

THE TONY JOHNSON MEMORIAL LECTURE

Looking further than tomorrow. What does the future hold for Compulsory Purchase?

Richard Asher & Tom Hanman

Hello and welcome to the Tony Johnson Memorial Lecture. Firstly, I must apologise that poor Tom Hanman who was supposed to be presenting with me is sitting at home recuperating from an operation. I am sure we all wish him a speedy recovery. He did however have a very substantial input in this paper and many of the thoughts of the future are his. To say he is disappointed not to be here tonight is something of an understatement. It is fair to say he is “sick as a parrot”.*SLIDE2*

Secondly, what Tom and I say in this paper should not necessarily be taken to be the view of Savills – it is our own view, but because this is a collaborative paper I shall refer to “our” views – it is not the Royal “WE”!

I am delighted to be able to say that I knew Tony, but then so did everyone! At one time whenever the subject of compulsory purchase came up in a meeting between surveyors, even those not practicing in the CPO field,

they would say "Tony Johnson taught me all I know about compulsory purchase". He was a renowned lecturer and a great person. Tony was the first chair of the CPA. I was the second. We worked together, along with some other members in this room tonight, on the steering group to form the CPA.

It is a real honour to address you tonight. And it is particularly apposite, as a member of RICS Governing Council in the RICS 150th year. Apposite, because history records that the group of Surveyors who got together to form a new organisation in 1867 were mainly, what was known at the time as "railway surveyors" . That is they were surveyors who advised the myriad of railway companies on the valuation aspects of construction of the routes for new railways and negotiated compensation against claimants where the construction of those railways had been authorised by act of Parliament - in other words – they were compulsory purchase and compensation surveyors. Amongst them was **John Clutton**, *SLIDE* 3 surveyor to the South Eastern Railway Company (and other railway companies) and the first president of what became the RICS. Chartered Surveyor members of the CPA are therefore following directly in the footsteps of the founding fathers of the RICS. A fact that I like to remind the RICS on occasions!

Within that 150 years the RICS has grown from an initial membership of 150, to become a global professional body with in excess of 100,000 members.

I hope that in 2150 when the CPA celebrates its 150th anniversary, it will be an equally global organisation.

On the subject of railways: **The London and Birmingham Railway**, *SLIDE 4* was London's first main Line. Engineered by Robert Stephenson, son of George, the first sod was cut on the 1st of June 1834 and it first opened for through passenger services on 17th September 1838, some 4 years and two months later. This compares with an estimated 7 years to build the first phase of HS2 from London to Birmingham. Of course in 1834 they mainly used picks, shovels and wheelbarrows! What is even more surprising is that the parliamentary bill to authorise the work was laid before parliament on Tuesday 12th February 1833 and received Royal Assent on 6th May 1833, just 4 months later. This compares with HS2, the bill for which, as I am sure all of you are aware, was laid before parliament on 26th November 2013 and received Royal Assent on 22nd February this year.

The point we are making is that the construction of railways, as with many other forms of infrastructure, has not really progressed in terms of efficiency over the century and a half that the RICS has been in existence. In particular the process by which we deliver the powers and the land for infrastructure has not changed significantly over that period, it just takes much longer these days. We are employing nineteenth Century processes to deliver twenty-first Century infrastructure. As always, successive governments have found radical reform of the compulsory purchase process "too difficult". They have tinkered at the edges making a minor improvement here and a small change there. Even some of the changes they *have* made have not been properly thought through; reinvestment costs and the opportunity to claim a "second bite" if the land is used for something else; are just two examples. It is clear that government cannot be trusted to bring in the reforms alone. The CPA are to be commended on having lead the field in bringing forward changes to legislation and encouraging debate. Clearly however, CPO has moved up the political agenda. For the first time any of us can recall, both political parties included a pledge to reform CPO processes in their manifestoes at the last General Election. A cause for celebration within CPO circles one would have thought. Unfortunately there is precious little sign of this government making any changes – let alone significant ones - and everything seems to be dominated by Brexit.

In our view, what is required is nothing less than a consolidation of legislation and case law into a single new Act – along the lines of what was done for town and country planning by the 1990 Act. We believe that given the political agenda seems to support reform, strong representation should be made to both major parties to persuade them that radical reform is necessary if we are to deliver a process fit for the twenty-first century.

The recent **RICS Practice Statement** *SLIDE5* which is now mandatory for all RICS Members, is of key importance for the future and will we believe remove some of the bad practices which have grown up around CPO advice. It is fair to say that this Practice Statement would not have seen the light of day without a great deal of support from the CPA.

The proposed pre-action protocol currently being refined by the CPA will also make a real contribution to ensuring that references to the Upper Tribunal are not made without careful consideration of the case by both parties prior to reference, which is occasionally all too evident. In many instances, no attempt has made to seek mediation or some form of Alternative Dispute Resolution. Sometimes, such an approach is rejected by the acquiring authorities – a practice which we hope will become a thing of the past.

On this note I am pleased to announce that very recently the RICS Dispute Resolution Service - well known for amongst other things appointing surveyors for rent review arbitrations - has produced a draft of a bespoke scheme which will enable them to appoint specialist CPO experts to consider cases as part of that ADR process. Although the detail of the scheme has yet to be fully worked out we would encourage the CPA to support this initiative. If all parties in a dispute make use of and support the final RICS scheme, this process will reduce the Tribunals' workload; reduce costs and above all allow smaller value disputes find a forum for determination which is not prohibitively expensive.

I have now referred to the past and the present, but what of the future? In this paper we wanted to look “Beyond Tomorrow” to what the CPO world might be like in the year 2050. We all know that trying to predict the future is a dangerous and impossible task. However, some of the most perceptive writers have had a pretty good stab at specific areas. A few that spring to mind are Jules Verne, with 20,000 leagues under the sea, E M Forster' s “The Machine Stops” and of course the dystopian work “1984” by George Orwell.

So what can we expect in 2050? The demand for new infrastructure for housing will not have abated.

Autonomous all-electric cars are likely to be a fact of life, eliminating the need for filling stations, town centre car parks, road signs, traffic-lights and much of the twentieth century infrastructure associated with the car. Buses and bus stations may become a thing of the past, but we think it likely that the train will remain a competitor to the car. In the longer term, **Elon Musk's** *SLIDE 6* idea of the high speed tube, with tunnels conveying people at 700 miles per hour will remove the need for aircraft, but in 2050 our guess that for international travel the electric aeroplane will still dominate.

So how will the required infrastructure be commissioned and land acquired in this brave new world, and what are the threats, challenges and opportunities for the CPO Community in this era? Well the first thing to consider is that whilst all of the changes we have outlined here are technological changes, they will have a massive impact on social change. The world of work will be very different in 2050 compared to now. The biggest change and probably the biggest challenge to mankind is likely to be the takeover by machines. Intelligent systems are now sufficiently advanced that within the next twenty years they will take over many of the functions we regard as requiring human intellectual capacity today.

If you think this is far fetched, you should read a thoughtfully produced report commissioned by the RICS (yes they do provide some very useful research - its a pity not many Members read it!) It is entitled “The Impact of Emerging Technologies on the Surveying Profession” *SLIDE 7* produced by Remit Consulting. The report states “We are standing on the brink of a technological revolution that will fundamentally alter the way in which we live, work, transact and relate to one another.”

This research has identified that many of the tasks undertaken by Surveyors today will be undertaken by intelligent systems within the next ten years or so. According to this research one of the most at risk areas is valuation. This echoes a discussion I had with a senior director of a valuation department of a large surveying practice about four years ago who said that his valuation department would disappear within ten years. What does this mean for the surveying profession? It probably means that there will no longer be a role for the valuer or his firm in producing valuations. Valuations may be carried out by the property owners without the need for independent scrutiny. Interestingly the research, which does not identify CPO work specifically, does suggest that those areas of surveying where personal interaction is required will be the last to be taken over by intelligent systems. Therefore negotiating compensation should be one of the last areas to go.

However, we should not be complacent. We need to evolve too. If much of the processing can be done by systems, then we will need to sharpen up our act, the risk to all intermediaries - and most of us in this room are intermediaries - is that the clients do it themselves. With the use of intelligent systems, blockchain *SLIDE8* and other technological developments, acquiring authorities in particular may believe they can deliver the whole CPO process more effectively. Intelligent systems will provide effective interpretation of the process and ensure accurate delivery of all the necessary documents. The blockchain process will ensure that all the necessary contracts and land transactions are effected in a legally binding manner, securely and with minimal delay, without (or with the absolute minimum) human intervention. After all humans will only make mistakes!

What about inspection of buildings and measurement? This data will probably all have been stored at a previous point in time, in an electronic format which will be used for a myriad of uses during the life of the building. In some parts of the world full electronic plans are stored as part of the title to the property, along with “official” measurements of the building, so there can be no dispute of the size of the building on rent review; for rating, - or on acquisition for that matter.

The data sets for each building will tell anyone who wishes to know the full history of the building, from when and how the building was refurbished (and how much it cost) to when the last light bulb was changed and whether this bulb had blown prematurely or had exceeded the average life.

However all this does not mean there will be no need to acquire real property in the public interest. There will be new challenges which it is difficult for us to estimate or even fully appreciate. New rights will come into existence which will need to be agreed with owners of interests in land. Unless democracy is overturned in the UK, the **need to consult with the public** *SLIDE 9* will become an increasing burden on authorities and there will need to be the people skills required to provide this service, in order to deliver the infrastructure which itself will be required to be delivered faster and more cost effectively than ever before.

In order to deliver these schemes in the latter part of the 21st Century, there will be pressure on costs, not just professional fees, but the costs of the delivery and consultation process. In our view, this will mean that the whole pre-acquisition process will need to be streamlined. We have already identified that much of the title and physical information will be available to the authorities. Intelligent systems will also enable optimum design solutions to be produced rapidly.

The process of authorising the scheme, along with the acquisition of land and interests in land will also need to be speeded up. In order to achieve this it will be necessary for the range of current CPO processes to be simplified to just a single process.

Our view is that the **Development Consent Order** *SLIDE10* process is the most likely candidate to win through. This represents the best way of speeding the process, although, at the moment not the most cost effective from the promoter's point of view. As a consequence there is and will be a need for some changes. The amount of time and effort put in before a DCO application is accepted will need to be shortened.

The review of the scheme by Examiners also needs to be more rigorous - if objectors do not feel they are getting a proper hearing we risk returning to the bad old days of "swampy" and direct action - something I am certain few of us in this room want to return to. The

way that the case is written up by Examiners and the Secretary of State's decision should also be speeded up using blockchain technology.

So there you have it, the Brave New World which we are approaching with the inevitability of night following day. We cannot resist technological change - it is the elephant in the room, flapping its ears as it begins its charge. If history has taught us one thing, it is that, in the words of the Borg "resistance is futile". There is no future in smashing the machines. We must therefore **embrace the inevitability of change**. *SLIDE 11* We must harness technology to our own purpose. We must be the ones - who understand the current process best - to provide innovation and institute change - that way we will continue to play a role in this industry so vital to the future. In order to meet that challenge head on, and to show that we are open to the future, we are calling for the CPA, the RICS, PEBA and the Law Society to jointly sponsor a research project to examine the future direction of the CPO process. We hope to set up a steering group to take this forward shortly. We hope you will support this proposal.

Thank you