assessments and only agreed to merge assessments when floors occupied by a particular tenant are contiguous. In this landmark case, the 2nd and 6th floors of Tower Bridge House, E1 were occupied by Mazars under separate leases. The 3rd, 4th and 5th floors were occupied by another tenant. The Court of Appeal decided that the floors currently assessed as two separate assessments can be

### Attention to Retail

Over recent years, Mayfair's South Molton Street has undoubtedly become one of the most desirable luxury shopping destinations in the West End and Kinney Green have recently completed the latest transaction in this

and again has the potential for a change of use to residential. The property sold above the asking price.

Sticking with acquisitions, the team acquired an office building suitable for residential use in the east of the City (in a residential cluster) where residential sales values are rapidly increasing. Our clients have recently obtained planning permission and the property was bought at a very competitive price.

We now offer advice on the new permitted development rights for landlords unclear on whether they will be able to convert their property to residential use without the need for planning permission.

**For further information or if you have a specific property that you would like advice on, please do get in contact with Nick Thornton on 0207 643 1507.**

merged and treated as a single assessment on the basis that both floors were occupied by the same tenant.

As a result of this simplification, occupiers may be encouraged to merge existing separate assessments into a single assessment, particularly if the value of the whole is less than the sum of its parts or if a reduction in value can be achieved on the basis of a size allowance (quantum).

If your business occupies non-contiguous floors in the same building, you should consider examining the potential costs savings of applying for a single unit.

**For more information please contact Tom Whalley on 020 7643 1516 or Elsie Osunbor on 020 7643 1525.**

internationally renowned retail thoroughfare confirming its international appeal. Acting on behalf of a private pension fund, we have concluded the letting of 15 South Molton Street to the high-end Spanish fashion retailer Bimba & Lola, at a rent that cements Zone A rents in the street in excess of £450. Kinney

## Shore Values

Recently we have been tracking down evidence of foreshores and riverbeds, whether or not tidal. Not all of England's coastline is in the hands of The Crown Estate by a long chalk. Recently a stretch of about 15 miles of the Cumbrian coast was auctioned. Although one cannot do much with foreshores, it was sold for barely more than £40,000 – quite cheap for a trophy asset, and equivalent to about £1,000 per hectare/£400 per acre.

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*Whilst we could never do without foreshores they can, of course, be strategically important and become very valuable particularly if they have to be crossed for laying cables and the like, an area in which Kinney Green is increasingly involved.*

**”**  
We count several of the well-known telecommunication companies as clients, as well as a private estate which owns a considerable length of foreshore which is strategically positioned. One of the cases we are involved with concerns an aqueduct under a tidal river; what we have to assess for rent review purposes is the value of one half of the crossing to the middle of the river, something which throws up all sorts of interesting issues. We have also recently been instructed by a client on part of their 2,000 miles of waterways and are now involved with the Thames Tideway Tunnel, colloquially known as London's proposed 'super sewer'.

**If you would like further information please contact Nick Eden on 020 7643 1510.**

Green are particularly delighted to have concluded this transaction on such favorable terms, as there were a number of competing units available in this much loved pedestrian boulevard at the time.

**For further information please contact Kevin Kemplen on 020 7647 8962.**

# Over 20 years; The Life of 2 Buildings..

**14 City Road, EC1  
a 5,000 sq ft office  
building with ground  
floor restaurant was  
owned by the Berry  
and Thomas families  
since 1901.**



Nathaniel Berry & Sons Limited was an international piano manufacturer who displayed and sold musical instruments from the building before televisions and computers provided family entertainment.

*Kinney Green's involvement started in 1990 when we were instructed to advise on the lettings and lease renewals in the building. Office floors have since then been let many times over, but in late 2012 we were instructed to sell the long leasehold interest.*

The City agency team considered the various planning and use options in conjunction with Nicholas Thornton, our Residential expert, before offering the standing investment for sale. After a structured tendering process the building was sold to The Honourable Artillery Company, the adjacent land owner and Kinney Green have finally handed over the keys.



At 18 King William Street, EC4 Kinney Green were instructed by Royal & Sun Alliance to manage and let the 60,000 sq ft building when it became surplus to their occupational needs in the early 1990s. Notable tenants included Daimler Chrysler, Banco Santander, BWIN and Capita.

When the RSA lease expired in December 2012, Kinney Green were instructed by the head lessor First Investments to advise on the re-letting the building, which being an early 1980s specification, was a potential challenge.

However, a targeted marketing campaign aimed at serviced office operators produced a strong level of interest resulting in an April 2013 exchange of contracts for a 15 year lease to the Serviced Office Group who will run the building as their flagship centre in the City, after refurbishment. The ground floor will be used for retail.

**For City Agency needs please contact Kim White on 0207 643 1506.**

## Dilapidations & Re-Letting

It is worth remembering that a tenant may not be off the hook for dilapidations where a landlord immediately re-lets from the end of the tenant's lease. Landlords should be aware that they may have a claim. In *Terroni & Necchi v. Corsini* it was held that the 'reversion' the damage to which is to be assessed for valuation purposes is the reversion immediately expectant on the lease so that the existence of a reversionary lease does not bind the reversion when calculating damages. In a later case, *Hanson v. Newman*, the Court of Appeal stated:

“*there must always be a notional moment of time, even if one lease immediately succeeds the other, in which the estate finds its way back into the hands of the landlord, and the value of the reversion is therefore the value of the freehold as it has come back into the hands of the landlord before he lets it out again.*”

A re-letting may be good from a tenant's point of view in terms of reducing or removing any claim for loss of rent due to breaches of covenant, but it may still end up with a liability for the tenant and this may be evidenced if the rent obtained on re-letting is lower by virtue of the breaches.

We have recently had a case which has gone the other way. Such was the pre-letting bargain entered into by the landlord, it had the effect of removing the tenant's liability for the breaches. The landlord let the property at a rent and undertook to be liable for remedying the previous tenant's breaches so that the new occupier could enjoy the property in the way they expected. Here, though in these particular circumstances the property was worth more out of repair than in repair so the landlord suffered no loss.

**If you would like further information please contact Nick Eden on 020 7643 1510.**

## Youthful KG duo hit a home-run in the RICS playoffs



Sophie Higgins and Loris Tinacci are the latest Kinney Green graduates to become fully fledged Members of the Royal Institution of Chartered Surveyors (RICS).

After two years of hard work, success at their final RICS interviews has delighted the two whippersnappers and has made the rest of the Kinney Green team extremely proud.

Sophie Higgins, a member of the Midtown Agency Team, said "It has been a particularly tough last

six months but it was well worth the grind, and I have a lot to thank KG for with their constant support throughout the process"

Loris Tinacci, a member of the City Professional Team, said "I recognise that achieving full membership of the RICS is a core stepping stone and would like to take the time to graciously thank Kinney Green for the generous support and assistance received throughout the process."

Katie Treadwell will be the next member of Kinney Green to undertake the APC assessment in October of this year. KG wishes her all the best and do not doubt her future success in the process.