

MoFoREAL

Welcome to the latest edition of MoFoReal, our newsletter highlighting recent activities and other developments in MoFo's European Real Estate team. We hope you enjoy it and would really appreciate your feedback and suggestions for future issues.

BINDING ARBITRATION IN A SERVICE ECONOMY

In our previous newsletter we spoke about the service economy and the acceleration of the trend of commercial landlords having to provide a wider scope of services to their tenants, viewing them as valued customers rather than faceless income streams. We used the life sciences sector as an example, having recently advised on the establishment of life sciences asset services business We Are Pioneer Group, but this is a trend that has been gathering momentum right across the sector. Whether it's retailers being provided with footfall data, or office tenants expecting cutting edge technology and greener buildings, we have definitely seen a growth in occupiers' expectations of commercial landlords and a positive challenge in recent years to the historically adversarial implications of the terms "landlord" and "tenant."

The coronavirus pandemic, and the UK government's ongoing response, is unsurprisingly testing this trend. The announcement in June that the ban on commercial evictions will be extended until at least March 2022 was followed in August by the publication of the results of the government's call for evidence from landlords and tenants of their experiences in negotiating settlements of pandemic-induced rent debt. The responses suggested that productive discussions between landlords and tenants were, in many cases, not even taking place, with the wait for legislation on the matter allowing both landlords and tenants to avoid negotiating altogether if they wish.

In its August policy statement, the government confirmed its plan to legislate for, among other

things, the introduction of binding arbitration between landlords and tenants where bilateral negotiations are ultimately unsuccessful. While the hope is that this legislation will provide some certainty for landlords and tenants and a long-term solution to the resolution of rent arrears, the real challenge will be restoring the relationships that have, in many cases, broken down over the last eighteen months. The current climate does, therefore, present an interesting contrast to the customer-focused approach we have seen landlords adopt through the service economy, though one would expect that approach to continue to be driven by a market in which tenants have grown to expect more than four walls and a roof over their heads.

The government's intention to introduce a regime of binding arbitration is a very interesting development in itself, as it signals a controversial step towards an abrogation of the property rights of commercial landlords. The August policy statement makes it very clear that the government is on the side of protecting tenants' businesses and employees and leaves no doubt that landlords will be expected to absorb some pain. With the potential for judgments to effectively wipe out, at least in part, debts to which landlords are legally entitled, expropriation of this nature would set a notable and potentially concerning legal precedent. While the net effect may well be the same for landlords whose tenants are ultimately insolvent, with so many commercial properties across the country being owned or part-owned by large pension funds, one might also view such measures as a covert generational wealth transfer.

Earlier this month, London saw its busiest day on public transport since the onset of the pandemic, with tubes and buses hitting usage figures that had not been seen since March 2020. This comes as MoFo is pleased to officially begin the phased reopening of its London office, along with many other City firms.

If the rise of the service economy has seen landlords and tenants more aligned than before, then the return to the office has presented another reason for those in the office sector to come together. Certainly, during the course of the pandemic, employers and landlords have been forced to collaborate to make offices safer for employees, introducing features such as one-way systems, socially

distanced offices and, in most cases, an unimaginable amount of hand sanitizer.

Of course some of these interim measures will remain, with firms now under pressure to deliver workplaces that are not only COVID-19 safe, but that cater to the new working habits that have developed during the pandemic (co-working pets and pyjamas aside) and provide benefits to employees that exceed those offered by their home offices. The emphasis for employers will be on the unique benefits of in-person collaboration, and providing creative spaces that allow employees to gather safely to work and socialise. It will be interesting to see how firms adapt and remodel, and how the office market plays out in the months to come.

RECENT DEAL HIGHLIGHTS



Acacia Point on its re-investment with Sixth Street into the Quinta da Fonte Business Park in Portugal.

The team advised Acacia Point Capital Advisors in relation to the €150 million acquisition of fifteen buildings located on the Quinta da Fonte Business Park near Lisbon, Portugal in a joint venture with a global investment firm, Sixth Street Partners. The acquisition resulted from an existing joint venture between Signal Capital and Acacia Point, and is likely to be one of Portugal's biggest real estate deals of the year. Acacia Point Capital Advisors Portugal will remain as the asset and development manager of the Business Park and is a co-investor and partner of Sixth Street in the deal. We advised Acacia Point on its management contract with the park owner, and on its co-investment and joint venture arrangements with Sixth Street.



Patron Capital Partners on its £100 million joint venture in the affordable housing sector, in a deal that saw Patron partner with Oak Housing, a registered provider and manager of affordable housing in the United Kingdom owned by real estate investment firms T&B Capital and BMOR.

The transaction was completed simultaneously with the joint venture's acquisition of the King Paget Hotel in West London, which was the first in a series of redevelopment projects proposed under the parties' new business plan. MoFo advised Patron from origination of the deal through to completion, including preparation and negotiation of the joint venture and asset management agreements.

Recent highlights from the Real Estate Finance team have included advising a global investment fund as lender in connection with a c.€60 million loan to finance the development of new student accommodations in Ireland and a c.£120 million refinancing of a portfolio of out of town retail sites across England and Scotland. We also worked on the sale of a Grade II listed residential site in Bayswater for a special real estate investment management firm and advised on the expansion of a Dutch residential property portfolio. In addition, we continue to see a number of transactions where additional capital is required to grow more granular loan portfolios, with funding being provided by way of securitisation and are continuing to assist clients with transition from LIBOR to SONIA, together with adjustments to terms of existing deals to reflect the new reality as a result of the pandemic.